IT IS SO ORDERED.

Dated: February 27, 2026

Tyson A. Crist
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

In re:	:	
William J. Pace,	:	Case No. 20-31856
	:	Chapter 13
Debtor.	:	Judge Crist
	:	

MEMORANDUM OPINION AND ORDER: (I) DENYING DEBTOR'S MOTION TO ORDER THE DEARFIELD LAW FIRM, LLC TO RETURN ATTORNEY FEES PURSUANT TO 11 U.S.C. § 329(b), AND TO ENFORCE AN AGREEMENT TO REFUND ATTORNEY FEES (DOC. 103); AND (II) PROVIDING THE DEBTOR UNTIL TUESDAY, APRIL 14, 2026 TO COMPLETE HIS CHAPTER 13 PLAN

I. Introduction

This decision concerns an unusual situation in which a chapter 13 debtor was able to confirm a plan that crammed down the mortgage on his apparent dual-purpose residence, a coup for a chapter 13 debtor, but because the Trustee's records were never updated to match the amended cramdown amount of $54,000 that debtor agreed to pay through his confirmed amended chapter 13 plan, instead still reflecting the lesser $28,000 he had proposed to pay in his original chapter 13 plan, debtor could not pay off his plan within 4 years, but instead has had to make payments for the full 5-year period. The principal balance owed on the mortgage, which he asserted to have been "predatory," would thereby, if the plan is completed, have been reduced from

$188,118.11[1] to $54,000. Ultimately, Mr. Pace would own his residence free and clear, presuming that he paid off his chapter 13 plan. By agreement or acquiescence of the lender, William J. Pace ("Mr. Pace" and the "Debtor"), by and through his experienced counsel, G. Timothy Dearfield,[2] got the opportunity to save his house and business location for a fraction, 28.7%, of what he owed prior to filing bankruptcy. But the administrative glitch at the Chapter 13 Trustee's Office, which resulted in an incorrect time horizon for the chapter 13 plan, may have given the debtor a false hope of paying off his plan a year early.

Upset with the state of affairs, and claiming that this smacks of "errors and omissions" by his counsel, Mr. Pace moved this Court to order his attorney, since fired, to refund all fees so that he can use those funds to pay off his chapter 13 plan. In this regard, this decision ultimately concerns whether Mr. Pace is deserving of, and if there is basis to order a full refund of attorney's fees, which could substantially help to pay off his chapter 13 plan, or if Mr. Pace, whether or not he is being candid about believing that he only owed $28,000 and would be done paying his plan in 4 years, should be able to look to and place the responsibility on his attorney to pay the remainder due and owing to the mortgagee under his confirmed amended chapter 13 plan to save his house. In short, to an extent this decision fundamentally concerns whose explanation of what happened is more credible and who should be responsible to pay off Mr. Pace's chapter 13 plan.

To cut to the chase, the Court's decision rests on the record of this chapter 13 case, Mr. Pace's three (3) prior bankruptcy cases, the documents introduced as exhibits into evidence and provided post-hearing (and not provided) by Mr. Pace and Mr. Dearfield, and the Court's assessment of the credibility of Mr. Pace as a witness. As a result, and because Mr. Pace's testimony had some gaps, particularly because he refused to answer a couple of the Court's key questions, and some of his testimony was inconsistent, his testimony did not support his assertion that he was an unwitting bystander in this process who should not be held responsible to pay off his chapter 13 plan when his hopes for an early payoff were dashed.

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[1] *See* Claim No. 4-1, filed by Deutsche Bank National Trust Company, as Trustee for Home Equity Mortgage Loan Asset-Backed Trust, Series INABS 2005-B, Home Equity Mortgage Loan Asset-Backed Certificates, Series INABS 2005-B ("Deutsche Bank, as Trustee") c/o Specialized Loan Servicing LLC.

[2] According to the Supreme Court of Ohio Attorney Directory, George Timothy Dearfield was admitted to practice on May 16, 1988.

Mr. Pace has never argued that his mortgage lender is not owed the crammed down amount set forth in his confirmed amended chapter 13 plan, which the Court concludes Mr. Pace signed in a parking lot meeting with Mr. Dearfield, notwithstanding his assertions to the contrary.

Query, if Mr. Pace truly believed he never signed the confirmed amended chapter 13 plan under which he proceeded to make payments for over 4 years, then what did he believe he was making payments toward? He would have had to have completely forgotten that his original chapter 13 plan, which contained the lower $28,000 cramdown amount, was not confirmed because the lender objected and required an amendment, which is belied by the records in this case, indicating that he was fully aware of the need to amend his chapter 13 plan to resolve the lender's objection, through time records attached to his attorney's fee application, and that he signed the amended plan. In essence, it appears that once he started to receive reports from the Chapter 13 Trustee's Office reflecting the incorrect lower secured claim of $28,000, he disregarded or somehow forgot about the amended chapter 13 plan. Unfortunately, his attorney did not temper his expectations either. But despite his assertions, Mr. Pace's testimony revealed that he did meet Mr. Dearfield in a parking lot to sign the amended chapter 13 plan. And Mr. Dearfield was eventually able to locate, in his records in storage, the original signed copy of the amended chapter 13 plan, which appears to bear Mr. Pace's signature, consistent with Mr. Pace's signature on other filings he has made with this Court. Moreover, based on the testimony of both Mr. Pace and Mr. Dearfield, it is far more credible and probable that Mr. Pace signed the amended chapter 13 plan to pay his lender with an increased cramdown amount of $54,000 to resolve the lender's objection (and still lop off $134,118 of the balance due on his mortgage), than it is to believe that his attorney forged his signature on an amended chapter 13 plan. And that being the case, although the glitch in the Trustee's office may have engendered some false hope, it cannot be a basis to hold the attorney responsible to pay off his client's case, particularly when Mr. Pace may never have been able to come this close to owning his home free and clear without counsel's services.

Given the seriousness of the issue, Mr. Pace was given his day in court, notwithstanding that his filings did not meet procedural muster. The Court took it upon itself to ensure that Mr. Pace was heard. While there is some blame to be shared, amongst the Chapter 13 Trustee's Office, Mr. Dearfield, and Mr. Pace, ultimately this chapter 13 case provided Mr. Pace with a rare opportunity to save his home for a fraction of the mortgage balance, and he remains responsible to pay those amounts. Further, whether he can realize that goal depends on his ability, as in almost

every other chapter 13 case, to make his payments. If so, the value of his counsel's services, which provided Mr. Pace with an opportunity to cram down and thereby shave $134,118 off of his mortgage, is a significant return on investment from the attorney fees paid in this chapter 13 case.

The Court cannot say for certain whether Mr. Pace saw this as an opportunity to attempt to get his home free and clear for less than the balance due pursuant to his amended chapter 13 plan, but the evidence, cumulatively, suggests that it is more likely than not that Mr. Pace understood, or at least reasonably should have understood, that it was not possible for him to pay off his case early by paying the same monthly payment of $2,000 agreed to in the amended chapter 13 plan; rather, an earlier payoff would ordinarily require an increased monthly payment. Accordingly, his motion will be denied. However, in this unique situation, the Court will, as a similarly rare equitable matter, order that Mr. Pace be given a little more time to pay off his chapter 13 plan so that he can, hopefully, realize the benefit of his mortgage cramdown that his counsel obtained for him. And if Mr. Pace can pay what he agreed to pay under the terms of the amended chapter 13 plan that he signed and that was confirmed by this Court, his case will have been a success.

II. Jurisdiction

This Court has jurisdiction over the motion filed by Mr. Pace pursuant to 28 U.S.C. § 1334(b) and Amended General Order 05-02 (Amended Standing Order of Reference) of the United States District Court for the Southern District of Ohio, entered pursuant to 28 U.S.C. § 157(a) on September 16, 2016. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (O), and this Court has the constitutional authority to enter a final judgment. *See, e.g.*, *In re Johnson*, 580 B.R. 742, 744 (Bankr. S.D. Ohio 2017) (Hoffman, J.) (citing *Saker v. Luper* (*In re Holiday Towers*), No. 91-3854, 1992 U.S. App. LEXIS 11762, at *5 (6th Cir. May 15, 1992) (finding that the bankruptcy court has both jurisdiction and constitutional authority to reach final determinations concerning attorney fees)).

