IN THE UNITED STATES BANKRUPTCY COURT FOR THE EASTERN DISTRICT OF TENNESSEE

In re

Case No. 02-32030

NEIL M. GOODWIN

Debtor

NEIL M. GOODWIN

Plaintiff and
Counter-Defendant

v. Adv. Proc. No. 02-3111

OKLAHOMA STATE REGENTS FOR HIGHER EDUCATION

Defendant and
Counter-Plaintiff

M E M O R A N D U M

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RICHARD STAIR, JR.
UNITED STATES BANKRUPTCY JUDGE

The Debtor filed a Voluntary Petition under Chapter 13 on April 15, 2002. He thereafter commenced this adversary proceeding by filing a Complaint to Determine Dischargeability of Educational Debt (Complaint) on June 17, 2002, seeking a determination that his educational loans owing to the Defendant, Oklahoma State Regents for Higher Education,[1] are dischargeable under 11 U.S.C.A. § 523(a)(8) (West 1993 & Supp. 2002), because it would be an undue hardship for the Debtor to repay the loans. The Defendant filed a counterclaim seeking an order determining the debt to be nondischargeable under § 523(a)(8).

The trial of this adversary proceeding was held on March 4, 2003. The record before the court consists of eight stipulated exhibits introduced into evidence and the testimony of the Debtor.

This is a core proceeding. 28 U.S.C.A. § 157(b)(2)(I) (West 1993).

I

The Debtor consolidated six Sallie Mae student loans incurred between 1985 and 1990, totaling $20,236.45 plus interest at a fixed rate of 8.0%, pursuant to a Promissory Note dated May 15, 1995 (the Note), with the Oklahoma Guaranteed Student Loan Program (the Oklahoma GSLP) designated as Guarantor. *See* COLLECTIVE TRIAL EX. 1 (Application/Promissory Note). Repayment of the Note was structured as follows: monthly payments of $136.35 from September 25, 1995, through August 25, 1999; monthly payments of $152.19 from September 25, 1999, through August 25, 2000; monthly payments of $171.68 from September 25, 2000, through

[1] The Complaint was filed against Sallie Mae Servicing, L.P. Pursuant to an Order entered on July 30, 2002, Oklahoma State Regents for Higher Education was substituted as the Defendant.

August 25, 2001; monthly payments of $193.66 from September 25, 2001, through July 25, 2015; and monthly payments of $216.11 from August 25, 2015, until the balance was paid in full. *See* COLLECTIVE TRIAL EX. 1 (Disclosure Statement). The Debtor made twelve payments of $136.35 and one payment of $115.00 between October 2, 1995, and October 7, 1996. *See* TRIAL EX. 3. Additionally, the Debtor made payments of $351.63, $465.39, and $149.96 between January 1, 1999, and July 1, 1999. *See id.* The Debtor has made no other payments on the Note, and as of February 25, 2003, the outstanding obligation owed pursuant to the Note is $31,924.51, representing $30,272.39 principal and $1,652.12 in accrued interest.[2]

In his Complaint, the Debtor states that he has made a good faith attempt to repay the Note; however, due to mental illness and financial hardships, coupled with the deaths of his wife and mother in 2000, the Debtor is unable to finish repayment of the Note. The Defendant argues that the Debtor has demonstrated that he has disposable income by participating in a Chapter 13 plan and that once his Chapter 13 case is completed, he will be able to satisfy the Note.

II

Discharge under Chapter 13 of the Bankruptcy Code is governed by 11 U.S.C.A. § 1328, which provides in material part:

> (a) As soon as practicable after completion by the debtor of all payments under the plan, . . . the court shall grant the debtor a discharge of all debts provided for by the plan . . ., except any debt—

[2] The Defendant acknowledged that the Debtor is not in default on the Note, but instead, the account is currently in a period of forbearance. Although the Debtor is not required to make payments during this forbearance period, interest continues to accrue on the balance owed to the Defendant.

. . . .

> (2) of the kind specified in paragraph . . . (8) . . . of section 523(a) of this title[.]

11 U.S.C.A. § 1328 (West 1993 & Supp. 2002). Section 523(a), governing the nondischargeability of certain debts, provides in material part:

> (a) A discharge . . . does not discharge an individual debtor from any debt—
>
> . . . .
>
> (8) for an educational benefit overpayment or loan made, insured or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution, or for an obligation to repay funds received as an educational benefit, scholarship or stipend, unless excepting such debt from discharge under this paragraph will impose an undue hardship on the debtor and the debtor's dependents[.]

