IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

IN RE: BEVERLY JEAN CLONINGER, **CASE NO. 4:18-bk-16822J**
(Chapter 13)

Debtor.

ORDER OVERRULING TRUSTEE'S OBJECTION TO CONFIRMATION AND CONFIRMING CHAPTER 13 PLAN

Before the Court is the *Chapter 13 Plan* (the "**Plan**") (Doc. No. 2) filed on December 19, 2018, by Beverly Jean Cloninger ("**Ms. Cloninger**"); the *Objection to Confirmation of Plan* (the "**Objection**") (Doc. No. 13) filed on February 12, 2019, by Jack W. Gooding, the Chapter 13 Trustee (the "**Trustee**"); and the *Debtor's Response to the Trustee's Objection to Confirmation of Plan* (the "**Response**") (Doc. No. 19) filed on April 4, 2019, by Ms. Cloninger. A hearing was initially scheduled for April 11, 2019, then continued twice by agreement of the parties and held on June 11, 2019. Mr. John A. Flynn appeared on behalf of Ms. Cloninger, and Ms. Cloninger also appeared in person. Mr. James Hunt, staff attorney for the Trustee, appeared on behalf of the Trustee, and Mr. Matt Black, also a staff attorney for the Trustee, appeared as a witness. Although the Objection raised three grounds for denying confirmation, the only issue remaining for the Court to consider at the hearing was whether the Plan meets the requirements of Section 1325(a)(4) of the Bankruptcy Code, commonly referred to as the "best interests of creditors test."

The Trustee argued that the Plan does not meet the best interests of creditors test because Ms. Cloninger's schedules reflect $28,748.62 in unencumbered, nonexempt property but the Plan proposes to pay only $13,826.34 to nonpriority unsecured creditors. The Trustee argued that the values in the schedules should be the starting point for determining the amount unsecured

creditors would receive in a hypothetical chapter 7 liquidation case. Although the Trustee acknowledged that the Code provides some guidance for what deductions may be involved in a hypothetical chapter 7 case, such as statutory trustee fees, Mr. Black admitted at the hearing that the Trustee's estimated $28,748.62 best interest calculation was based solely on the scheduled values of the nonexempt assets with no deductions for costs of sale, costs of administration, or even for a chapter 7 trustee's statutory fee.

Ms. Cloninger argued the values she listed in the schedules for the nonexempt property were not intended to reflect the amount a chapter 7 trustee would realize if the assets were sold in a hypothetical chapter 7 liquidation. In considering a hypothetical chapter 7 liquidation, Ms. Cloninger argued the Court should consider the marketability of the property along with other factors, including costs of sale and statutory trustee fees. Taking these factors into consideration, Ms. Cloninger proposed a best interest calculation of $11,045.00. Because the Plan proposes to pay unsecured creditors $13,826.34, she argued the best interests of creditors test is met.

For the reasons stated below, the Court finds that based on the facts of this case and the evidence introduced at the hearing, the best interests of creditors test is met, and the Plan should be confirmed.

I. JURISDICTION

The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 and 157. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(L). The following shall constitute the Court's findings of fact and conclusions of law pursuant to Federal Rule of Bankruptcy Procedure 7052, made applicable to this contested matter by Federal Rules of Bankruptcy Procedure 3015(f) and 9014.

II. FACTS

Ms. Cloninger filed a voluntary petition for relief under the provisions of chapter 13 of the United States Bankruptcy Code on December 19, 2018. She filed her Plan the same date. The Plan provides that Ms. Cloninger will pay $800.00 per month to the Trustee for sixty months. In her Plan, Ms. Cloninger proposes to pay her attorney and one secured creditor holding a lien on a vehicle. She proposes to pay nonpriority unsecured creditors a pro rata dividend from funds remaining after payment of all other classes of claims.

In her schedules, Ms. Cloninger lists her real and personal property and claims exemptions under Arkansas law. As it concerns the Trustee's best interest objection, the following five categories of nonexempt property are at issue.

Three Acres. Ms. Cloninger owns three acres of unimproved real property in Grant County, Arkansas, that was given to her by her parents. The valuation in the schedules, $6,000.00, is based on the county assessor's records. Ms. Cloninger testified that she had no reason to believe a chapter 7 trustee would realize any more than $4,500.00 in sale proceeds.[1] No evidence contradicting Ms. Cloninger's testimony was offered into evidence.