III. Procedural Background

A. Current Chapter 13 Case

On August 30, 2020, Mr. Pace filed a voluntary petition for relief under Chapter 13 of the Bankruptcy Code (the "Petition"). (Doc. 1). Mr. Pace's counsel was G. Timothy Dearfield of Dearfield Law Firm LLC ("Mr. Dearfield" and "Dearfield Law"). In his Petition, filed without any

accompanying schedules or a statement of financial affairs, Mr. Pace listed his residence at 1325 Salem Avenue, Dayton, Ohio 45406 ("1325 Salem Avenue" and "Property"). (Doc. 1 at 2, Part 1, item 5.) In his subsequently filed Schedule A/B, Mr. Pace listed 1325 Salem Avenue, which is at the core of the present dispute, with a value of $28,000. (Doc. 15 at 3.) He claimed his Ohio homestead exemption in 1325 Salem Avenue on Schedule C (Doc. 15 at 9) and he listed Specialized Loan Servicing LLC as holding a mortgage securing the amount of $188,120 on Schedule D (Doc. 15 at 13, Part 1, item 2.5). Therein, Mr. Pace described 1325 Salem Avenue as a "single family dwelling, annexed private alley & out building [p]urchased May 25, 1999 – formerly used as dental office." *Id.*

B. Prior Bankruptcy Cases Involving 1325 Salem Avenue[3]

Although it had been over a decade ago, this was not Mr. Pace's first time filing for bankruptcy.[4] Notably, he lived at the same address, 1325 Salem Avenue, Dayton, Ohio 45406, when he last filed for bankruptcy, also a chapter 13 case, in November 2009. *See In re Pace*, Case No. 09-37092 (Bankr. S.D. Ohio). And in that case, 1325 Salem Avenue was identified as Mr. Pace's "personal residence" with an original purchase price of $80,000 (*see* Chapter 13 Plan (Doc. 3) at 10); it was appraised with a value of $25,000 (Doc. 15); Mr. Pace scheduled the mortgagee's claim for $118,749 (Schedule D (Doc. 1 at 21)); the mortgagee, OneWest Bank, FSB, filed a proof of claim for $126,044.45 plus interest at the rate of 12.250% per annum (Claim 4-1 and 4-2) based on a Note dated March 29, 2005, for the amount of $107,100 and a Loan Modification Agreement dated April 26, 2006, for the amount of $114,562.02; and no cramdown was proposed. Mr. Pace was not eligible for a discharge in that case due to his recent chapter 7 discharge in Case No. 08-35782, pursuant to 11 U.S.C. § 1328(f), and ultimately his case was dismissed by agreement

[3] The Court can, and expressly does, take judicial notice of all entries on the docket of Mr. Pace's current and prior bankruptcy cases as referenced herein, pursuant to Rule 201(c)(1) of the Federal Rules of Evidence, made applicable to this contested matter pursuant to Bankruptcy Rule 9017.

[4] *See* Doc. No. 6 (listing Debtor's prior filings in Case No. 09-37092 (chapter 13, dismissed for failure to make plan payments on Dec. 28, 2010); Case No. 08-35782 (chapter 7, standard discharge issued on Mar. 31, 2009); Case No. 04-34256 (chapter 13, voluntarily dismissed by Mr. Pace due to objections to his eligibility under § 109(e), by order entered on Oct. 6, 2004); Case No. 04-31654 (chapter 13, dismissed upon the Chapter 13 Trustee's motion to dismiss due to Mr. Pace's ineligibility under § 109(e), by order entered on May 12, 2004); Case No. 90-33632 (chapter 7, standard discharge issued on Nov. 27, 1991)).

with the Chapter 13 Trustee.[5] *See* Agreed Order Dismissing Case, Case No. 09-37092 (Doc. 48), Dec. 28, 2010.

Going back further in time, in Mr. Pace's preceding chapter 7 case, filed on November 13, 2008, he also listed 1325 Salem Avenue as his residence, he listed a mortgage claim for $80,000 in favor of Indy Mac Bank on his Schedule D (Doc. 1 at 22), and IndyMac Federal Bank, F.S.B. had moved for relief from stay based on the same Note and Mortgage at issue in this case and his prior chapter 13 case. In fact, stay relief was granted (Doc. 22) on January 8, 2009, and the Chapter 7 Trustee later issued a Notice of Abandonment (Doc. 24), given that IndyMac was owed $119,164.31 on the mortgage secured by 1325 Salem Avenue, then valued by the Montgomery County Auditor at $88,120. Mr. Pace received a discharge on March 31, 2009 (Doc. 29) and later moved to reopen his case to, in part, "file a reaffirmation agreement with Indymac Bank," (Doc. 31), which was denied pursuant to 11 U.S.C. § 524(c)(1) because his discharge had already been granted.

Mr. Pace's two prior chapter 13 bankruptcy cases, both filed in 2004, also involved 1325 Salem Avenue as his residence, but those cases were dismissed. *See* Case Nos. 04-31654 and 04-34256. A prior chapter 7 case filed in 1990 appears to have preceded his purchase of 1325 Salem Avenue. *See* Schedule A/B at 1, Part 1, item 1.1 (Doc. 1) (describing 1325 Salem Avenue as "2 parcels – purchased May 25, 1999 - $82,000 – formerly used as medical office; purchased to conduct insurance/advertising business therefrom. Debtor lives above business.").

C. Treatment of the Mortgage on 1325 Salem Avenue in this Chapter 13 Case

Through Mr. Dearfield, as counsel, Mr. Pace first proposed a Chapter 13 Plan (Doc. 16) (the "Original Plan") in his current case on August 25, 2020, which was unusual in that it proposed to cramdown the Debtor's residential mortgage loan on his residence to the asserted value of 1325 Salem Avenue, $28,000, with interest at 4%. *Id.* at 4, ¶ 5.1.2. The name of the creditor was listed as Specialized Loan Servicing, which is actually the servicer for the mortgage. *Id.* The same $28,000 figure was also listed in ¶ 5.2.1, which is for "Secured Claims with no Designated Monthly Payments." *Id.* at 7. The explanation for the Debtor's proposed cramdown of the loan on his principal residence (bifurcation of the lender's claim into secured and unsecured portions),

[5] At that time the Chapter 13 Trustee was Jeffrey M. Kellner.

which is ordinarily prohibited by 11 U.S.C. § 1322(b)(2), was that 1325 Salem Avenue "was purchased by Debtor to operate The Buckston Company & William Pace Company therefrom." *Id.* at 10, ¶ 13 (Nonstandard Provisions). Mr. Pace further explained that "the property was formerly a medical office" and he "lives above business." *Id.* Therefore, Mr. Pace, with the assistance of experienced counsel, was asserting a position that it appears he had not asserted in his three prior bankruptcies since he purchased 1325 Salem Avenue in 1999; that the mortgage loan was not secured *only* by the principal residence and therefore could be crammed down.[6]

As to funding his Original Plan, Mr. Pace proposed to pay the Trustee $1,100 per month for twelve (12) months, with an increased "step" payment of $1,645[7] beginning in month thirteen (13), September 2021. Original Plan (Doc. 16) at 1, ¶¶ 2.1 and 2.1.1. The proposed dividend to nonpriority unsecured claims in the Original Plan was 0%. *Id.* at ¶ 2.2. Thus, Mr. Pace's proposed plan payment in the Original Plan was largely driven by the proposed cramdown value of $28,000 for 1325 Salem Avenue, plus payments on his motor vehicle.

The Proof of Claim for the mortgage loan was filed in the amount of $188,118.11[8] by Specialized Loan Servicing, LLC (the "Servicer") on August 20, 2020 (Claim No. 4-1), on behalf

[6] Section 1322(b)(2) of the Bankruptcy Code prohibits the modification of a claim "secured ***only*** by a security interest in the Debtor's principal residence[.]" 11 U.S.C. § 1322(b)(2) (emphasis added). In this instance, although the Court did not rule upon the issue, the parties apparently agreed that the mortgage claim could be bifurcated into secured and unsecured portions even though there is contrary case law. *See, e.g.*, *In re Lister*, 593 B.R. 587, 592-600 (Bankr. S.D. Ohio 2018) (Buchanan, J.) (describing the different legal analyses of "mixed-use property" and § 1322(b)(2) and concluding that real property used as a principal residence was not excluded from the anti-modification language of § 1322(b)(2) "simply because the Property also serves additional purposes."). The other major exception to § 1322(b)(2) is a "wholly unsecured" mortgage loan, which is not applicable to this case. *See Lane v. W. Interstate Bancorp* (*In re Lane*), 280 F.3d 663, 669 (6th Cir. 2002) (under § 1322(b)(2), a Chapter 13 debtor can modify a secured claim on their principal residence that is unsupported by any "value"). Mr. Dearfield referenced the "thorny issue" of cramdown in his January 9, 2025 letter to Mr. Pace. Dearfield Law Ex. D at 1-2, ¶¶ 6-7 (Doc. 114 at 20-21). In this case, Mr. Pace was able to "cram down" the mortgage claim by agreement (technically, by the Servicer's withdrawal of their objections to confirmation (Docs. 48 and 49)), which required that "the plan provides for payments to the creditor, over the life of the plan, not less than the present value of the collateral[,]" which the Servicer and Mr. Pace agreed was $54,000. *See, e.g.*, *First Union Mortg. Corp. v. Eubanks* (*In re Eubanks*), 219 B.R. 468, 471-72 (B.A.P. 6th Cir. 1998); *In re Cipriani*, No. 17-61982-rk, 2017 Bankr. LEXIS 4432, at *5 (Bankr. N.D. Ohio Dec. 29, 2017).

[7] Mr. Pace stated and testified during the hearing that he was not aware of a $1,645 figure, which is understandable given that his Original Plan was not confirmed, the $1,645 payment never took effect, and this "step" payment amount was later increased to $2,000 in his Amended Plan (as defined below) that was confirmed in order to account for the increase of the cramdown value from $28,000 to $54,000. The Court reviewed the Original Plan with Mr. Pace during the hearing. But since the Original Plan was denied confirmation, Mr. Pace never paid a monthly payment of $1,645.