11 U.S.C.A. § 523(a)(8). Because educational loans are generally nondischargeable pursuant to § 523(a)(8), a debtor seeking discharge thereof must establish by a preponderance of the evidence that repayment will impose an undue hardship. *Siegel v. U.S.A. Group Guarantee Servs. (In re Siegel)*, 282 B.R. 629, 634 (Bankr. N.D. Ohio 2002); *Daugherty v. First Tenn. Bank (In re Daugherty)*, 175 B.R. 953, 955 (Bankr. E.D. Tenn. 1994).

Because the Bankruptcy Code does not designate requirements establishing those factors constituting an undue hardship, the courts must. *See Tenn. Student Assistance Corp. v. Hornsby (In re Hornsby)*, 144 F.3d 433, 437 (6th Cir. 1998). Courts within the Sixth Circuit have been instructed that in order for a debtor to establish that repayment of student loan debts would impose an undue hardship, he must demonstrate the existence of the following factors:

> ?(1) that [he] cannot maintain, based on current income and expenses, a ‹minimal' standard of living for [himself] and [his] dependents if forced to repay the loans; (2)

> that additional circumstances exist indicating that this state of affairs is likely to persist for a significant portion of the repayment period . . .; and (3) that the debtor has made good faith efforts to repay the loans."

Cheesman v. Tenn. Student Assistance Corp. (In re Cheesman), 25 F.3d 356, 359 (6th Cir. 1994) (quoting *Brunner v. N.Y. State Higher Educ. Servs. Corp.*, 831 F.2d 395, 396 (2d Cir. 1987)). The court should also consider "whether there would be anything left from the debtor's estimated future income to enable [him] to make some payment on [his] student loan without reducing what [he] and [his] dependents need to maintain a minimal standard of living.'" *Id.* (quoting *Andrews v. S.D. Student Loan Assistance Corp. (In re Andrews)*, 661 F.2d 702, 704 (8th Cir. 1981)). Likewise, "the amount of the debt . . . as well as the rate at which interest is accruing' and 'the debtor's claimed expenses and current standard of living, with a view toward ascertaining whether the debtor has attempted to minimize the expenses of himself and his dependents'" are important factors. *Hornsby*, 144 F.3d at 437 (quoting *Rice v. United States (In re Rice)*, 78 F.3d 1144, 1149 (6th Cir. 1996)) (footnote omitted). Finally, courts should consider "the debtor's income, earning ability, health, educational background, dependents, age, accumulated wealth, and professional degree." *Rice*, 78 F.3d at 1149 (citations omitted).

III

"The essence of the minimal standard of living requirement . . . is that a debtor, after providing for his or her basic needs, may not allocate any of his or her financial resources to the detriment of their student loan creditor(s)." *Flores v. U.S. Dep't of Educ. (In re Flores)*, 282 B.R. 847, 853 (Bankr. N.D. Ohio 2002). Accordingly, "any analysis . . . must necessarily center around two considerations: (1) the debtor's income; and (2) those expenses which are necessary

for the debtor to meet his or her basic needs." *Id*. It is up to the bankruptcy court to ?ascertain what amount is minimally necessary to ensure that the [debtor and any] dependents' needs for care, including food, shelter, clothing, and medical treatment are met." *Rice*, 78 F.3d at 1151. A debtor earning a modest income and living on an unbalanced budget with no unnecessary or frivolous expenses may be discharged based upon an undue hardship. *See Hornsby*, 144 F.3d at 438 (citing *Correll v. Union Nat'l Bank of Pittsburgh (In re Correll)*, 105 B.R. 302, 306 (Bankr. W.D. Pa. 1989)).

The Defendant argues that once the Debtor completes his Chapter 13 plan, he will have the disposable income currently being paid to the Chapter 13 Trustee to fund his plan that can be used to repay the Note. Additionally, the Defendant confirmed that the Debtor has not defaulted on his student loans and because he is currently in a period of forbearance, the Defendant is not opposed to waiting until the Debtor has completed his Chapter 13 plan for him to begin repayment.

According to the Debtor's Schedule I, his monthly income is $1,400.00. *See* COLLECTIVE TRIAL EX. 6 (Amended Schedule I - Current Income of Individual Debtor(s) dated June 17, 2002). At trial, the Debtor testified that he works two jobs and that his combined gross income falls between $1,400.00 and $1,600.00 per month.[3] The Debtor has no dependents.