Redfield Property. Ms. Cloninger has an interest in a home and 5.14 acres of land in Grant County, Arkansas, where her mother currently resides. Her mother enjoys a life estate in the property but conveyed a future remainder interest in the property to Ms. Cloninger and Ms. Cloninger's three siblings to share equally. The value in the schedules, $14,300.00, is based on the county assessor's records, reduced by the state's actuarial table for a person ninety years of

[1] A "Liquidation Analysis" prepared by Ms. Cloninger and her counsel was offered into evidence as an exhibit at the close of Ms. Cloninger's direct testimony. Counsel for the Trustee objected to the introduction of this document. Although the Court sustained the Trustee's objection to the introduction of the document itself, Ms. Cloninger's testimony regarding liquidation values was elicited without objection and is part of the record to be considered by the Court. Furthermore, the Court found Ms. Cloninger to be knowledgeable about the property at issue and found her testimony regarding the property and liquidation values credible.

age. This value was then divided by four to arrive at Ms. Cloninger's interest of $14,300.00. No one has expressed an interest to Ms. Cloninger about buying her one-quarter remainder interest in the property. Ms. Cloninger does not believe anyone other than her siblings would be interested in buying her interest in the property, but she testified that she does not believe any of her siblings have the resources to buy her interest from the bankruptcy estate. Based on these factors, Ms. Cloninger believes a cash sale to a relative for $5,000.00 may be the best result possible in a hypothetical chapter 7 liquidation. No evidence contradicting Ms. Cloninger's testimony was offered into evidence.

0.09-Acre Lot. Ms. Cloninger's home sits on 0.34 acres. She has exempted her home and one-quarter acre as her homestead under provisions of the Arkansas Constitution. *See* ARK. CONST. art. 9, § 5. The remaining 0.09 acres of land is nonexempt real property located around her homestead. Ms. Cloninger valued this 0.09 acres in her schedules at $3,200.00 based on the value of the total land itself (0.34 acres) as reflected in the assessor's records. She testified the property is unmarketable, and, in her opinion, there are no potential buyers for a portion of her "yard." (Tr. at 15). She estimated $1,600.00 would be the most she would pay a chapter 7 trustee to purchase this property from the bankruptcy estate and added that she could not really afford to pay even that amount. No evidence contradicting Ms. Cloninger's testimony was offered into evidence.

Chevy Silverado. Ms. Cloninger's personal vehicle that she intends to retain and pay for in her Plan is a 2015 Chevrolet Silverado 1500 with approximately 29,036 miles. In her schedules, Ms. Cloninger valued the Silverado at $27,000.00, which she explained was the retail value of the vehicle. Bank of the West has a lien on the vehicle with a secured claim in the amount of $25,396.25, leaving $1,603.75 as equity. Ms. Cloninger does not believe a sale of the

vehicle in a chapter 7 case would result in any excess proceeds, especially considering the costs of the sale and a chapter 7 trustee's statutory fee. No evidence contradicting Ms. Cloninger's testimony was offered into evidence.

Household Goods. In her schedules, Ms. Cloninger listed household goods and furnishings valued at $1,000.00, electronics valued at $1,200.00, collectibles valued at $300.00, and jewelry valued at $1,300.00. Ms. Cloninger testified the values in the schedules were "fair and reasonable" values, not auction values. (Tr. at 20). She claimed an exemption of $155.13 in the jewelry, leaving $3,644.87 in scheduled nonexempt personal effects. Ms. Cloninger testified that if these assets were liquidated, she had no reason to believe a chapter 7 trustee would realize any more than one-half of the scheduled values (less the jewelry exemption) or $1,822.44. No evidence contradicting Ms. Cloninger's testimony was offered into evidence.

Based on these liquidation values and after considering chapter 7 administrative costs, including a chapter 7 trustee's statutory fee, Ms. Cloninger proposed a best interest calculation of $11,045.00 at the hearing.

At the hearing, Mr. Black testified that the Trustee's best interest calculation was $28,748.62. He admitted this calculation was "based on the debtor's schedules alone." (Tr. at 34). The calculation does not include deductions for costs of sale, a chapter 7 trustee's statutory fee, or marketability of the property. Mr. Black testified that because the Trustee's best interest calculation was substantially higher than the amount the Plan proposed to pay nonpriority unsecured creditors ($13,826.34) and because the Plan did not contain a liquidation analysis, the only values the Trustee had to consider were the values in the schedules, resulting in the $28,748.62 best interest calculation.