[8] Notably, as asserted in the Mortgage Proof of Claim Attachment (Official Form 410 A), only $24,545.20 of this total was principal. *See* Claim No. 4-1 at 4.

of the mortgagee Deutsche Bank ("Mortgagee"), as Trustee.[9] Attached thereto were the same Note and Mortgage dated March 29, 2005, for the original loan amount of $107,100, that were originally granted to Ohio Financial Group and later assigned to IndyMac Bank, FSB, which were at issue in Mr. Pace's prior three bankruptcies. *See* Claim No. 4-1 at 12-17 (Fixed/Adjustable Rate Note with Subprime Addendum), 18 (Allonge to Promissory Note), and 26-46 (Mortgage with Rider and Addendum). Presumably because Mr. Pace's *in personam* liability on the Note and Mortgage had been discharged in his chapter 7 case, No. 08-35782, without reaffirmation, and perhaps because the lender realizes that it would not recover much on its loan by foreclosing on 1325 Salem Avenue, which has twice been appraised with a value less than $30,000 – $28,000 in 2020 and $25,000 in 2009,[10] the Servicer entered into a Home Affordable Modification Agreement with Mr. Pace, executed on April 7, 2015, by which the new maturity date was set for February 1, 2055 (a 40-year mortgage) and Mr. Pace agreed to a payment schedule on a new principal balance of $25,742.52, plus interest at the rate of 4.125%, plus deferred principal of $154,985.76. *See* Claim No. 4-1 at 19-25. In short, whether or not the servicer and Mr. Pace were attempting to or intended to reaffirm his *in personam* obligation on the original Note and Mortgage, Deutsche Bank, as Trustee and the Servicer, ultimately did not oppose Mr. Pace dealing with the mortgage in the current chapter 13 case, following his 2009 chapter 7 case; thus, essentially a "chapter 20" case.[11]

Subsequent to the Servicer filing Claim No. 4-1, as referenced above, Mr. Pace filed an appraisal for 1325 Salem Avenue supporting the value of $28,000 on August 27, 2020. (Doc. 20.)[12] On September 2, 2020, the Servicer objected to confirmation of the Original Plan. (Doc. 23.) In that objection, the Servicer did not address that Mr. Pace's *in personam* liability on the Note and Mortgage had been discharged in his prior chapter 7 case, but did reference and attach the Home

[9] *See supra* note 1 for the full name of the mortgagee entity.

[10] *See* Real Estate Appraisal – 1325 Salem Avenue, Dayton OH 45415 (Doc. 20) (Appraisal of Real Property as of Aug. 19, 2020); Certified Appraisal, Case No. 09-37092 (Doc. 15) (Nov. 23, 2009).

[11] While the Court need not delve into this issue considering that Mr. Pace was able to confirm a chapter 13 plan in this case, this issue has been a recent topic of discussion. *See In re Saenz*, No. 25-10458-j13, 2026 Bankr. LEXIS 342, at *16-17 and n. 4 (Bankr. D.N.M. Feb. 9, 2026) (sustaining an objection to confirmation of a chapter 13 plan under § 1325(a)(5)(B)(ii) after concluding the loan could not be reinstated under New Mexico law and citing *Johnson v. Home State Bank*, 501 U.S. 78, 84 (1991)); *but see In re Short*, 619 B.R. 655, 661 (Bankr. S.D. Ohio 2020) (Humphrey, J.) (also discussing *Home State Bank*, 501 U.S. 78, which dealt with a "Chapter 20" case—a chapter 7 followed by a chapter 13, and holding that "a creditor's interest in a debtor's real property which is solely in rem is a 'claim' under §§ 101(5) and 1322 which may be treated under a Chapter 13 plan.").

[12] *See supra* note 10.

Affordable Modification Agreement dated April 7, 2015, traced the lineage of assignments of the Note and Mortgage, asserted that it was entitled to adequate protection, and stated that "it is somewhat unclear" if "Debtor is trying to cramdown and/or modify [Servicer's] 1st mortgage." Obj. (Doc. 23) at 2-3. On September 4, 2020, the Court entered an *Agreed Order Denying Confirmation of the Chapter 13 Plan (Doc. 16) and Ordering Amended Plan* (Doc. 25) (the "Agreed Order"), signed by Mr. Dearfield and the Chapter 13 Trustee, John G. Jansing ("Chapter 13 Trustee"), which gave the Debtor fourteen (14) days to file an amended plan, lest the case would be dismissed. Despite all of this, Mr. Pace testified "I thought [the Original Plan] was confirmed[.]" Audio File, 1:32.43-1:43.44. The Court then noted the Amended Plan was confirmed. When asked by the Court, "Do you know why you had an Amended Plan?," Mr. Pace testified that "all I know is what I shared." Audio File, 1:33:47-1:33.52.

Mr. Pace, by and through counsel, filed an amended Chapter 13 Plan (the "Amended Plan") (Doc. 39) on October 21, 2020, providing for a plan payment of $1,100 per month for the first twelve (12) months, as he had proposed in his Original Plan, but with an increased "step" payment of $2,000 beginning in month thirteen (13), September 2021, to account for the increase cramdown value for 1325 Salem Avenue. Am. Plan (Doc. 39) at 1, ¶¶ 2.1 and 2.1.1. The Amended Plan, as before, did not provide any dividend to non-priority unsecured creditors. *Id.* at 2, ¶ 2.2. Underlying the pending dispute between Mr. Pace and Mr. Dearfield, the Amended Plan also provided that the secured claim (Claim No. 4-1) of Deutsche Bank, as Trustee, by and through the Servicer, would be crammed down to a value of $54,000 on its mortgage claim against 1325 Salem Avenue, up from the value of $28,000 proposed in the Original Plan (but at the same 4% interest rate previously proposed), with the balance to be treated as a Class 4 non-priority unsecured claim. *Id.* at 4, ¶ 5.1.2 (dealing with claims secured by real property "that is not the Debtor's principal residence). But as the proposed dividend for non-priority unsecured creditors remained at 0%, the remaining balance owed on Claim No. 4-1 to Deutsche Bank, as Trustee, by and through the Servicer, would still would not be paid anything, such that the balance would be discharged upon completion of the Amended Plan. In effect, Mr. Pace's Amended Plan was only to pay the claims secured by his house, 1325 Salem Avenue, and his motor vehicle. And post-confirmation printouts of the online Chapter 13 Trustee's statements that Mr. Pace introduced at the hearing as exhibits, such as Exhibits 2 and 7, reflect that aside from the appraiser's fee, an administrative claim, and an escrow deposit with Dayton Power & Light, the only claims being paid through Mr. Pace's Amended Plan

were to: (1) Deutsche Bank, as Trustee, for 1325 Salem Avenue (Claim 4-1 in the total amount of $188,120, that Mr. Pace crammed down, albeit reflecting the incorrect lesser amount of $28,000[13]); (2) Santander Consumer USA Inc., for a 2017 Jeep Renegade (Claim 11-1 in the secured amount of $17,925, that Mr. Pace crammed down to $17,000); and (3) Scolopax, LLC, for a 2006 Chrysler 300 (Claim 8-1 in the secured amount of $14,812.54, that Mr. Pace crammed down to $2,500). On November 16, 2020, the Servicer filed the same objection (Doc. 45) to the Amended Plan that they had filed to the Original Plan. (Doc. 23.)

The Amended Plan was set for confirmation on January 7, 2021. *See* Notice of Rescheduled Hr'g (Doc. 46.) However, the day before the hearing, on January 6, 2021, the Servicer withdrew its standing objections to both the Original Plan and the Amended Plan, thereby tacitly accepting the cramdown treatment and valuation in the Amended Plan.[14] (Docs. 48 and 49.) The Chapter 13 Trustee also withdrew his prior objection (Doc. 47), and the Amended Plan was confirmed without a hearing on a consensual basis by entry of the *Order Confirming Chapter 13 Plan (Doc. 39) and Awarding Attorney Fees*[15] (Doc. 51) on January 12, 2021.

D. Mr. Pace's Receipt of Documents Concerning Objections to Confirmation, Negotiation with the Servicer, and Amendment of his Chapter 13 Plan

As required by this Court's Local Bankruptcy Rules ("LBR"), in particular LBR 9013-3(b), Mr. Pace was served with all notices, orders, and other filings in his chapter 13 case, except for proofs of claim, by first class mail at 1325 Salem Avenue.[16] According to certificates of service

[13] The listing of a total "Claimed Amount" of $28,000 for Claim No. 4-1 in the Trustee's records, which was the cramdown proposed in the Original Plan, when it should have been $54,000, as reflected in the Amended Plan, is the fundamental mistake.

[14] The time entries attached to Mr. Dearfield's *Application for Attorney Fees Pre-Confirmation* (Doc. 50 at 10-12, items 56, 64, 68, 69, 71, and 72) indicate that following the filing of the Amended Plan the Servicer had their own appraisal of 1325 Salem Avenue conducted, which led, in whole or in part, to their withdrawal of the standing objections to the Original Plan and the Amended Plan.

[15] Although the title of the form confirmation order indicates that it awards attorney fees, the language of paragraph 10 in the Confirmation Order actually states that "[u]nless otherwise ordered by the Court," the attorney is allowed the no-look fee in accordance with LBR 2016-1(b)(2)(A) and (B).

