

ENTERED
SEP - 5 2007
U.S. BANKRUPTCY
MDNC - TB

Case No. 02-51304 7

5. The Debtors are entitled to redeem the 2001 Isuzu Rodeo by paying Household the amount required under § 722, which is the lesser of the allowed secured claim or the value of

the collateral. Household is owed approximately \$21,000.00.

The issue raised by Household is whether the Debtors must pay retail or wholesale value in order to redeem the 2001 Isuzu Rodeo. The United States Bankruptcy Appellate Panel of the Sixth Circuit and the United States Bankruptcy Court of the Middle District of North Carolina have both ruled that what is required to be paid by the debtor under § 722 is the wholesale (also termed “liquidation” or “trade-in”) value of the exempt property. See Triad Financial Corp. v. Weathington (In re Weathington), 254 B.R. 895 (B.A.P. 6th Cir. 2000); In re Murray, Ch. 7 Case No. 00-10603C-7G (Bankr. M.D.N.C. June 23, 2000). In Triad Financial Corp., the court concluded, after examining prior case law and the legislative history of § 722, that “a creditor should be paid the same amount that it would have been paid if the property were repossessed and sold.” Triad Financial Corp. at 900. Judge Stocks, when addressing this issue in Murray, came to the same result. Murray at 5. It is important to note that the valuation for redemption purposes is different in a Chapter 7 case than in a Chapter 13 case. The Supreme Court found that replacement value is the appropriate value in Chapter 13 cases due to the “double risks” creditors are exposed to in Chapter 13; another default by the debtor and depreciation of the collateral. Associated Corp. v. Rash, 520 U.S. 953, 117 S. Ct. 1879, 138 L.Ed.2d 148 (1997). These conditions do not exist in a Chapter 7 case, and thus replacement value is not appropriate. Section 722 requires redemption by a lump sum cash payment and there is no further risk to the creditor.

6. In the present case, the wholesale value presented by the Debtors is \$12,101.00. The appropriate value in this case for the purposes of Debtors’ redemption of the 2001 Isuzu Rodeo is its wholesale value or \$12,101.00.

Based upon the foregoing,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Debtor may redeem the 2001 Isuzu Rodeo by paying the sum of \$12,101.00 to Household Automotive Finance Corporation within thirty days from the entry of this Order.

This the 5 day of September, 2002.

CATHARINE R. CARRUTHERS

Catharine R. Carruthers
U. S. Bankruptcy Judge