At the hearing, Mr. Black agreed that the Bankruptcy Code provides certain statutory fees for chapter 7 trustees and that the amount a chapter 7 trustee might realize from the sale of assets depends on the marketability of the assets. He also agreed that there is a "vast difference in the marketability" of a vehicle and "a minority remainder interest subject to a life estate in somebody's real property." (Tr. at 30). Mr. Black testified that the Trustee's office does not have a particular policy or procedure for determining the best interest calculation; rather, each case is reviewed on a case-by-case basis. Mr. Black agreed that factors such as "the quality, character or marketability of an asset" are sometimes taken into consideration, but again confirmed that in calculating the $28,748.62 best interest calculation in this case, only the values in the schedules were considered. (Tr. at 48).

In summary, based on the Plan provisions, nonpriority unsecured creditors will share in the distribution of $13,826.34 pro rata. Ms. Cloninger asserts that the best interest calculation is $11,045.00; the Trustee asserts that the best interest calculation is $28,748.62.

III. DISCUSSION

Section 1325 of the Bankruptcy Code provides that the Court shall confirm a plan if it meets certain requirements including that:

> the value, as of the effective date of the plan, of property to be distributed under the plan on account of each allowed unsecured claim is not less than the amount that would be paid on such claim if the estate of the debtor were liquidated under chapter 7 of this title on such date.

11 U.S.C. § 1325(a)(4) (2018). Section 1325(a)(4) is commonly referred to as the "best interests of creditors test." *E.g., Educ. Assistance Corp. v. Zellner (In re Zellner)*, 827 F.2d 1222, 1224 (8th Cir. 1987).

The phrase "on such date" relates back to "the effective date of the plan." *Forbes v. Forbes (In re Forbes)*, 215 B.R. 183, 189 (B.A.P. 8th Cir. 1997) (citing *Hollytex Carpet Mills v.*

Tedford, 691 F.2d 392, 393 (8th Cir. 1982); *First Nat'l Bank v. Hopwood (In re Hopwood)*, 124 B.R. 82, 85 (E.D. Mo. 1991) (chapter 12 case); *In re Lupfer Bros.*, 120 B.R. 1002, 1004 (Bankr. W.D. Mo. 1990) (chapter 12 case); *In re Bremer*, 104 B.R. 999, 1002–08 (Bankr. W.D. Mo. 1989) (chapter 12 case); and *In re Statmore*, 22 B.R. 37, 38 (Bankr. D. Neb. 1982)). The effective date of the plan is the plan confirmation date unless the plan provides otherwise.[2] *Zellner*, 827 F.2d at 1225; *see also In re Bremer*, 104 B.R. at 1006 (chapter 12).

The test requires a comparison of the present value of the distributions unsecured creditors will receive under the chapter 13 plan being considered with the distributions that would have been made to unsecured creditors had the case been filed as a chapter 7 liquidation case. *In re Forbes*, 215 B.R. at 189. The parties agree that as of the date of the hearing the total amount available to pay unsecured claims under Ms. Cloninger's Plan is $13,826.34.

The present value of this amount is then compared to the amount that would be paid on such claims if the estate were liquidated in a hypothetical chapter 7 liquidation on the effective date of the plan. *Hackerman v. Demeza*, 576 B.R. 472, 482 (M.D. Pa. 2017) (citing *In re Cumba*, 505 B.R. 110, 114–15 (Bankr. D.P.R. 2014)). "Valuing property for the hypothetical [c]hapter 7 liquidation, however, is 'not an exact science because the process entails a considerable degree of speculation.'" *Hackerman*, 576 B.R. at 482 (quoting *In re W.R. Grace &*

[2] In *In re Forbes*, the Bankruptcy Appellate Panel for the Eighth Circuit acknowledged that the majority of courts within the Eighth Circuit have concluded that the effective date of the plan is the confirmation date. *In re Forbes*, 215 B.R. at 189. The panel then stated, however, that the Eighth Circuit in *Hollytex Carpet Mills v. Tedford*, 691 F.2d 392, 393 (8th Cir. 1982), held that the effective date of the plan is the date the petition is filed. *In re Forbes*, 215 B.R. at 189. This Court, however, construes the holding in *Tedford* to be more narrow**.** In *Tedford* the issues were whether a state law changing the exemptions available to debtors enacted after the petition date altered the exemptions available later in the case at the time the debtors filed a modified plan, and whether the date the modified plan was filed was the effective date of the plan for purposes of the best interests of creditors test. *Tedford*, 691 F.2d at 393. The Eighth Circuit affirmed the lower court holding that exemptions were to be determined as of the petition date, allowing the debtors to continue claiming their original exemptions and holding that the effective date of the plan was not the date of the last post-confirmation modification. *Id.* Neither holding determined that the petition date is the effective date of the plan. Moreover, the *Tedford* case was decided in 1982. Five years later, the Eighth Circuit issued the *Zellner* opinion, which is repeatedly cited for the proposition that the effective date of the plan is the date of confirmation.