[16] LBR 9013-3(b) provides that Mr. Pace was required to be served all the filings in the case (excepting proofs of claim) regardless of which party filed the document, including those filed by his own attorney. In the case of orders or notices from the Clerk, those items are served through the BNC. The designation "default list" on an order, by definition, instructs the Clerk to, among other parties, serve the debtor(s) in that case. *See* LBR 9072-1(d)(2)(A). The Notices from the BNC demonstrate that every order in this case was served upon Mr. Pace. *See* BNC Certificates of Mailing (Docs. 9-11, 14, 21, 26, 27, 32, 35, 37, 40, 52, 54, 63, 70, 84, 88, 93, 94, 96, 99, 102, 105, 108, 113, and 120).

attached to the following documents, as well as Bankruptcy Noticing Center (BNC) Certificates of Mailing, he was likewise served with copies of the following documents relevant to the fact that his Original Plan had been opposed, that he needed to file an amended chapter 13 plan, that his counsel was working on negotiating the cramdown with his lender, that his Amended Plan was filed, and that the Court confirmed his Amended Plan:

1. the Servicer's *Objection to Confirmation of Plan* (Doc. 23), served on September 2, 2020;

2. the *Agreed Order Denying Confirmation of the Chapter 13 Plan (Doc. 16) and Ordering Amended Plan* (Docs. 25 and 27), served on September 4, 2020;

3. the *Motion to Extend Time to File Amended Plan* (Doc. 29), filed by Mr. Dearfield, which stated that "Debtor is in negotiations with Specialized Loan Servicing, LLC regarding proposed cramdown of the real property located at 1325 Salem Avenue, Dayton OH 45406[;]"

4. the *Order Granting Motion to Extend Time to File Amended Plan (Doc. #29)* (Docs. 31 and 32);

5. the *Second Motion to Extend Time to File Amended Plan* (Doc. 33), filed by Mr. Dearfield, which again stated that "Debtor is in negotiations with Specialized Loan Servicing, LLC regarding proposed cramdown of the real property located at 1325 Salem Avenue, Dayton OH 45406[;]"

6. the *Order Granting Second Motion to Extend Time to File Amended Plan (Doc. #33)* (Docs. 34 and 35);

7. Mr. Pace's Amended Plan (Doc. 39) (*see* Certificate of Service at 13);[17]

8. the Servicer's *Objection to Confirmation of Amended Plan (Doc. 39)* (Doc. 45);

[17] During the hearing, the Court asked Mr. Pace if he had more records concerning this current chapter 13 case, and Mr. Pace confirmed that he did. Therefore, at the end of the hearing held on December 2, 2025, and as subsequently memorialized in the Order (Doc. 119) entered on December 3, 2025, the Court gave both Mr. Pace and Mr. Dearfield additional time to file key documents concerning this chapter 13 case, including but not limited to, any copy of the Amended Plan that Mr. Pace had in his possession. Mr. Pace filed additional documents on December 17, 2025 (Doc. 122), and subsequently on December 30, 2025 (Doc. 123), January 30, 2026 (Doc. 124), and February 12, 2026 (Doc. 125). Not surprisingly, Mr. Pace did not submit a copy of his Amended Plan; rather, he simply continued to file documents with his added commentary that he believed to support his position.

9. the Servicer's withdrawals of its objections to confirmation (Docs. 48 and 49);

10. Mr. Dearfield's *Application for Attorney Fees Pre-Confirmation* (Doc. 50); and

11. the *Order Confirming Chapter 13 Plan (Doc. 39) and Awarding Attorney Fees* (Doc. 51).

E. Mr. Dearfield's Fees

According to the *Disclosure of Compensation of Attorney for Debtor and Application for Allowance of Fees in Chapter 13 Case*, Mr. Dearfield's fees was $3,700, with $700 received as a pre-petition retainer. (Doc. 15 at 47.) On the petition date, $3,700 was the presumptively reasonable "no-look fee" for general legal services performed in a chapter 13 case, "whether performed preconfirmation or postconfirmation[,]" fitting within the categories of services by debtor's counsel listed in LBR 2016-1(b)(2)(A).[18] However, Mr. Dearfield opted out of the No Look Fee and filed an itemized fee application for all pre-confirmation legal services for a total amount of $8,437.00. (Doc. 50 at 1);[19] *see* LBR 2016-1(b)(2)(C). After proper notice and service, and without objection, those fees were approved through an Order (Doc. 53) entered on February 2, 2021. Neither Mr. Dearfield nor his firm, Dearfield Law, have charged Mr. Pace anything since then, as testified at the hearing, such that they have not filed any other fee applications (as confirmed by the docket), even though there have been multiple post-confirmation motions to dismiss this chapter 13 case, which Mr. Dearfield defended, in addition to dealing with the unique issues underlying the present dispute, prior to Mr. Pace electing to continue *pro se*. *See* Resp. to Mot. to Dismiss for Failure to Make Plan Payments (Doc. 61), June 7, 2022 (admitting Mr. Pace "missed several required plan payments" but that he "recently made a payment of $5,100" and "projects timely payments going forward"); Debtor's Resp. to Trustee's Mot. to Dismiss (Doc. 66), Oct. 10, 2022 (admitting Mr. Pace "did not turn over the 2021 tax return in a timely manner" but stating it "was uploaded on 10/10/2022"); Mot. to Substitute Collateral and Use Insurance Proceeds for Replacement Vehicle Purchase (Doc. 68), Mar. 2, 2023 (stating Mr. Pace's 2017 Jeep

[18] Although LBR 2016-1(b)(2)(A) still references a no-look fee of $3,700, the amount was actually increased to $4,350, and one of the categories of legal services was amended, through General Order 50-1, entered on February 24, 2021, "[e]ffective for cases filed on or after February 24, 2021[.]"

[19] Mr. Pace was served with a copy of Mr. Dearfield's *Application for Attorney Fees Pre-Confirmation* (Doc. 50) (the "Fee Application") by first class U.S. mail, as reflected in the Certificate of Service thereto, and neither Mr. Pace nor any other party objected.

Renegade was "totaled or deemed a complete loss"); Memo. in Opp'n to Mot. to Dismiss Filed by Chapter 13 Trustee (Doc. 82), Oct. 15, 2024 (admitting that Mr. Pace "failed to make chapter 13 plan payments, timely" but stating that "Debtor has submitted his monthly payments via check" and that he "has approximately $2,500.00 remaining to complete the case").

F. Notice of Mortgage Payment Changes and Change in Servicer

Deutsche Bank, as Trustee, has filed a series of *Notice of Mortgage Payment Change* forms (Official Form 410S1) in Mr. Pace's case, each of which have been served on him by U.S. mail to 1325 Salem Avenue. *See* Doc. 55, July 23, 2021; Doc. 64, July 30, 2022; Doc. 71, July 26, 2023; and Doc. 111, Oct. 9, 2025 (increasing the total payment from $412.49 to $571.32).

In the meantime, Deutsche Bank, as Trustee, filed a *Transfer of Claim Other than for Security* (Doc. 74) on July 17, 2024, by which it appears that Shellpoint Mortgage Servicing replaced Specialized Loan Servicing LLC as the Servicer, and after which counsel for NewRez LLC d/b/a Shellpoint Mortgage Servicing filed a *Request for Special Notice and Service of Copies* (Doc. 76).

G. The Motions to Dismiss, Chapter 13 Trustee's Records, and Efforts to Resolve

On May 17, 2022, the Chapter 13 Trustee moved to dismiss the case for failure to make plan payments. (Doc. 60.) After a response by the Debtor, by and through counsel (Doc. 61), the Debtor and Chapter 13 Trustee agreed to place Mr. Pace on "payment probation," which required the Debtor to make all his payments from August 18, 2022, through January 18, 2023, or the case would be dismissed "without further notice or hearing." (Doc. 62.)

Setting aside several motions to dismiss Mr. Pace's case for failure to turn over tax returns (Docs. 65, 72, and 77), the next significant action by the Chapter 13 Trustee was when he moved, on September 17, 2024, to dismiss the case for, again, failure to make plan payments (Doc. 78). This motion to dismiss was served on Mr. Pace by first class mail and concerned his failure to make the $2,000 monthly "step" plan payments for June, August, and September 2024.[20] As noted above, Mr. Dearfield filed a response on October 15, 2024, which stated that Debtor "has approximately $2,500.00 remaining to complete the case." (Doc. 82.) As a result, the Chapter 13

[20] The Chapter 13 Trustee withdrew the motion dismiss based on failure to pay (Doc. 78) in error and then corrected the error by withdrawing the withdrawal on September 25, 2024 (Doc. 81, withdrawing Doc. 79).

Trustee and Mr. Pace's counsel, Mr. Dearfield, approved and submitted an *Agreed Order Resolving Motion to Dismiss (Doc. 78) and Ordering Debtor to Pay Off Case or be Dismissed* (Doc. 83) (the "Agreed Order"), which the Court entered on October 31, 2024. That Agreed Order required Mr. Pace "to pay off the case by November 29, 2024, or the Trustee shall submit an order to the court dismissing the case without further notice or hearing." (Doc. 83.) By itself, that is a fairly routine order in a chapter 13 case.

As further discussed below in regard to the evidentiary hearing held on December 2, 2025, Mr. Pace asserted that he believed he was completing the Chapter 13 Plan by making his last payment in October 2024. Specifically, Mr. Pace testified that he understood that his $2,000 check to the Chapter 13 Trustee, dated October 15, 2024, was his last payment. *See also* Pace Ex. 12 (copy of the October 15, 2024 check, No. 690). During this time period, Mr. Pace sent multiple emails to Mr. Dearfield and Dearfield Law concerning the completion of his Chapter 13 plan. (Pace Exs. 8-11, 13.) In fact, Mr. Pace testified that he thought he would be receiving a refund on the final check, and that all his creditors had been paid pursuant to his chapter 13 plan. *See also* Pace Ex. 14 (Mr. Pace writing a December 3, 2024 email to Dearfield Law stating that "[a]ccording to the Chapter 13 Trustee statement I have a credit refund . . . ."). At the same time, Mr. Pace sent an email to Dearfield Law in early December 2024 that stated it included an attached "statement from the mortgage company stating that I owe $5,350.53." (Pace Ex. 15.) At the Court's instruction, following the hearing, on December 17, 2025, Mr. Pace submitted a Mortgage Statement from Shellpoint, the new Servicer, dated November 3, 2024, which reflected that he still owed an "Outstanding Principal" of $22,585.38, which did not include the "Deferred Balance" of $154,985.76 (Pace Ex. 15 (Doc. 122 at 20-21).) And based on his testimony, he has received similar Mortgage Statements throughout the course of this case, all of which presumably reflected a higher balance due and owing on the mortgage based on the correct cramdown value, in comparison to the Trustee's records. Audio File, 1:15.40-1:15.54. As an example, the Trustee's report that Mr. Pace attached to his supplemental documents as Exhibit 18 (Doc. 122 at 24-26), which is dated November 26, 2024, reflects that $0 principal was due as a result of $28,000 in principal having been paid to Deutsche Bank, as Trustee. Thus, something was obviously amiss.

