

**UNITED STATES BANKRUPTCY COURT  
FOR THE  
WESTERN DISTRICT OF KENTUCKY**

IN RE:	)	
	)	
MICHAEL LOUIS WILLIAMS	)	CASE NO.: 06-10277
MARY HELEN WILLIAMS	)	
	)	
_____ Debtor(s)	)	

**MEMORANDUM-OPINION-ORDER**

This matter is before the Court on the Objection of Debtors Michael L. and Mary H. Williams (“Debtors”) to the Claim of AmeriCredit. The Court held a hearing on the matter on August 24, 2006 and for the following reasons **OVERRULES** the Debtors’ Objection.

On May 1, 2006, Debtor filed their Voluntary Petition seeking relief under Chapter 13 of the United States Bankruptcy Code. Debtors also filed their Chapter 13 Plan which provided that the secured allowed claim of AmeriCredit would be handled by surrender of the 2004 Dodge truck, securing the claim in full satisfaction of the debt. The Court erroneously confirmed the Plan by Order entered May 31, 2006. By separate Order the Court set aside the Order of Confirmation as surrender of the vehicle in full satisfaction of the debt is contrary to 11 U.S.C. §1325, as amended by the Bankruptcy Abuse Prevention Consumer Protection Act of 2005.

On July 5, 2006, Debtors filed their Objection to the Claim of AmeriCredit contending that the Plan proposing to surrender their 2004 Dodge truck in full satisfaction of the debt was confirmed by the Court without objection by AmeriCredit. Debtors request that the claim of AmeriCredit be disallowed.

The Court will not knowingly sanction a Plan that is contrary to law. For this reason, the confirmation order will be set aside to the extent it permitted the surrender of the vehicle in full

satisfaction of the indebtedness. Since Debtors intended to surrender the vehicle, the automatic stay of 11 U.S.C. §362 is terminated as to that vehicle. AmeriCredit is entitled to repossess the vehicle and sell it in accordance with state law. AmeriCredit is then entitled to file a deficiency claim, if any, as an unsecured claim against the estate.

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** that the Debtors' Objection to Claim of AmeriCredit be, and hereby is, **OVERRULED**.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the automatic stay of 11 U.S.C. §362 is terminated as it applies to AmeriCredit's claim on the 2004 Dodge truck. AmeriCredit has 45 days following the sale of the vehicle in accordance with state law to file a deficiency claim, if any, in this case.