

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION**

IN RE:

CASE NUMBER: 16-10383

S-3 PUMP SERVICE, INC.
DEBTOR

CHAPTER 11

**OBJECTION TO DISCLOSURE STATEMENT
AND REORGANIZATION PLAN**

NOW COMES Ally Bank ("Secured Creditor"), through undersigned counsel, a secured creditor of the Debtor in these proceedings, which partially objects to the approval of the Amended Disclosure Statement (P-313) and confirmation of the proposed Amended Reorganization Plan (P-314), upon the following non-exclusive grounds:

JURISDICTION

1. This Court has jurisdiction pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b). Venue is proper under 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

2. Secured Creditor is the holder of a certain Retail Installment Contract ("Contract 1") dated February 24, 2014, whereby Debtor purchased from Landers Dodge Chrysler Jeep a certain 2013 Dodge Ram 2500 Truck bearing manufacturers' serial number 3C6UR5HL5DG614831, Contract 1 representing the agreement between the parties for payment of the unpaid balance of the purchase price.

3. Contemporaneously with the execution of Contract 1, Malcolm Sneed entered into and signed a Third Party Guaranty guaranteeing payment of all payments required under Contract 1 and performance of any agreements in Contract 1 if S3 Pump Services failed to pay or perform.

4. Under the terms of Contract 1, Debtor was scheduled and required to pay the sum of \$40,823.04 in 48 monthly installments of \$850.48 each, beginning March 24, 2014 and on the

same day of each successive month thereafter until paid.

5. In order to secure payment of all amounts due under Contract 1 and of any renewal, extension or assignment of same, Debtor granted a security interest in the said vehicle and any accessories, equipment and replacement parts installed in the vehicle.

6. All the rights of the vendor in Contract 1 were assigned for value to Secured Creditor, all as will more fully appear by reference to the assignment thereof forming a part of Contract 1.

7. Secured Creditor avers that although Debtor has paid Secured Creditor post-petition adequate protection payments, Debtor is in default for each remaining unpaid post-petition installment. The net balance due to Secured Creditor as of December 14, 2016 was \$18,425.66 with interest continuing to accrue at the per diem rate of \$1.73 per day. The average market value of the vehicle is \$33,675.00 to \$37,200.00 according to the most recent edition of the NADA Used Car Guide (Southwestern Edition). Secured Creditor is thus fully secured.

CONTRACT 2.

8. Secured Creditor is the holder of a certain Retail Installment Contract ("Contract 2") dated February 24, 2014, whereby Debtor purchased from Landers Dodge Chrysler Jeep a certain 2013 Dodge Ram Truck bearing manufacturers' serial number 3C6UR5HL7DG614832, Contract 2 representing the agreement between the parties for payment of the unpaid balance of the purchase price.

9. Contemporaneously with the execution of Contract 2, Malcolm Sneed entered into and signed a Third Party Guaranty guaranteeing payment of all payments required under Contract 2 and performance of any agreements in Contract 2 if S3 Pump Services failed to pay or perform.

10. Under the terms of Contract 2, Debtor was scheduled and required to pay the sum of \$40,740.00 in 48 monthly installments of \$848.75 each, beginning March 24, 2014 and on the

same day of each successive month thereafter until paid.

11. In order to secure payment of all amounts due under Contract 2 and of any renewal, extension or assignment of same, Debtor granted a security interest in the said vehicle and any accessories, equipment and replacement parts installed in the vehicle.

12. All the rights of the vendor in Contract 2 were assigned for value to Secured Creditor, all as will more fully appear by reference to the assignment thereof forming a part of Contract 2.

13. Secured Creditor avers that although Debtor has paid Secured Creditor post-petition adequate protection payments, Debtor is in default for each remaining unpaid post-petition installment. The net balance due to Secured Creditor as of December 14, 2016 was \$18,385.32 with interest continuing to accrue at the per diem rate of \$1.72 per day. The average market value range of the vehicle is \$33,675.00 to \$37,200.00 according to the most recent edition of the NADA Used Car Guide (Southwestern Edition). Secured Creditor is thus fully secured.

OBJECTIONS

14. Debtor has filed an Amended Disclosure Statement and Amended Plan of Reorganization which incorporate certain treatment of Secured Creditor's secured claims as an impaired creditor and, as such, seeks to materially alter the terms and conditions of the Contracts.