The record also demonstrates that Dearfield Law was proceeding in early December 2024 under the assumption that his plan was likely completed. A December 3, 2024 email from a paralegal of Dearfield Law states that "[i]t appears that all claims have been paid in full with the

November payment and next step is for the Trustee to prepare and file his final report" and also noting that in a follow-up email that "[t]he Trustee will issue any refund along with his final report after it conducts its audit." (Pace Exs. 14, 15.) However, shortly thereafter, Dearfield Law became aware that was not the case. Mr. Pace was sent an email on December 17, 2024, from Dearfield Law reflecting the correct $54,0000 cramdown value. Pace Ex. 17 ("We have researched our records and concluded that the $54,000 value of your property was the agreement made to resolve the mortgagee's objection to confirmation."). *See also* Pace Ex. 16 (response of Mr. Pace stating, among other things, that "it was not an error of the $28,000 you told me that the banks had accepted that as payoff amount now you are trying to change it to 54,000").

On January 10, 2025, the Chapter 13 Trustee first brought the "oversight" to the Court's attention through his *Motion to Vacate Agreed Order Resolving Motion to Dismiss and Ordering Debtor to Pay Off Case or be Dismissed (Doc. 83) Under Rule 60(B) and Notice* (Doc. 85) (the "Motion to Vacate"). He moved to vacate the prior Agreed Order (Doc. 83) resolving the last motion to dismiss for failure to make plan payments because the requirement for Mr. Pace to pay off his case by November 29, 2024, was based on a "coding" error. In short, the Trustee never updated its records to reflect the increased cramdown value of 1325 Salem Avenue set forth in the Amended Plan, $54,000, such that the payoff was based on the proposed cramdown value of $28,000 in the Original Plan. The $28,000 figure was included in the Chapter 13 Trustee's internal books and records, and unfortunately, was belatedly noticed after four years of plan payments. As the Trustee detailed:

> The agreed order was the result of the Trustee's and Debtor attorney's reliance upon the valuation of Debtor's real estate, which was originally proposed to be paid $28,000 (see Doc. 16, paragraph 5.1.2). The plan was subsequently amended (Doc. 39) to pay the mortgage at $54,000 (paragraph 5.1.2 of the amended plan). This was the plan that was ultimately confirmed.
>
> Unfortunately, coding of the claim was not updated to increase the value from $28,000 to $54,000. This fact was not known at the time the parties entered into the agreed order resolving the motion to dismiss. It was only when the Trustee's office conducted its final audit that the valuation issue was discovered. The Trustee notes that the Debtor did abide by the agreed order at the time.
>
> Given this oversight and the fact that the Trustee does not want to penalize the Debtor for not timely completing his plan, the agreed order needs to be vacated.

> This will allow Debtor to continue his plan payments to conclusion so he can get a discharge and receive the benefit of his confirmed plan.

(Doc. 85.)

H. Mr. Pace Goes *Pro Se*

On January 24, 2025, two weeks after the Chapter 13 Trustee filed his Motion to Vacate, Mr. Pace, then still represented by Mr. Dearfield, filed a responsive document seeking to remove Mr. Dearfield as his counsel so he could work with the Chapter 13 Trustee to pay off his case. (Doc. 86). Mr. Pace asserted that he "had no knowledge or information that the mortgage had been increased to $54,000" and that "[a]ll Trustee reports stated that the mortgage claim amount was $28,000." (Doc. 86 at 1.) The Court set the Motion to Vacate and Mr. Pace's response for hearing on February 20, 2025. (Doc. 87.) Mr. Dearfield filed his own response on February 18, 2025, reciting the history of the chapter 13 case and asserting that Debtor agreed to the terms of the Amended Plan, as evidenced by an attached signed copy of the Amended Plan with Mr. Pace's apparent wet signature. (Doc. 89.)[21] Mr. Dearfield did not oppose ending the attorney-client relationship with Mr. Pace.

Following the hearing on February 20, 2026, the Court entered an order granting Mr. Pace's request to terminate Mr. Dearfield as his counsel. (Doc. 91.) In addition, the Court vacated the prior Agreed Order, in accordance with its oral decision announced at the hearing, and the Court set the Chapter 13 Trustee's pending *Motion to Dismiss for Failure to Make Plan Payments* (Doc. 78) for hearing on April 3, 2025. (Doc. 92, as amended Doc. 95.) The Chapter 13 Trustee and Mr. Pace, however, resolved the pending Motion to Dismiss through the *Agreed Order Resolving Chapter 13 Trustee's Motion to Dismiss for Failure to Make Payments (Doc. 78) and Ordering Debtor to Pay Off Case* (Doc. 98) (the "Second Agreed Order"), entered on March 20, 2025. The Second Agreed Order required that Debtor "make each monthly payment starting March 18, 2025 for the remainder of the plan" and to "pay off this case by February 28, 2026, or the Trustee shall submit an order to the court dismissing the case without further notice or hearing." (Doc. 98.) In conjunction, the Trustee filed a *Modification of Plan (Doc. 39) and Notice* (Doc. 97) (the "Modification"), which recited that "Debtor had experienced medical issues over the past two

[21] This is the same Amended Plan that Mr. Dearfield filed following the hearing held on December 2, 2025, except that the later filed version was a color copy.

years resulting in post-petition medical bills and a decrease in income." *Id.* Accordingly, the Trustee and Mr. Pace proposed that he pay $1,000 per month for the next 12 months, "beginning with the March 18, 2025 payment" and that "Debtor shall pay off the case no later than February 28, 2026." *Id.* The Modification was unopposed and an order approving it was entered on April 18, 2025. (Doc. 101.) On June 3, 2025, this chapter 13 case was transferred to the current Bankruptcy Judge.

I. Mr. Pace's Fee Motion and the Evidentiary Hearing

On July 22, 2025, Mr. Pace filed a motion *pro se* that was captioned *William Pace Debtor motions the court to order order [sic] Timothy Dearfield aka Dearfield Law Firm to return all attorney fees to the Chapter 13 Trustee* (Doc. 103) (the "Fee Motion"). After reviewing the Fee Motion, the Court construed it as seeking the return of all fees paid to Mr. Dearfield based on two separate theories: (1) for return of attorney fees pursuant to 11 U.S.C. § 329(b); and (2) to enforce an alleged agreement by Mr. Dearfield, as evidenced by a voice mail, to "refund attorney fees in monthly installments." Fee Mot. at 1. Ultimately, Mr. Pace's prayer was that Mr. Dearfield be ordered "to return all attorney fees to the Chapter 13 Trustee John G[.] Jansing to be applied to debtor's/my balance so that he/I can get a discharge and receive the full benefits of his/my confirmed plan." Fee Mot. at 2.

On August 4, 2025, the Court entered an Order (Doc. 104) construing the Fee Motion as recited above and, notwithstanding the lack of a 21-day notice and a certificate of service for the Fee Motion, as required by LBR 9013-1 and 9013-3, the Court's Order provided notice of the Fee Motion pursuant to LBR 9013-1, fixed a response date of 21 days after entry of the Order (August 26, 2025), and provided Debtor with 7 days after service of any response to file a reply, following which the Court would determine how to proceed. After granting Mr. Dearfield's motion for additional time to respond to the Fee Motion (Docs. 106 and 107), Mr. Dearfield filed a timely response on September 15, 2025. (Doc. 109.) Mr. Pace filed a reply brief on September 23, 2025. (Doc. 110.) On November 12, 2025, the Court entered an order scheduling the Fee Motion for an evidentiary hearing to be held on December 2, 2025. The parties filed witness and exhibits lists, with proposed exhibits. (Docs. 114-117.)

The evidentiary hearing was held on December 2, 2025 at 2:00 p.m. and lasted about two and a half hours. *See* PDF with Audio File (Doc. 118.) Both Mr. Pace and Mr. Dearfield appeared

in-person and both testified. Mr. Dearfield was permitted to cross-examine Mr. Pace. Their testimony is discussed below in the Findings of Fact.

As discussed with the parties at the end of the hearing, following the presentation of evidence, the Court permitted certain documents to be filed to supplement the record, as subsequently memorialized in the Order (Doc. 119) entered on December 3, 2025. Specifically, the Order (Doc. 119) provided that, not later than December 17, 2025:

- Mr. Pace may file:

  (1) A copy of the "statement from the mortgage company stating I owe $5,350.53" referred to as an attachment in Mr. Pace's email to the Dearfield Law Firm LLC on or about Wednesday, December 4, 2024, presented as Exhibit 15 at the hearing;

  (2) Monthly mortgage statements that Mr. Pace received from the mortgage company, as referenced in his email to the Dearfield Law Firm LLC presented as Exhibit 8 at the hearing; and

  (3) Copies of his (a) initial Chapter 13 Plan (Doc. 16), filed on August 25, 2020, and (b) amended Chapter 13 Plan (Doc. 39), filed on October 21, 2020. If possible, these documents were to appear in their original form.