The Debtor shows expenses of $739.00 per month. *See* COLLECTIVE TRIAL EX. 6 (Amended Schedule J - Current Expenditures of Individual Debtor(s) dated June 17, 2002). These

[3] The Debtor testified that he has changed employment at one of his jobs since filing for bankruptcy, and that he makes slightly more per hour at his current employment than he did at the time he filed his bankruptcy schedules.

expenses are as follows: (1) $80.00 for property insurance; (2) $25.00 for telephone service;[4] (3) $235.00 for food; (4) $150.00 for transportation expenses (gasoline); (5) $69.00 for car insurance; and (6) $180.00 for lot rent. *See id.* Additionally, the Debtor pays $362.00 bi-weekly to the Chapter 13 Trustee for administration of his Chapter 13 plan. *See* COLLECTIVE TRIAL EX. 7 (Amended Chapter 13 Plan dated June 17, 2002, and Agreed Order entered September 13, 2002). At trial, the Debtor testified that his monthly expenses were still predominantly the same as those listed on his Amended Schedule J and that these expenses were not likely to change a great deal in the future.

The Debtor testified that he personally pays his lot rent, utilities, food, gas for his car, and insurance expenses, but that his car and mobile home payments are made by the Chapter 13 Trustee each month through administration of his Chapter 13 plan. The Debtor acknowledged that once he has completed his Chapter 13 plan, he will still have payments on his mobile home of $404.82 per month.[5] However, taking his income at $1,400.00 per month, which is the low end of his income range, and subtracting his total expenses of $1,143.82, the Debtor will still have at least $256.18 per month of disposable income once his Chapter 13 plan has been completed.

The question is whether the Debtor can meet the minimum standard of living, which includes only those expenses that are necessary for meeting the Debtor's basic needs. The Debtor's budget does not appear to be unbalanced in any way. Because he will have at least

[4] At trial, the Debtor testified that he no longer has telephone service because he was unable to make timely payments. The court will nevertheless consider this expense in its analysis.

[5] The indebtedness secured by the Debtor's car, a 1995 Saturn, will be paid off over the life of his plan.

$250.00 per month over and above his regular monthly expenses, the court finds that the Debtor does have the resources by which he can repay at least a portion of his student loan obligation to the Defendant.[6]

IV

The Bankruptcy Code does not provide a specific list of ?additional circumstances" to be considered to indicate the persistence of a debtor's state of affairs; however, courts should examine whether a debtor has any disabilities, whether the debtor has dependents, the debtor's age, the debtor's mental abilities, the debtor's education, and the debtor's experience. *See*, *e.g.*, *Healey v. Mass. Higher Educ. (In re Healey)*, 161 B.R. 389, 396 (E.D. Mich. 1993). A debtor must establish that his

> distressed state of financial affairs [is] the result of events which are clearly out of [his] control; . . . that [he has] done everything within [his] power to improve [his] financial situation[, and] that the hardship [he] is experiencing is actually ?undue," as opposed to the garden variety financial hardship experienced by all debtors who file for bankruptcy relief.

Kirchhofer v. Direct Loans (In re Kirchhofer), 278 B.R. 162, 167 (Bankr. N.D. Ohio 2002) (citations omitted).

Here, the Defendant concedes that the Debtor has some mental and emotional impairment that prevents him from obtaining employment with any sufficient earning potential.[7] The Debtor

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[6] In order to discharge student loan obligations under § 523(a)(8), all three prongs of the ?undue hardship" test must be met. Even though the Debtor did not meet the first prong, and therefore, the entire obligation cannot be discharged, the court will discuss whether the Debtor has met the two remaining prongs.

[7] The parties introduced into evidence medical records concerning treatment and hospitalization that the Debtor has received since 1979. *See* COLLECTIVE TRIAL EX. 6 (Medical records); COLLECTIVE TRIAL EX. 8 (Medical records).
(continued…)

admitted, however, that he was suffering from these impairments when he borrowed the student loans and when he executed the Note, albeit, his symptoms have become progressively worse recently.