Co., 475 B.R. 34, 142 (D. Del. 2012) (chapter 11 case)). Indeed, '"exact values could only be found if the debtor actually underwent [c]hapter 7 liquidation."' *In re Cumba*, 505 B.R. at 115 (quoting *In re W.R. Grace & Co.*, 475 B.R. at 142). "Accordingly, 'the [bankruptcy] court need only make a well-reasoned estimate of the liquidation value that is supported by the evidence on the record.'" *Hackerman*, 576 B.R. at 482 (quoting *In re W.R. Grace & Co.*, 475 B.R. at 142).

In estimating the liquidation value of assets for purposes of the best interests of creditors test, courts have considered the following: (1) the estimated costs of sale associated with liquidating each asset; (2) the estimated costs of administering the chapter 7 estate, including chapter 7 trustee statutory fees; and (3) any other factors that may be appropriate on a case-by-case basis.

As to the first category, courts have estimated the costs of sale associated with liquidating assets depending on the particular type of assets involved. *See In re Wood*, No. 18-52419-PMB, 2019 WL 994573, at *5 (Bankr. N.D. Ga. Feb. 27, 2019) (considering brokerage commission, prorated taxes, recording fees, and other closing costs related to liquidating home); *In re Smith*, 200 B.R. 213, 216 nn.6–7 (Bankr. E.D. Mo. 1996) (deducting hypothetical real estate broker fee on sale of real property); *see also In re Cole*, 548 B.R. 132, 148 (Bankr. E.D. Va. 2016) (noting as a "general rule" costs of sale are deducted to determine liquidation value); *In re Cowger*, No. 13-71433, 2014 WL 318241, at *7 (Bankr. C.D. Ill. Jan. 29, 2014) (ruling that the "true costs of liquidation" must be considered in liquidation analysis).

As to the second category, courts have considered the estimated costs of administering the chapter 7 estate, including a chapter 7 trustee's statutory fee, in determining the amount hypothetically available for distribution to unsecured creditors. *See In re Wood*, 2019 WL 994573, at *5–6 (considering trustee's fee as well as professional fees and other administrative

costs associated with hypothetical sale of assets); *In re Cole*, 548 B.R. at 148–49 (deducting chapter 7 trustee's fee); *In re Cowger*, 2014 WL 318241, at *7 (ruling that "all of the expenses associated with administering [c]hapter 7 estates" must be considered in liquidation analysis); *In re Beene*, 354 B.R. 856, 861 n.4 (Bankr. W.D. Ark. 2006) (noting administrative claims and attorney's fees incurred in avoiding mortgage lien in hypothetical chapter 7 case would diminish dividends to unsecured creditors, as would chapter 7 trustee fee).

Finally, in calculating the liquidation amount, courts have also considered factors specific to the particular case at hand. *See Zellner*, 827 F.2d at 1226 n.4 (recognizing possible tax penalty from liquidating an individual retirement account); *In re Cole*, 548 B.R. at 148 (stating deduction of capital gains taxes may sometimes be appropriate); *In re Sitarz*, 150 B.R. 710, 720 (Bankr. D. Minn. 1993) (applying cost-benefit analysis to decide whether "the likelihood of a real, net financial realization" would warrant pursuing causes of actions objecting creditor alleged were available to the estate); *In re Young*, 153 B.R. 886, 888 (Bankr. D. Neb. 1993) (holding capital gains taxes from sale of home must be deducted in performing liquidation analysis).

Two values for the best interests of creditors test were presented to the Court at the hearing—one by the Trustee and one by Ms. Cloninger. The Trustee arrived at his best interest calculation of $28,748.62 solely by subtracting Ms. Cloninger's exemptions from the scheduled values of her assets. In determining the amount unsecured creditors would receive in a hypothetical chapter 7 liquidation, the Trustee made no deductions for costs of sale, costs of administering a chapter 7 estate, or even a chapter 7 trustee's *statutory* fee.