- Mr. Dearfield may file color copies of the Debtor's (a) initial Chapter 13 Plan (Doc. 16), filed on August 25, 2020, and (b) amended Chapter 13 Plan (Doc. 39), filed on October 21, 2020, showing the Debtor's wet signature which the Dearfield Law Firm LLC obtained before filing the /s/ versions with the Court and retained.

On December 17, 2025, Mr. Dearfield filed a copy of the Amended Plan with the apparent blue ink signature of Mr. Pace, dated October 21, 2020, which is consistent with his signature on other documents submitted the record of this case. (Doc. 121.) On that same day, Mr. Pace filed a

series of documents, but most of these filings had been previously filed and were considered at the hearing.[22]

Mr. Pace also filed documents on December 30, 2025, January 30, 2026, and February 12, 2026. (Docs. 123-25.) The December 30, 2025 filing (Doc. 123) included a document labeled as "Exhibit 1" and is a statement from the Mortgagee's current Servicer, Shellpoint, dated December 18, 2025. That document showed an outstanding principal balance of $22,326.67, a deferred balance of $154,985.76, and reflected that a year-to-date total of $12,261.91 had been paid. By contrast, what appears to be part of the final monthly statement in the Trustee's records before the audit, now conceded to be incorrect, appeared to show that the Debtor had completed the Amended Plan and had a credit owed back to him. Pace Ex. 3 (Doc. 123) (filed post-hearing on Dec. 30, 2025). The January 30, 2026 documents (Doc. 124) include another Shellpoint Servicing statement similar to the one just discussed, but also an email from Mr. Pace to Ms. Renneker, the Chapter 13 Trustee's counsel, concerning his effort to raise funds to complete the Amended Plan, and a response from Ms. Renneker acknowledging receipt of the email. Finally, the February 12, 2026 filing by Mr. Pace includes an email to the Chapter 13 Trustee and Ms. Renneker, which includes a $10,000 cashier's check dated February 11, 2026, payable to the Trustee to be applied to his chapter 13 case to fund his Amended Plan. Exhibit A 1 (Doc. 125 at 2.) In the included email, dated February 12, 2026, Mr. Pace asserts that he believes he has a "balance of $9,950.00" to pay off his case. And the following page shows an acknowledgment of receipt, purportedly signed by the Chapter 13 Trustee and dated February 12, 2026. Exhibit A 2 (Doc. 125 at 3.) The remaining documents were duplicates of his prior submissions.

IV. Findings of Fact

Although some facts are disputed, the basic outline of what occurred in this case is relatively straightforward. After a negotiation with the Servicer resulting in an agreed cramdown value for 1325 Salem Ave. the Court confirmed the Amended Plan that required payment of a $54,000 secured claim to the Mortgagee at 4% interest. After the Trustee's Office discovered its

[22] The documents included the witness list of Mr. Pace, which listed a Timothy Hammel, who never appeared at the hearing to testify, and a November 25, 2025 unauthenticated letter from Mr. Hammel that could not be considered as evidence. The remainder of the filings were the Debtor's exhibits from the hearing, which the Court discusses below. The Court notes that Mr. Pace added argument to many of the exhibits, and the Court considered those additions as argument and not as part of the exhibits for the purpose of making factual findings.

error, Mr. Pace claimed that for four years since confirmation of the Amended Plan, he was completely unaware of the $54,000 figure, and he believed he only needed to pay the $28,000 figure in order to own his residence free and clear upon completion of his Chapter 13 Plan, and that he had checked in with Mr. Dearfield and the Dearfield Law constantly to ensure this was still correct. Mr. Pace stated in his opening statement that he had no memory of signing the Amended Plan. Audio File, 11:03.47-11:03.53. Later, in Mr. Pace's testimony, Mr. Dearfield, in questioning Mr. Pace, stated that Mr. Pace signed the Amended Plan in the parking lot of Dearfield Law, but Mr. Pace never answered the question. Audio File, 1:49.18-1:50.55. Additionally, apparently referring to the Amended Plan with the $54,000 secured claim, testified that "I never got it." Audio File, 0:44.59-0:45.03. Overall, after considering and weighing all the evidence, it appears to be revisionist history that Mr. Pace did not sign the Amended Plan.

The Court finds that the Debtor signed the Amended Plan in a parking lot at the Dayton office of Dearfield Law when he met Mr. Dearfield on October 21, 2020.[23] To the extent that Mr. Pace is indicating his wet signature was fraudulently obtained or, more specifically, that Mr. Dearfield signed the Amended Plan for Mr. Pace, the Court does not find any of those allegations credible. In addition, Mr. Dearfield had no financial or other discernable incentive to take such action and instead a strong disincentive, because if he had, the ethical consequences to him as a lawyer could have been quite severe.

What happened in this case is not mysterious or complicated. Unfortunately, the Trustee included ("coded") the wrong amount for the secured claim in its internal books and records, $28,000 instead of $54,000, and did not notice this error until an audit conducted upon completion of the case.[24] It appears, upon Mr. Pace's request, Dearfield Law sent these monthly internal

[23] Although it appears of little moment, Mr. Dearfield and Mr. Pace also disputed whether a third-party, a driver, was at the meeting. Mr. Dearfield indicated Mr. Pace was driven to the meeting, but after initially denying this meeting ever took place, Mr. Pace then emphatically insisted that he drove himself. Thus, Mr. Pace implicitly no longer disputed that the parking lot meeting took place.

[24] Specifically, the Chapter 13 Trustee never updated its coding of this case in its internal records to the proper figure of the secured claim of $54,000 until the error became apparent when the case was audited upon dismissal. This case would have benefitted from the December 1, 2025 Amendments to Federal Rule of Bankruptcy Procedure 3002.1, which allows for a mid-case "checkup" on the status of payments on a mortgage loan claim. *See* Fed. R. Bankr. P. 3002.1(f) (allowing the debtor or trustee to file a motion "at any time" between the order of relief and the "Trustee's End of-Case Notice of Disbursements Made" found in Federal Rule of Bankruptcy Procedure 3002.1(g)). Mr. Pace indicated that he asked for a yearly meeting with Mr. Dearfield, but that did not occur. It is unclear if those meetings would have been useful in that Dearfield Law, particularly Ms. Terry, was relying upon the Trustee's records regarding

Trustee statements to Mr. Pace, mostly by email. Those monthly statements included the following language in bold: "The balance disclosed on this page is not the payoff figure and does not represent the funds needed to pay the case in full. An audit must be completed by the Trustee's office to ascertain the actual payoff amount." (Dearfield Law Ex. C at 3.) Mr. Pace testified that this statement was only on the "last 3 or 4" of the statements he received. As Dearfield Law sent the statements to Mr. Pace, it is unclear whether Mr. Pace received the entire document each time or not.[25] Unfortunately, in these circumstances, Mr. Dearfield and his paralegal, Julie Terry, relied on those records, and apparently did not compare those records to the confirmed plan. *See* Pace Ex. 6 (email dated March 23, 2023 from Ms. Terry to Mr. Pace stating that "I wanted to let you know that I did calculate your plan and it looks like it should end in 4 years instead of 5."). But if Mr. Pace was unaware of the $54,000 figure, it would be because he did not read the Amended Plan before he signed it, he did not review it when it was separately served upon him by U.S. mail, and he did not recall why he had needed to sign and file the Amended Plan in the first place, which, after his counsel's negotiation with the Servicer over the cramdown, afforded him the opportunity to cramdown the mortgage.

It is important to recognize that the cramdown value of 1325 Salem Ave. in the Amended Plan, which thereby became the secured claim of the Mortgagee, was a product of negotiation between Mr. Pace's counsel and the Servicer, not a unilateral decision by Mr. Dearfield or Dearfield Law. This negotiation depended upon the Servicer's agreement, which they apparently only gave after conducting their own appraisal, as is typical for a mortgagee to do when valuation is at issue. And the Servicer's prior objections to confirmation of both the Original Plan and the Amended Plan, as well as the subsequent withdrawals of those objections by the Servicer, were all served on Mr. Pace. Moreover, the agreement over the cramdown and the value avoided what would have likely been a tough legal objection by the Servicer to Mr. Pace's ability to cramdown a mortgage on his dual-use residence under 11 U.S.C. § 1322(b)(2), and potentially a contested

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the Mortgagee's claim. The Court also notes the completion of the Amended Plan is ultimately subject to the Trustee filing the End of Case Notice of Final Disbursements Made pursuant to Federal Rule of Bankruptcy Procedure 3002.1(g).

[25] The evidence showed that Chapter 13 Debtors in Dayton have direct access to what Mr. Dearfield referred to as the "National Data Center" in which the monthly Chapter 13 reports are created. However, Mr. Pace asked to receive these reports from Dearfield Law, and asked for the reports on a monthly basis. Mr. Dearfield testified that this was an unusual request.

confirmation hearing on the valuation of 1325 Salem Ave., requiring expert testimony, all at considerable time and expense.

Mr. Pace consistently raised what he considered poor communication from Mr. Dearfield and Dearfield Law throughout this case. However, Mr. Pace testified that Mr. Dearfield answered the phone to speak to Mr. Pace about a dozen times during the last four years. Audio File, 1:48.25-1:48.34. Mr. Dearfield also indicated that many of the communications concerned the internal monthly reports of the Chapter 13 Trustee that Mr. Pace could have reviewed on his own.