The court agrees that the Debtor possesses additional circumstances beyond his control which severely limit his financial affairs and future. Nevertheless, the Debtor has been employed at his current jobs for approximately three years, off and on. He has no dependents. The Debtor does suffer from depression and anxiety; however, he seems to be aware of his limitations, and although his emotional impairments appear to be permanent, he also seems to be handling them. The Debtor testified that he takes medication which helps him cope with his ailments, and he continues to be visited by social workers who check on his status and ensure that he takes his medication. Even though the Debtor's financial hardships are not the "garden variety" experienced by most bankruptcy debtors, his financial prospects are not entirely bleak.

V

When determining whether a debtor has acted in good faith in attempting to repay the student loan obligation, courts should look to several factors, including:

> (1) whether a debtor's failure to repay a student loan obligation is truly from factors beyond the debtor's reasonable control;
> (2) whether the debtor has realistically used all of [his] available financial resources to pay the debt;
> (3) whether the debtor is using [his] best efforts to maximize [his] financial potential;
> (4) the length of time after the student loan first becomes due that the debtor seeks to discharge the debt;

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[7](…continued)
It appears from these records that the Debtor suffers from depression, anxiety, and mood swings. *See id*.

> (5) the percentage of the student loan debt in relation to the debtor's total indebtedness;
> (6) whether the debtor obtained any tangible benefit(s) from [his] student loan obligation.

Flores, 282 B.R. at 856 (citations omitted). This list is not exhaustive, and not all factors will apply to all debtors.

In this case, the Debtor has apparently made a good faith effort to repay his student loan obligation. First, he made consistent payments for the first year of repayment. *See* TRIAL EX. 3. Afterwards, the Debtor was granted a forbearance by the Defendant nine separate times from August 1996 to present.[8] *See id.* The Note was originally scheduled to go into repayment in September 1995, and the Debtor did, in fact, make payments until October 1996. Thereafter began his periods of forbearance, which have continued since the Debtor filed his Chapter 13 bankruptcy case in April 2002. As previously discussed, the Debtor is limited, beyond his control, by his emotional disabilities, and he has maximized his earning potential. The Debtor testified that he has not taken vacations or made large, luxury purchases. The Debtor does not live an extravagant lifestyle, and he drives a modest, yet reliable automobile. His Chapter 13 plan payments are being deducted through a wage assignment order so that he remains current. The court is satisfied that the Debtor has done everything within his limited capacity to make a living and pay his expenses and that he has used his financial resources to the best of his ability to repay the Note.

[8] Forbearance of a federal student loan is governed by 34 C.F.R. § 685.205 (2002), and requires proof that certain requirements are satisfied before a forbearance may be granted. As applicable to the Debtor, the Defendant was required to obtain documentation that ?due to poor health or other acceptance reasons," the Debtor was unable to make his payments. 34 C.F.R. § 685.205(a)(1) (2002).

Likewise, the Debtor has used his best efforts to maximize his earning potential. The Debtor testified that he has attempted to find a higher paying job, but he is severely limited by his disabilities, his lack of work experience outside of the fast food industry, and his inability to obtain a college degree. By his own account, the Debtor "needs something menial." The Debtor seems comfortable in his current employment, and based upon his prior work history, the court believes that he will be unable to greatly increase his earnings in the future.[9]

With regards to the percentage of student loan debt in relation to his other debts, the Debtor has only four unsecured creditors listed on his bankruptcy schedules, with a total unsecured debt of $31,156.94. *See* COLLECTIVE TRIAL EX. 6 (Schedule F - Creditors Holding Unsecured Nonpriority Claims). His indebtedness on the Note makes up approximately 94% of that debt. However, the Debtor also lists secured debts totaling $36,500.00 and federal income taxes owed of $1,495.88. *See* COLLECTIVE TRIAL EX. 6 (Schedule D - Creditors Holding Secured Claims); COLLECTIVE TRIAL EX. 6 (Schedule E - Creditors Holding Unsecured Priority Claims). Accordingly, his obligation under the Note makes up approximately 42% of his total debts. Under his Chapter 13 plan, the Debtor is making payments of approximately $724.00 per month for sixty months, with an expected dividend of less than 5% to his unsecured creditors. This $724.00 is divided between his $404.82 residential mortgage payment on his mobile home, $88.00 per month together with 12% interest for his car payment, administrative expenses, and priority expenses, which includes the outstanding tax liability to the Internal Revenue Service. The Debtor is not

[9] The Debtor has a history of being terminated for bad job performance. Moreover, he has established a history of being unable to deal with authority figures, such as managers, at his places of employment.

attempting to repay a large amount of unsecured debt at the Defendant's expense nor is there any indication of bad faith between the Debtor's failure to repay the Note and his filing for bankruptcy more than six years later.

