

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

In re:

CASSIE VAUSE,

Case No. 6:09-bk-06224-ABB

Chapter 13

Debtor.

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ORDER

This matter came before the Court on the Amended Chapter 13 Plan (Doc. No. 51) filed by the Debtor Cassie Vause (“Debtor”) and the Objection to Confirmation (Doc. No. 53) filed by Allied Mortgage & Financial Corp. (“Allied”). Hearings were held on February 2, 2010 and February 17, 2010 at which counsel for the Debtor, counsel for Allied, and counsel for Laurie K. Weatherford, the Chapter 13 Trustee, appeared. The Court directed the Debtor and Allied to file briefs addressing the valuation of Allied’s secured claim and continued the hearing to March 16, 2010. The Debtor filed a brief (Doc. No. 59); Allied did not. The final confirmation hearing was held on March 16, 2010 at which counsel for the Debtor and counsel for the Trustee appeared.

The Debtor owns a duplex located at 1306 Harding Avenue, Lake Wales, Florida 33853 (“Property”), which is encumbered by a first-priority mortgage held by Allied pursuant to a Mortgage and Security Agreement and Variable Rate Promissory Note executed by the Debtor on November 16, 2005. Allied filed an amended secured proof of claim, Claim No. 10-2, for \$116,203.88 with interest accruing at 13.50% per annum.

The Debtor filed a Motion to Value Claim of Allied (Doc. No. 25) asserting the Property has a value of \$75,000.00 and seeking to value Allied’s secured claim at \$75,000.00 with interest to be paid at the rate of 5.25%. Allied did not respond to the

Motion and an Order was entered on October 6, 2009 (Doc. No. 41) granting the Debtor's Motion to Value Claim and holding:

Claim Number 10 filed by Creditor is hereby determined to be in the secured amount of \$75,000.00 with the rest and remainder of the claim being treated as unsecured claim. The secured claim shall be amortized at 5.25%, over a thirty year loan period, with a balloon payment due prior to the completion of the plan.

Allied did not seek reconsideration of the October 6, 2009 Order. Allied, pursuant to 11 U.S.C. Section 506(a), holds an allowed secured claim of \$75,000.00 with interest accruing at the rate of 5.25%.

The Debtor filed her Amended Plan in conformity with the terms of the October 6, 2009 Order. The Amended Plan provides for fifty-nine monthly payments of \$415.00 to Allied and a balloon payment of \$69,113.00 in month sixty. Allied objects to the Amended Plan asserting it "does not provide for equal monthly periodic payments" of its allowed secured claim pursuant to 11 U.S.C. Section 1325. Allied, at the February 17, 2010 hearing, did not address Section 1325(a)(5)(B)(iii), but asserted the Debtor is prevented from cramming down its secured claim pursuant to 11 U.S.C. Section 1322(b).

The Debtor resides in one side of the Property and leases to tenants the other side of the Property. Allied's security interest is secured by the entire Property, which consists of both the Debtor's residence and her investment property. The Debtor had authority to cramdown Allied's security interest pursuant to the plain and unambiguous language of 11 U.S.C. Section 1322(b)(2). Allied, to the extent it is seeking reconsideration of the October 6, 2009 Order, such motion for reconsideration is due to be denied.

The Amended Plan provides for payment in full of Allied's allowed secured claim plus interest. The Amended Plan complies with 11 U.S.C. Sections 1322, 1325, and 1326. In re Brennan, Case No. 6:09-bk-03763-ABB, 2009 WL 4510127, *3-4 (Bankr. M.D. Fla. Dec. 2, 2009). Allied's Objection is due to be overruled and the Amended Plan is due to be confirmed.

Accordingly, it is

ORDERED, ADJUDGED AND DECREED that Allied's Objection (Doc. No. 53) is hereby **OVERRULED**; and it is further

ORDERED, ADJUDGED AND DECREED that the Debtor's Amended Plan (Doc. No. 51) is hereby **CONFIRMED**; and it is further

ORDERED, ADJUDGED AND DECREED that the Chapter 13 Trustee is directed to submit a detailed confirmation order in conformity with this Order within fourteen (14) days of the entry of this Order.

Dated this 16th day of March, 2010.

/s/ Arthur B. Briskman
ARTHUR B. BRISKMAN
United States Bankruptcy Judge