

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

In re:)	
)	Bankruptcy No. 14-51161
DAPHONNIE ROCHELLE BUCHANAN,)	
)	Chapter 13
Debtor.)	
)	
_____)	

LIMITED OBJECTION TO CONFIRMATION OF SECOND CHAPTER 13 PLAN

NOW COMES the United States of America (United States), by and through the United States Attorney for the Middle District of North Carolina, on behalf of the Department of Education (hereinafter “ED”) , and files this Limited Objection to Confirmation of the Debtor’s Second Proposed Chapter 13 Plan. In support of its objection, the United States respectfully shows the Court the following:

1. That the Debtor filed her petition for relief under Chapter 13 of the Bankruptcy Code on or about October 21, 2014.
2. That Kathryn L. Bringle is the duly appointed Chapter 13 Trustee.
3. That on December 18, 2014, Navient Solutions, Inc. filed a Proof of Claim (Claim 13) on behalf of the ED consisting of a non-dischargeable, general unsecured claim in the amount of \$210,936.19.
4. That the Debtor proposed a Plan, filed November 26, 2014, that included a Special Provision in Section F requiring the ED to waive any defaults by the Debtor and authorizing ED to review the Debtor’s student loans for enrollment in an Income

Contingent Repayment plan during the pendency of her Chapter 13 bankruptcy case.

(Docket Entry 14, ¶ F.)

5. That the United States filed an Objection to Confirmation of Chapter 13 Plan (Docket Entry 22) on December 23, 2014 objecting to the plan language requiring it to waive any defaults by the Debtor. It also objected to the plan language in Section F., Special Provisions, to the extent, if any, that it required the ED to review the Debtor's student loans for enrollment in an Income Contingent Repayment (ICR) plan during the pendency of the Chapter 13 case.

6. That a confirmation hearing was held on March 4, 2015 and the Court entered an order denying confirmation of the Debtor's first Chapter 13 Plan and granting the Debtor an additional thirty (30) days within which to file a second plan. (Docket Entry 28)

7. That the Debtor's Second Notice and Proposed Order of Confirmation (Second Plan) was filed on April 23, 2015. (Docket Entry 38)

8. That in Section F., Special Provisions, page 4, seventh bullet of the Second Plan, the Debtor states that "[d]uring pendency of any application by the Debtor to consolidate her student loans, to enroll in an IDR or direct payment of her student loans under an IDR, it shall not be a violation of the stay or other state or federal laws for Ed to send the Debtor normal monthly statements regarding payments due and any other communications regularly sent regarding student loans, including, without limitation,

notices of late payments or delinquency.”

9. That the United States requests, out of an abundance of caution and in an attempt to avoid violating the automatic stay, that the language in Paragraph 8 above be amended to include “during the pendency of any default in payments of the Debtor’s student loans under an IDR” and that the language “any other communications regularly sent regarding student loans” expressly includes telephone calls and emails.

WHEREFORE, the United States respectfully prays unto the Court:

1. To modify the language of the Second Plan as proposed in Paragraph 9 above; and
2. To provide such other and further relief as the Court deems just and proper;

This the 21st day of May, 2015.

Respectfully submitted,

RIPLEY RAND
United States Attorney

s/ Cheryl T. Sloan
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CERTIFICATE OF SERVICE

I hereby certify that on May 21, 2015, the foregoing was electronically filed with the Bankruptcy Clerk of the Court using the CM/ECF system and I hereby certify that the document was served via that system on the following CM/ECF participants:

John T. Orcutt on behalf of the Debtor;

Kathryn L. Bringle, Chapter 13 Trustee;

Ramesh Singh on behalf of Capital Recovery V, LLC;

and I certify that the document was mailed or hand delivered to the following participants:

Daphonnie Rochelle Buchanan
140 Scotland Ridge Drive
Winston-Salem, NC 27107

William P. Miller
Bankruptcy Administrator
(via hand delivery)

Respectfully submitted,

RIPLEY RAND
United States Attorney

s/ Cheryl T. Sloan
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