In addition, although the Trustee's office sometimes takes into consideration "the quality, character or marketability of an asset," that was not done in this case. (Tr. at 48). No

consideration was given to the fact that Ms. Cloninger holds only a one-quarter remainder interest subject to her mother's life estate in the Redfield Property. Nor was consideration given to the fact that the 0.09-acre tract of land is part of Ms. Cloninger's "yard." In conducting a liquidation analysis, both parcels of real property merit consideration of the unique characteristics of Ms. Cloninger's interest in the properties.

Because the Trustee's best interest calculation did not include deductions for costs of sale, costs of administration (including a chapter 7 trustee's *statutory* fee), or any consideration of the unique nature of the property involved, the Court finds the Trustee's best interest calculation is patently flawed and wholly lacking in merit.

The Court turns next to Ms. Cloninger's best interest calculation. At the hearing, Ms. Cloninger proposed a best interest calculation of $11,045.00. She testified about each item of nonexempt property at issue and gave a basis for the amounts she estimated a chapter 7 trustee might receive from the sale of such property.[3] In estimating the amount unsecured creditors would receive in a hypothetical chapter 7 liquidation, Ms. Cloninger took into consideration estimated costs of sale, the unique nature of some of the properties involved, and a chapter 7 trustee's statutory fee. Her testimony included specific evidence of impediments a chapter 7 trustee would encounter in liquidating some of the assets. The Court found Ms. Cloninger to be knowledgeable about the property at issue and found her testimony credible. For the reasons explained below, the Court finds the best interest calculation proposed by Ms. Cloninger is reasonable and supported by the evidence introduced at the hearing.

[3]The law is clear that an owner who is familiar with her property is competent to testify about the value of her property. *E.g.*, *Hatcher v. MDOW Ins. Co.*, 903 F.3d 724, 732 (8th Cir. 2018); *see also* FED. R. EVID. 701. Although Ms. Cloninger (as the Court would expect) worked with her attorney to develop the liquidation analysis, the Court found she had personal knowledge of and was intimately familiar with the property at issue.

Three Acres. Ms. Cloninger estimated a chapter 7 trustee would realize no more than $4,500.00 in sale proceeds from the sale of the three-acre tract of land valued at $6,000.00 in her schedules. The land, located in Grant County, Arkansas, is unimproved. The Court recognizes that costs would be associated with a sale of this real property. The Court finds the $4,500.00 value proposed by Ms. Cloninger reasonable and supported by the evidence.

Redfield Property. Ms. Cloninger estimated a cash sale for $5,000.00 of her one-quarter remainder interest subject to her mother's life estate in the Redfield Property would be the best result possible in a chapter 7 liquidation. Her interest in the property was valued at $14,300.00 in her schedules based on the county assessor's records and the applicable actuarial table, divided by four. In proposing the $5,000.00 liquidation value, Ms. Cloninger stated that the only potential buyers for her interest in the property are her and her three siblings, adding that neither she nor her three siblings can afford to pay the scheduled value for the property.

Ms. Cloninger's valuation testimony at the hearing included her personal knowledge of the property, the marketability of the property, and the financial positions of the most likely potential buyers. The Court acknowledges that various costs of sale would be incurred by the estate in liquidating Ms. Cloninger's interest in this property. Based on all the evidence presented at the hearing, the Court finds Ms. Cloninger's valuation of $5,000.00 reasonable.

0.09-Acre Lot. Ms. Cloninger estimated $1,600.00 would be the most a chapter 7 trustee would realize for the 0.09-acre nonexempt portion of her "yard." She valued the 0.09 acres at $3,200.00 in her schedules using the county assessor's records, assuming the aggregate total for the acreage could be prorated between the exempt and nonexempt parcels. In proposing the $1,600.00 liquidation value, she testified the property is unmarketable. The Court agrees the valuation would be subject to adjustment given the nature of the property. She estimated

$1,600.00 was the most she would pay a chapter 7 trustee to purchase this property from the estate, adding that she cannot really afford to pay even that. Based on all the evidence presented at the hearing, the Court finds Ms. Cloninger's valuation of $1,600.00 reasonable.