15. Debtor proposes the following treatment ("Treatment") to address Secured Creditor's claims and is quoted here verbatim from Exhibit 1 to the Amended Disclosure Statement and on pages 35-36 of the Amended Plan of Reorganization:

"Except to the extent that Ally Bank agrees in writing to less favorable treatment, in full and final satisfaction, settlement, release and discharge of, and in exchange for, its respective Allowed Class 18 Claims, each Allowed Class 18 Claim shall be satisfied by payments pursuant to a four-year promissory note of the Reorganized Debtor containing the following provisions: The amount of the Allowed Class 18 Claim shall bear interest at the rate of 6% from the Effective Date until paid; monthly payments of principal and interest sufficient to amortize the amount of the Allowed Class 18 Claim in equal payments

over a period of 48 months. The amount of each Allowed Class 18 Claim shall be evidenced by the existing promissory note evidencing such claim, as such note shall be amended to be consistent with this Section 18(b) and agreement of Ally Bank and the Debtor. The Holder of each Allowed Class 18 Claim shall retain its security interests in its respective Collateral securing such Class 18 Claim until full payment of such Class 18 Claim by the Reorganized Debtor pursuant to such promissory note. The security documents creating and perfecting the security interests are deemed amended and modified by this Plan to the extent the provisions of this Plan are inconsistent with such documents. Such security interest shall be deemed released upon full payment of the Class 18 Secured Claim, and the Holder of the Class 18 Claim shall execute and deliver, in recordable form, releases and/or satisfactions of its lien to the Reorganized Debtor. The Reorganized Debtor reserves the right to prepay all or a portion of each Claim at any time without penalty.”

16. Secured Creditor submits the following partial objections to the Amended Disclosure Statement and Amended Reorganization Plan denying adequate protection and failing to provide adequate information, in the following particulars:

a) In the Treatment, debtor provides for payment of Secured Creditor’s “Allowed Class 18 Claim” and maintains in effect Secured Creditor’s security interest until full payment of the Class 18 Claim. This treatment is satisfactory as having been agreed upon in conferences and email messages between respective counsel for the parties. However, the Treatment adds a contradictory provision near the end of the Treatment that calls for release of the security interests upon payment of the “Class 18 Secured Claim”. Secured Creditor objects to this portion of the Treatment.

b) Secured Creditor objects to the values assigned by the debtor to the vehicles. Debtor suggests without substantiation that each vehicle is valued at \$12,000.00, thereby seeking to substantially limit Secured Creditor’s claim;

c) Secured Creditor submits that each of the vehicles is essentially identical in every respect to the other, a fact demonstrated by the fact that their manufacturer’s serial numbers are one digit apart;

d) Secured Creditor submits that a 6 month average of NADA retail values reflect a

range of value between \$33,675.00 to \$37,200.00, all as will more fully appear by reference to the NADA valuations attached as an Exhibit hereto.

e) Contractual rights and remedies against Malcolm Sneed, third party guarantor under Contract 1 and Contract 2, are not acknowledged in Debtor's Amended Disclosure Statement or Amended Reorganization Plan. Such contractual rights and remedies are separate and apart from these proceedings and no consideration is provided to Secured Creditor to surrender its rights. Secured Creditor is entitled to all rights and remedies contained in the Contracts as to payment and performance under non-bankruptcy law, notwithstanding any of the terms and conditions of the Debtor's Disclosure Statement or Reorganization Plan.

RESERVATION OF RIGHTS

17. Secured Creditor does not waive any and expressly reserves all of its rights, defenses, limitations and/or claims under its Contracts and applicable law. Secured Creditor reserves all of its rights to raise the issues contained in the objections herein and any other related issues in any contested matter and/or adversary proceeding including, without limitation, objections to the Amended Disclosure Statement and to the confirmation of the Amended Reorganization Plan. Secured Creditor reserves its rights to amend, modify or supplement the objections herein in response to, or as a result of, any discovery being conducted in connection with confirmation of the Amended Reorganization Plan and/or other submission in connection with the Reorganization Plan or this bankruptcy case filed by any other party in interest. Secured Creditor reserves its right to adopt any other objections to approval of the Disclosure Statement or confirmation of the Amended Reorganization Plan filed by any other party in interest.

WHEREFORE, Ally Bank prays that the Court sustains these Objections, deny approval of the Amended Disclosure Statement and confirmation of the proposed Amended Reorganization Plan and award such other relief as is just and equitable.

THE SUNDMAKER FIRM, L.L.C.

/s/ Arthur S. Mann, III
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CERTIFICATE OF SERVICE

I certify that the Objection To Amended Disclosure Statement and Amended Reorganization Plan have been served on all interested parties as listed below by depositing same in the U.S. Mail, postage prepaid, and/or by electronic mail this 14th day of December, 2016:

S-3 Pump Service, Inc.
1918 Barton Drive
Shreveport, LA 71107

M. Thomas Arceneaux
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Shreveport, LA 71163

Marianne Cosse Boston
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3196 Federal Building
300 Fannin Street
Shreveport, LA 7110

Robert W. Johnson
PO Drawer 1126
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/s/Arthur S. Mann, III
Arthur S. Mann, III