Mr. Pace testified that Mr. Dearfield left him a phone message, which appeared to be in December 2024, discussing the error in the amount of the secured claim and offering to re-pay his attorney fees. Audio File, 1:46.16-1:46.23. Mr. Pace indicated he had a transcript, but no such transcript was ever admitted into evidence. It appeared that Mr. Pace and Mr. Dearfield had some other conversations concerning the case, but the details of those conversations and the exact timing were not offered into evidence. Regardless, the evidence did not show Mr. Pace accepted any settlement offer, and Mr. Pace did not testify or argue that he did accept an offer. In January 2025, Mr. Dearfield called Mr. Pace and told him that any offer to settle was "off the table." That conversation was memorialized in a January 9, 2025 letter from Dearfield Law to Mr. Pace, which was sent both by U.S. Mail and to Mr. Pace's email. (Dearfield Law Ex. D (Doc. 114 at 20-22).) Mr. Dearfield testified that he originally had considered an offer to settle with Mr. Pace because, at that time, Mr. Dearfield did not believe he could find a copy of the Amended Plan signed by Mr. Pace. But once Mr. Dearfield found the signed Amended Plan in his archived files in a storage facility, he rescinded any offer of settlement.[26] Audio File, 2:02.32-2:03.03.

Further findings of fact and recitations of the testimony at the hearing are set forth in the analysis portion of this Memorandum Opinion and Order below.

V. Analysis

A. The Legal Basis to Consider the Fee Motion

As framed for the Court by the *pro se* chapter 13 debtor, who was represented throughout the vast majority of his case by experienced counsel, but fired him in conjunction with the current

[26] Mr. Dearfield testified that his son-in-law located the signed Amended Plan in a storage facility that contained Dearfield Law's archived files.

dispute, this decision specifically concerns whether a chapter 13 debtor counsel's fees, previously allowed and paid, must be returned to a debtor (or his bankruptcy estate) in full, for the desired purpose of funding debtor's payoff of his mortgage at the very end of his chapter 13 plan. After the Trustee's Office discovered the coding issue and filed the Motion to Vacate (Doc. 85), Mr. Pace filed a responsive document[27] on January 24, 2025, in which he simply asked for the "opportunity to complete making payments over time to conclusion so that he/I can get a discharge and receive the full benefits of his/my confirmed plan." (Doc. 86 at 1-2.) It was not until almost six (6) months later, on July 22, 2025, that Mr. Pace filed the Fee Motion (Doc. 103) asking "the court to order Timothy Dearfield aka Dearfield Law Firm to return all attorney fees" and further explaining that he wanted the returned attorney fees applied to the balance due on his confirmed Amended Plan so he could get a discharge. But he did not specify the legal bases for his Fee Motion. Nonetheless, the Court construed his Fee Motion as being based upon either an alleged settlement agreement or 11 U.S.C. § 329(b), which is discussed below. *See* Order (Doc. 104), Aug. 4, 2025.

Regardless of the legal basis, Debtor asserts that he should get all the attorney's fees back, leaving counsel with no compensation for the work performed in this case. And the amount of attorney's fees awarded to Dearfield Law for its pre-confirmation work, $8,437.00 in total, is a significant percentage of what remains to be paid on the debtor's mortgage, which is apparently $9,950 according to a letter from the Trustee's Office dated February 12, 2026, which was attached to a recent filing submitted by Mr. Pace. *See* Ex. A to Document. (Doc. 126 at 5.) Alternatively, debtor had previously argued that there was an agreement with his former counsel to refund all the attorney's fees; however, that assertion was not supported by the record, and Mr. Pace appeared to abandon this argument at the hearing.

As the Court will discuss in further detail below, even assuming that disgorgement could be required in this circumstance, post-confirmation pursuant to 11 U.S.C. § 329(b), which Mr. Dearfield contests based on the doctrine of *res judicata*, the evidence does not justify a disgorgement of fees previously approved as reasonable and paid to Debtor' counsel for the

[27] The Court refers to it as a responsive document because Mr. Pace did not give his document a distinct title; rather, he copied the title from the Chapter 13 Trustee's Motion to Vacate (Doc. 85).

pre-confirmation services. In addition, the evidence revealed that no settlement was ever reached between Mr. Pace and Mr. Dearfield.

B. The Evidence Did Not Prove A Settlement Between Dearfield Law and Mr. Pace to Return Previously Allowed and Paid Attorney Fees to Mr. Pace

Taking the easier issue first, Mr. Pace argued in his Fee Motion that Mr. Dearfield had agreed to repay the attorney fee, but Mr. Dearfield testified that it was an offer that expired, and that a settlement was never reached, which Mr. Pace did not contradict at the hearing.

For a contract to be formed between parties Ohio law requires " 'an offer, acceptance, contractual capacity, consideration (the bargained for legal benefit and/or detriment), a manifestation of mutual assent and legality of object and of consideration.' " *Williams v. Ormsby*, 2012-Ohio-690, ¶ 14, 131 Ohio St.3d 427, 966 N.E.2d 255, 258 (quoting *Kostelnik v. Helper*, 96 Ohio St.3d 1, 2002-Ohio-2985, 770 N.E.2d 58, ¶ 16, quoting *Perlmuter Printing Co. v. Strome, Inc.*, 436 F.Supp. 409, 414 (N.D. Ohio 1976)) (quoted by *Tagnetics, Inc. v. Kayser*, No. 3:19-cv-00363, 2020 WL 1987948, at *9, 2020 U.S. Dist. LEXIS 73741, at *23-24 (S.D. Ohio Apr. 27, 2020)). "A party seeking to prove the existence of a contract 'must show the elements of mutual assent (generally, offer and acceptance) and consideration,' that there was a 'meeting of the minds,' and 'that the contract was definite as to its essential terms.' " *Tagnetics*, 2020 WL 1987948, at *9, 2020 U.S. Dist. LEXIS 73741, at *24 (quoting *Nilavar v. Osborn*, 711 N.E.2d 726, 732, 127 Ohio App.3d 1 (2d Dist. 1998)). " 'In order for a meeting of the minds to occur, both parties to an agreement must mutually assent to the substance of the exchange,' with 'a definite offer on one side and an acceptance on the other.' " *Tagnetics*, 2020 WL 1987948, at *9, 2020 U.S. Dist. LEXIS 73741, at *24 (quoting *Turoczy Bonding Co. v. Mitchell*, 2018-Ohio-3173, 118 N.E.3d 439, 444 (8th Dist. 2018)).

Notably, neither Mr. Dearfield nor Mr. Pace have cited any case law with respect to this issue and have simply presented their versions of the facts. But the record in this case does not show Mr. Pace and Mr. Dearfield entered into a settlement agreement. Instead, the record shows Mr. Dearfield proposed a potential settlement in a phone message left with Mr. Pace. But Mr. Dearfield testified that he only considered a settlement because he was uncertain if he could find the wet-ink signed copy of the Amended Plan, and once he was able to locate it, he rescinded any offer. And Mr. Pace did not accept that offer before Mr. Dearfield rescinded the proposal in his

Thursday, January 9, 2025 letter to Mr. Pace.[28] Further, Mr. Pace did not produce any evidence of a settlement agreement, nor did he testify that he had accepted a settlement offer. Ultimately, Mr. Pace only referred to the phone message that he considered to be an offer of settlement and left it at that.

C. Ordering a Refund of Attorney Fees is Not Warranted in this Circumstance

Based on the Court's review of the entire record of Mr. Pace's current chapter 13 case, and after observing the demeanor of the witnesses, listening to all the testimony, and reviewing all of the evidence and Court-permitted post-hearing submissions, the Court cannot conclude that this is a situation in which the attorney should be required to return his fees for his work on this case.

To begin with, Mr. Dearfield helped Mr. Pace to achieve a result, albeit just an opportunity to perform under a confirmed chapter 13 plan (as is the case in every chapter 13 case) that Mr. Pace did not achieve in three prior bankruptcies also dealing with 1325 Salem Avenue – the opportunity to cram down and walk away from approximately 71.3% ($134,118) of the balance owed on the mortgage lien against his house ($188,118.11), leaving only $54,000 to pay. Although the law does not necessarily support this outcome, Mr. Pace's counsel negotiated a resolution that afforded him this opportunity. And by virtue of Mr. Pace's challenges in paying off even this amount, not obtaining this opportunity would have doomed his chapter 13 plan. In addition, Mr. Dearfield did not charge Mr. Pace anything for what appears to be a fairly substantial amount of

[28] The letter memorialized a conversation between Mr. Pace and Mr. Dearfield that appeared to occur two days prior, Tuesday, January 7, 2025:

> As communicated per the third telephone call Tuesday (the first two went to voicemail), at approximately 4:30 p.m., all offers to settle this dispute are off the table. I am no longer willing to disgorge attorney fees paid.

Dearfield Law Ex. D ¶ 11, at 2 (Doc. 114 at 21). Although the obligation to maintain confidentiality obviously continue to apply even after Mr. Dearfield was terminated as Mr. Pace's counsel through the Order (Doc. 91) entered on February 20, 2025, Mr. Dearfield was able to reveal information protected by the attorney-client privilege as necessary "to establish a . . . defense on behalf of the lawyer in a controversy between the lawyer and the client . . . or to respond to allegations in any proceeding . . . concerning the lawyer's representation of the client[.]" Ohio R. Prof. Cond. 1.6(b)(5); *see also Squire, Sanders & Dempsey, L.L.P. v. Givaudan Flavors Corp.*, 2010-Ohio-4469, 127 Ohio St.3d 161, 173, 937 N.E.2d 533 (stating "Ohio recognizes the common-law self-protection exception to the attorney-client privilege, which permits an attorney to testify concerning attorney-client communications where necessary to establish a claim for legal fees on behalf of the attorney or to defend against a charge of malpractice or other wrongdoing in litigation between the attorney and the client.").

post-confirmation work to keep his case alive, notwithstanding various admitted deficiencies in Mr. Pace's performance under his Amended Plan.