Chevy Silverado. Ms. Cloninger proposed a $0.00 liquidation value for her personal vehicle in a hypothetical chapter 7 case. In her schedules, she listed the vehicle with a *retail* value of $27,000.00. It is encumbered by a secured claim in the amount of $25,396.25. After considering the costs associated with a sale of the vehicle, Ms. Cloninger testified that no excess proceeds would exist in a hypothetical chapter 7 liquidation. The Court acknowledges that costs would be associated with the liquidation of the vehicle, and that Ms. Cloninger listed the *retail* value of the vehicle in her schedules. The Court also acknowledges that a chapter 7 trustee would be entitled to a statutory commission from any sale of the vehicle, which given the facts of this case, would *alone* be greater than the $1,603.75 in potential equity.[4] *See In re Cowger*, 2014 WL 318241, at *7 (noting a chapter 7 trustee is not required to liquidate an asset if "the end result . . . is not a meaningful distribution to unsecured creditors"). Based on the evidence adduced at the hearing, the Court finds Ms. Cloninger's value of $0.00 reasonable.

Household Goods. Ms. Cloninger estimated a chapter 7 trustee would realize no more than $1,822.44 for her nonexempt personal effects. This amount represented half of the scheduled value of her household goods and furnishings, electronics, collectibles, and jewelry, after considering her $155.13 exemption in the jewelry. Ms. Cloninger testified the values in the

[4] This assumes a chapter 7 trustee would receive a ten percent statutory fee on a sale of the vehicle for $27,000.00 ($2,700.00), which alone is more than the $1,603.75 in potential equity. This Court's analysis is limited to the facts of this case and the evidence introduced at the hearing, which did not include testimony from a chapter 7 panel trustee. Nothing in this opinion is meant to suggest what a chapter 7 trustee should do in a similar fact situation.

schedules were "fair and reasonable" values, not liquidation values. Given the personal nature of these items, the Court finds her valuation of $1,822.44 reasonable.

Again, no evidence contradicting Ms. Cloninger's valuation testimony was introduced at the hearing. After also making deductions for administrative costs in a hypothetical chapter 7 case, including a chapter 7 trustee's statutory fee, Ms. Cloninger proposed a best interest calculation of $11,045.00. The Court finds this is a '"well-reasoned estimate of the liquidation value that is supported by the evidence on the record."' *Hackerman*, 576 B.R. at 482 (quoting *In re W.R. Grace & Co*., 475 B.R. at 142).

The Court must now compare the best interest calculation of $11,045.00 to the $13,826.34 in distributions to be made under the Plan to unsecured creditors. To accurately compare the two distribution amounts, a "present value [analysis] of the series of future payments provided for" in the Plan is necessary. *Zellner*, 827 F.2d at 1226 n.4 (citing *Hardy v. Cinco Fed. Credit Union (In re Hardy)*, 755 F.2d 75, 76–78 (6th Cir. 1985)). No evidence was presented establishing an anticipated rate of return for the liquidation analysis. Mr. Black testified on cross examination, however, that "if the Court were to accept" Ms. Cloninger's liquidation value of $11,045.00, the Plan, which proposes a distribution to unsecured creditors in the amount of $13,826.34, would "satisfy" the best interests of creditors test. (Tr. at 37). The Court considers this testimony an agreement of the parties that the present value of the series of future payments totaling $13,826.34 in this case is not less than $11,045.00. The Court therefore finds that the best interests of creditors test is met in this case.

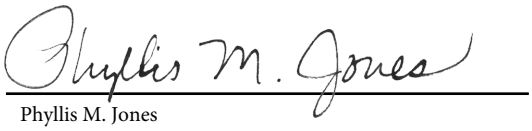
IV. CONCLUSION

For the reasons stated herein, the Trustee's Objection is overruled and Ms. Cloninger's Plan filed December 19, 2018, is confirmed. In determining the amount unsecured creditors would receive in a hypothetical chapter 7 liquidation for purposes of the best interests of

creditors test of Section 1325(a)(4), parties should consider: (1) the estimated costs of sale associated with liquidating each asset; (2) the estimated costs of administering the chapter 7 estate, including a chapter 7 trustee's statutory fee; and (3) any other factors that may be appropriate on a case-by-case basis.

Given the facts of this case, the Court finds the best interest calculation of $11,045.00 is well-reasoned and supported by the evidence, and based on the Trustee's representation at the hearing, finds that the amount proposed to be paid to unsecured creditors ($13,826.34) satisfies the best interests of creditors test.

IT IS SO ORDERED.



Phyllis M. Jones
United States Bankruptcy Judge
Dated: 02/24/2020