

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MAINE**

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In re:	)	
	)	Chapter 13
Derek Monteith	)	Case No. 09-20532
Sherry Monteith	)	
	)	
Debtors	)	

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**ORDER**

This matter comes before me on the objection to confirmation filed by Bank of America (the "Bank"). Following a hearing, the parties were ordered to submit a stipulation of fact and allowed to brief the issue, after which I would take the matter under submission.<sup>1</sup>

The debtors propose to treat the Bank's claim for \$15,116.62 as secured only to the extent of the value of the collateral securing the claim (in this case, \$6975). The debtors propose to pay interest on that amount at 7%, notwithstanding that the contract rate is 7.99%. The Bank would be entitled to unsecured status for the balance of its claim.

The Bank requests that I re-visit my decision in In re Look, 383 B.R. 210 (Bankr. D. Me. 2008). Until the law of the First Circuit requires otherwise, I continue to conclude that the "hanging paragraph" of 11 U.S.C. § 1325(a)(5) does not apply to secured claims that include the financing of "negative equity," because under Maine law a loan secured by such financing does not constitute a purchase money security interest, as laid out fully in Look. See id.

Therefore, it is ordered that the Bank's objection to confirmation is overruled, and confirmation of the debtors' plan is granted.

/s/ James B. Haines, Jr.

Dated: August 24, 2009

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Hon. James B. Haines, Jr.  
Judge, U.S. Bankruptcy Court  
District of Maine

<sup>1</sup> The Bank filed a stipulation to which the debtors did not contribute prior to its filing, nor have the debtors commented upon the stipulations subsequent to its filing. Similarly, the debtors have not filed a brief in support of their position by the date they were required to do so, although the Bank has. For purposes of this order, I will accept the Bank's stipulations as true.