Finally, the Debtor did not obtain a tangible benefit from his student loan obligation. He attended Roane State Community College from 1980 to 1983 (special education major); Tennessee Technological University from 1983 to 1984 (education major); East Tennessee State University from 1985 to 1986 (broadcasting major); and Middle Tennessee State University from 1987 to 1993 (social work major); however, he did not obtain a degree from any of these institutions.[10] Furthermore, it does not appear that he is using any skills that he acquired during his studies at these colleges and universities in his employment as a newspaper courier and/or his working at a fast food restaurant.

Based upon the foregoing, the court is satisfied that the Debtor made every good faith effort, within his means, to repay the Note, which the Defendant agrees has never been in default. And, although the court may not discharge the entire student loan debt under § 523(a)(8), the court is persuaded that the Debtor should be afforded some relief from this student loan obligation.

[10] At trial, the Debtor testified that he also attended Montgomery College in Maryland in 1978 for approximately one year; however, the Debtor did not use any of the student loans at issue in this case towards this institution.

VI

In the Sixth Circuit, a bankruptcy court may use its equitable powers under 11 U.S.C.A. § 105(a) to modify a student loan obligation. Section 105(a) defines the power of the court as follows:

> The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title. No provision of this title providing for the raising of an issue by a party in interest shall be construed to preclude the court from, sua sponte, taking any action or making any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process.

11 U.S.C.A. § 105(a) (West 1993). **?**The basic purpose of section 105 is to [provide] the bankruptcy courts [with the] power to take whatever action is appropriate or necessary in aid of the exercise of their jurisdiction." *Casse v. Key Bank Nat'l Ass'n (In re Casse)*, 198 F.3d 327, 336 (2d Cir. 1999) (quoting 2 COLLIER ON BANKRUPTCY ¶ 105-5 to -7 (Lawrence P. King ed., 15th ed. 1999)).

In *Hornsby*, the Sixth Circuit held that **?**[i]n a student-loan discharge case where undue hardship does not exist, but where facts and circumstances require intervention in the financial burden on the debtor, an all-or-nothing treatment thwarts the purpose of the Bankruptcy Act." *Hornsby*, 144 F.3d at 439. The court further held that

> [w]here a debtor's circumstances do not constitute undue hardship, some bankruptcy courts have thus given a debtor the benefit of a **?**fresh start" by partially discharging loans, whether by discharging an arbitrary amount of the principal, interest accrued, or attorney's fees, by instituting a repayment schedule, by deferring the debtor's repayment of the student loans, or by simply acknowledging that a debtor may reopen bankruptcy proceedings to revisit the question of undue hardship. We conclude that, pursuant to its powers codified in §§ 105(a), the

> bankruptcy court . . . may fashion a remedy allowing [a debtor] ultimately to satisfy [his student loan] obligations while at the same time providing [him] some of the benefits that bankruptcy brings in the form of relief from oppressive financial circumstances.

Id. at 440.

In this case, the Debtor's circumstances demand that the Debtor's student loan obligation pursuant to the Note be modified and partially discharged. First, as introduced into evidence, the total outstanding amount due on the Note as of February 25, 2003, was $31,924.51. *See* TRIAL EX. 2. This balance is accruing interest at a fixed rate of 8.0% per annum, which translates to $6.63504 per diem. *See id.* The prior balance introduced into evidence was $29,135.70 as of December 26, 2001. *See* TRIAL EX. 3. The Debtor filed his petition on April 15, 2002, which was 110 days after December 26, 2001. Accordingly, as of the date of filing, the total outstanding balance was $29,865.55, representing the $29,135.70 plus $729.85 in interest accrued from December 26, 2001, through April 15, 2002. This $29,865.55 will be nondischargeable pursuant to § 523(a)(8). The $2,058.96 in interest that accrued after the filing of the Debtor's bankruptcy case shall be discharged.

