

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
LUBBOCK DIVISION

IN RE:	§	
	§	
RAYBURN PAUL LEBLANC AND	§	CASE NO. 03-50477-RLJ-13
JAMIE RAE LEBLANC,	§	
	§	
DEBTORS	§	

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Before the court is the Chapter 13 plan submitted for confirmation by the debtors Rayburn Paul LeBlanc and Jamie Rae LeBlanc. Robert Wilson, the Chapter 13 Trustee, objects to confirmation of the LeBlancs' Chapter 13 plan.

**Findings of Fact**

1. The LeBlancs propose a forty-four month plan with plan payments of \$1,820 per month for the first nine months of the plan and \$1,834 per month for the remaining thirty-five months. This results in total plan payments, or a plan base, of \$80,570. The estimated payout to unsecured creditors is 36.39%.

2. The scheduled monthly plan payment results from Schedules I (Current Income) and J (Current Expenditures). Both Paul LeBlanc and Jamie LeBlanc are employed; they have three children, ages 15, 10, and 3. Two of the children live with the LeBlancs and the third frequently visits them.

3. There is no dispute regarding the LeBlancs' income. Their combined monthly net income is \$6,588.76.

4. The LeBlanc's Schedule J reflects total monthly expenses of \$4,753.93. The expenses

on Schedule J include \$220 a month for life insurance, \$800 a month for groceries, \$150 a month for clothing, and \$200 a month for medical and dental expenses.

5. The evidence is somewhat unclear concerning the amount actually paid by the LeBlancs for life insurance. As stated above, Schedule J reflects a monthly payment of \$220. Jamie LeBlanc testified that they pay no more than \$185 a month. The debtors' Exhibit J reflects a monthly premium of \$96 for a policy on Ray LeBlanc and \$156 for a policy on Jamie LeBlanc. *See Debtors' Ex. J.*

6. The life insurance policies held by the LeBlancs accumulate cash values and therefore contain an investment feature. The LeBlancs have borrowed against one of the policies and have a balance of approximately \$7,000.

7. To justify their budget item for groceries of \$800 per month, the LeBlancs submitted their grocery receipts for October 2003, November 2003, December 2003, and January 2004. *See Debtors' Ex. G.* The monthly average for these months is \$815.15. *Id.* The receipts reflect numerous expenditures for tobacco products, liquor, animal supplies and food, drug items, cleaning supplies, tools, and various other household supplies. Actual food items constitute a fraction of the expenditures represented by the receipts. The LeBlancs obviously buy food, but Exhibit G provides little proof of actual food expenditures.

8. Jamie LeBlanc testified that their fifteen year old daughter has various medical problems and that, by way of example, their medical expenses for one month were \$435. This compares with their budgeted amount of \$200 a month.

9. If appropriate, these findings of fact shall be considered conclusions of law.

### **Conclusions of Law**

10. This court has jurisdiction of this matter under 28 U.S.C. § 1334(b). This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(L).

11. The Trustee objects to the plan, contending that the LeBlancs' plan fails to dedicate all the LeBlancs' projected disposable income for the forty-four month plan term. The Trustee submits that the LeBlancs' expenses for food (\$800 a month), clothing (\$150 a month), and life insurance (\$220 a month) are excessive. The Trustee also argues that the maintenance of life insurance policies with accumulating cash values is an improper expense item (i.e. is not reasonably necessary for the maintenance and support of the debtors).

12. The LeBlancs wish to keep the life insurance policies and contend that, by extending their plan by eight months beyond the three-year plan period required by the Code, they satisfy the requirement of submitting all projected disposable income to the plan.

13. A Chapter 13 plan may not provide for payments beyond three years, unless the court, for cause, approves a longer period no longer than five years. 11 U.S.C. § 1322(d).

14. If the Trustee or an unsecured creditor objects to confirmation of the plan, the plan must dedicate all of the debtor's projected disposable income for the three year plan period. 11 U.S.C. § 1325(b)(1)(B).

15. Before the court can reach the question of whether the debtors can, given the Trustee's objection, satisfy their obligation to submit all projected disposable income to their plan by extending their plan beyond the three year period, the court must first know, within some acceptable range, the debtors' projected monthly disposable income.

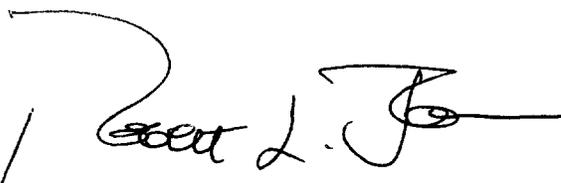
16. The court infers from the evidence that the LeBlancs' average monthly expenditures for groceries and medical needs exceed the budgeted amounts in Schedule J. The evidence is unclear concerning their expenditures for life insurance. While the parties stipulated that the cost of a term life insurance policy is less than the cost of a policy that accumulates a cash value, there is no evidence that replacing the LeBlancs' policies with new term policies would cost less.

17. The evidence in this case fails to prove, within any reasonable range, the debtors' expenses for food, life insurance, and medical expenses. These are each major expense items which greatly influence the LeBlancs' disposable income. From the evidence presented and assuming the propriety of all expense items, it appears that a more accurate representation of the LeBlancs' expenses will likely result in less disposable income and thus smaller plan payments.

18. The evidence is insufficient to allow the court to make a meaningful determination of the LeBlancs' disposable income. Without this, the court cannot find that the LeBlancs are dedicating all projected disposable income for, at a minimum, the three year period required by the Code. *See* 11 U.S.C. § 1325(b)(1). The court may not, therefore, approve the LeBlancs' plan; confirmation is denied. *Id.*

19. If appropriate, these conclusions of law shall be considered findings of fact.

SIGNED May 11, 2004.



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ROBERT L. JONES  
UNITED STATES BANKRUPTCY JUDGE