Next, at trial, the Defendant's counsel, in response to a question from the court, acknowledged that interest rates for federal student loans have dropped and that the cap on such loans is 8.25%. Counsel stated that a fair mean average for interest rates is currently 4.5%. In fact, for loans disbursed in March 1995, when the Debtor executed the Note, interest rates are now set at 4.86% for loans currently in forbearance, which represents the 91-day Treasury bill rate of 1.76% plus 3.1%. *See* 34 C.F.R. § 685.202(A)(1)(i) (2002). In light of current Department of

Education Regulations, the court finds that the 8.0% interest rate is excessive and will modify the rate of interest upon which the Debtor's student loan may accrue to a fixed rate of 4.86% per annum or $3.9766 per diem. Interest shall not begin to accrue on the $29,865.55 balance until the Debtor's plan has been paid in full, the Debtor receives a discharge, the Debtor's case is dismissed, or the Debtor's case is converted to Chapter 7, whichever occurs first.

Finally, the court holds that repayment of the student loan obligation owing to the Defendant shall not commence until the Debtor has completed all payments required under his Chapter 13 plan, the Debtor is granted a discharge, the Debtor's Chapter 13 case is dismissed, or the Debtor's Chapter 13 case is converted to a case under Chapter 7, whichever occurs first. At that time, the Debtor's payments shall be fixed at $175.00 per month until the debt is paid in full or discharged by the Defendant pursuant to 34 C.F.R. § 685.212 (2002). This $175.00 payment shall be inclusive of both principal and interest, and at no time shall the Debtor's payments be increased beyond $175.00 per month for any reason. The Defendant shall provide the Debtor with a payment invoice each month, including the address at which all payments are to be made and indicating a due date of the 20th day of each month. Additionally, when payments resume, the Defendant will provide the Debtor with an amortization schedule evidencing the allocation to principal and interest of each monthly payment over the life of the nondischargeable loan as fixed herein by the court. The Defendant will also, at least annually after payments resume, provide the Debtor with a statement of the outstanding unpaid principal balance of his nondischargeable student loan obligation. Should the Debtor be able to make payments in excess of $175.00 per month, any

such excess will be applied by the Defendant to the unpaid principal balance of the nondischargeable student loan.

A judgment consistent with this Memorandum will be entered.

FILED: March 18, 2003

BY THE COURT

/s/

RICHARD STAIR, JR.
UNITED STATES BANKRUPTCY JUDGE

IN THE UNITED STATES BANKRUPTCY COURT FOR THE EASTERN DISTRICT OF TENNESSEE

In re

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NEIL M. GOODWIN

Debtor

NEIL M. GOODWIN

Plaintiff and
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v. Adv. Proc. No. 02-3111

OKLAHOMA STATE REGENTS FOR HIGHER EDUCATION

Defendant and
Counter-Plaintiff

J U D G M E N T

For the reasons stated in the Memorandum filed this date containing findings of fact and conclusions of law as required by Rule 52(a) of the Federal Rules of Civil Procedure, it is ORDERED, ADJUDGED and DECREED as follows:

1. The Plaintiff's student loan obligation to the Defendant is nondischargeable pursuant to 11 U.S.C.A. § 523(a)(8) (West 1993 & Supp. 2002) in the amount of $29,865.55.

2. The Plaintiff's $29,865.55 nondischargeable student loan shall accrue interest at a fixed rate of 4.86% per annum; however, interest shall not begin to accrue until the Debtor's Chapter 13 plan has been

paid in full and he has been granted his discharge, his case is dismissed, or his case is converted to Chapter 7, whichever occurs first.

3. The Plaintiff shall commence making payments to the Defendant in the fixed amount of $175.00 monthly, inclusive of principal and interest, due on the 20th day of each month, commencing when his Chapter 13 plan has been completed and he has received his discharge, his Chapter 13 case is dismissed, or his Chapter 13 case is converted to Chapter 7, whichever occurs first. The Defendant will provide the Plaintiff with a payment invoice each month, including the address at which all payments are to be made.

4. When payments resume, the Defendant will provide the Plaintiff with an amortization schedule evidencing the amount of each $175.00 monthly payment to be allocated to principal and interest over the life of the nondischargeable student loan. The Defendant will also, at least annually after payments resume, provide the Plaintiff with a statement of the outstanding unpaid principal balance of his nondischargeable student loan obligation. Should the Plaintiff be able to make payments in any month in excess of $175.00, the Defendant shall apply such excess to reduce the principal balance of the Plaintiff's nondischargeable student loan obligation.

5. Except as provided herein, the Plaintiff's student loan obligation to the Defendant is discharged.

ENTER: March 18, 2003

BY THE COURT

/s/

RICHARD STAIR, JR.
UNITED STATES BANKRUPTCY JUDGE