Although Mr. Dearfield is not wholly without blame for the present situation, as optimally counsel would have picked up on the fact that the Trustee's records were incorrect and needed to be adjusted to reflect the increased cramdown value of 1325 Salem Avenue set forth in the confirmed Amended Plan, because Mr. Dearfield has already provided free services to Mr. Pace and because Mr. Pace signed the Amended Plan and had every opportunity to review all the Trustee records, which Dearfield Law sent to him for review, as well as regular Mortgage Statements from the Mortgagee, and given that one of the foundations of chapter 13 is that debtors must perform under the plans they voluntarily enter into, once confirmed, in order to obtain the benefit of their new bargain, the Court does not believe the equities lie in shifting the burden of completing the Amended Plan from Mr. Pace to his counsel and will not set a "bad precedent under bad facts." Moreover, after conducting the hearing, the Court has the sense that Mr. Pace knew, or at least should have known, that he was not going to be able to complete his Amended Plan a year early. Granted, Mr. Dearfield did not help in this regard, with respect to dispelling Mr. Pace of this false hope; however, nobody has argued that Mr. Pace does not owe the amounts he signed up to pay under his Amended Plan or that this warrants Mr. Dearfield to have done this entire case *pro bono*. Since the Trustee brought the issue to light in January of 2025, Mr. Pace has had a full year, and then some, to perform the remainder of his Amended Plan. The real issue appears to be that Mr. Pace has had health challenges and appears to have not had the income he anticipated when entering into the Amended Plan, both of which are phenomenon that many chapter 13 debtors unfortunately face. This does not mean that his counsel must bear the burden of completing his Amended Plan. Were that the case it would be tough to find anyone willing to represent a client like Mr. Pace.

As noted above, the Court construed Mr. Pace's Fee Motion as seeking the return of all attorney fees paid to Dearfield pursuant to 11 U.S.C. § 329(b). Section 329 provides that:

> (b) If such compensation exceeds the reasonable value of any such services, the court may cancel any such agreement, or order the return of any such payment, to the extent excessive, to—
>
> (1) the estate, if the property transferred—

> (A) would have been property of the estate; or
> (B) was to be paid by or on behalf of the debtor under a plan under chapter 11, 12, or 13 of this title; or
>
> (2) the entity that made such payment.

11 U.S.C. § 329 (Emphasis added). *See also* Fed. R. Bankr. P. 2017(b) (providing the Court can determine whether a transfer payment to an attorney is "excessive"). When attorney fees are at issue, "the burden is on the attorney to show that they are reasonable." *In re Huff*, 2:24-bk-54407, 2025 WL 3286052, at *4–5 (Bankr. S.D. Ohio Nov. 25, 2025) (citing *Thomas v. Robinson* (*In re Robinson*), 189 F. App'x 371, 374 (6th Cir. 2006)).

Mr. Dearfield took the position at the hearing that § 329 was not an available remedy as a matter of law because the fees had already been approved as reasonable. However, the Court has previously noted that although the Court is not suggesting chapter 13 requires final fee applications akin to chapter 11, Dearfield Law's legal position may not be correct:

> The Bankruptcy Code, particularly 11 U.S.C. § 331, which governs interim compensation and applies to "a debtor's attorney," provides that the attorney "may apply to the court not more than ***once*** every 120 days after an order for relief in a case under this title, or more often if the court permits . . . ." 11 U.S.C. § 331 (emphasis added). This provision has been held to apply to chapter 13 cases. *See* 3 Collier on Bankruptcy ¶ 331.07 (16th ed. 2025) (noting several cases outside the Sixth Circuit have disagreed but concluding that this position is inconsistent with § 103(a), a plain reading of § 331, and other case law (citing *In re Blackburn*, 623 B.R. 318, 320 (Bankr. W.D. Mich. 2020) (granting, in part, an interim fee application in a chapter 13 case))).
>
> For example, in *Dean v. Lane* (*In re Lane*), 598 B.R. 595, 59798 (B.A.P. 6th Cir. 2019), in which an appeal from an order allowing compensation to the chapter 13 debtor's attorney was dismissed, the award of postconfirmation fees was held to be an "interim fee award under 11 U.S.C. § 331 to compensate the firm for representing the Debtor 'in connection with the bankruptcy case,' 11 U.S.C. § 330(a)(4), and . . . that award remain[ed] modifiable throughout the 'case' " *Id.* (citing *Specker Motor Sales Co. v. Eisen*, 393 F.3d 659, 66263 (6th Cir. 2004) (interim fee awards remain modifiable)). Further, "the appropriate 'judicial unit' (in the parlance of *Jackson Masonry*) is the Debtor's bankruptcy case, rather than the firm's application or contested matter[.]" *In re Lane*, 598 B.R. at 598 (referring to *Ritzen Grp., Inc. v. Jackson Masonry, LLC* (*In re Jackson Masonry, LLC*), 906 F.3d 494 (6th Cir. 2018) and quoting *Kemp, Klein, Umphrey, Endelman and May v. Veltri Metal Prod., Inc.* (*In re Veltri Metal Prod., Inc.*), 189 F. App'x 385, 387 (6th Cir. 2006)). "Once an applicant's role in the proceedings is at an end" and "further applications will not be forthcoming" an award of attorney

> fees " 'should be treated as final.' " *Id*. This case law indicates that § 331 is applicable in chapter 13 cases.

Order Awarding Additional Attorney Fees (Doc. 55), *In re Horton*, No. 24-30915, ECF No. 63 at 3-4 (Bankr. S.D. Ohio Dec. 10, 2025). However, the Court does not set about to decide that issue today because even if § 329(b) did apply the Court would not find that Dearfield Law should have to return any of its fees approve for its pre-confirmation work.

The Court will assume, for the sake of argument (without deciding the issue now), that § 329(b) can be raised by Mr. Pace and evaluate the evidence in this case and whether it meets the standard under § 329 to disgorge fees. However, the Court also notes that this case does not fit the pattern of most § 329 cases the Court reviewed, which tend to concern ethical issues simply not at play in this case. *See In re Ray*, 314 B.R. 643, 663 (Bankr. M.D. Tenn. 2004) (court finding that paying attorney fees as part of a loan to complete a redemption was not a conflict of interest warranting disgorgement under § 329 and the fees were reasonable); *In re Waldo*, 417 B.R. 854, 896 (Bankr. E.D. Tenn. 2009) (disgorgement of fees when Chapter 7 debtor counsel negotiated post-dated checks from the debtor and counsel had inaccurate disclosures); *In re Michel*, 509 B.R. 99, 103-07 (Bankr. E.D. Mich. 2014) (requiring Chapter 7 counsel to disgorge fee collected post-petition). Nevertheless, the question remains whether the fees in this case were excessive.

A significant part of the hearing concerned Mr. Pace's complaints about communication between himself and both Mr. Dearfield and his staff. The record shows that Mr. Pace made multiple inquiries, more than a typical chapter 13 debtor, occasionally speaking directly with Mr. Dearfield, but more often with his staff, particularly his paralegal Julie Terry, who has since passed. In the high-volume nature of consumer debtor practice, communication with staff in lieu of counsel for routine questions is quite common and necessary in the Court's experience, particularly given that attorney fees are carefully reviewed and scrutinized in bankruptcy.

Mr. Pace points to multiple internal monthly statements from the Chapter 13 Trustee showing the amount of the secured claim at $28,000. Although the Court has not viewed all such statements, Mr. Pace's statement that approximately 48 monthly statements during his Chapter 13 Plan were incorrect is not disputed by Dearfield Law and was essentially acknowledged by the Chapter 13 Trustee when it moved to vacate the agreed order resolving Mr. Pace's Motion to Dismiss for Failure to Make Payments. Even assuming Mr. Pace received the full statement with

the language reminding parties that the completion of any plan was subject to audit, this did cause confusion, although Mr. Pace's receipt of monthly statements from the Servicer, such as Exhibit

The fundamental problem in this case was not lack of communication between attorney and client, but instead the mistake of the Chapter 13 Trustee's records including the $28,000 secured claim figure from the Original Plan and Dearfield's Law reliance on those records. The error in those records, unfortunately discovered much later upon an audit of the Chapter 13 Trustee when the parties believed the plan was paid off, led both Mr. Pace and Dearfield Law, who both relied on those records, to believe the case was on track to be completed to allow a discharge without further modification. Ideally, Dearfield Law should have recognized that the $28,000.00 figure in the Chapter 13 Trustee's records was incorrect and inconsistent with the confirmed Amended Plan, and informed Mr. Pace and the Chapter 13 Trustee earlier in this case. And, to that extent, the Court can understand his frustration. Mr. Pace testified to having health issues and delaying treatment, and working very hard to complete the Amended Plan for the last five years, and particularly in this last year. Nevertheless, the only evidence in this regard was Mr. Dearfield's representation that debtor counsel rely on the Trustee's records routinely. *See generally* 11 U.S.C. §§ 1302(b)(1) and 704(b)(7) (requiring a Chapter 13 Trustee to "unless the court orders otherwise, furnish such information concerning the estate and the estate's administration as its requested by a party in interest"). Ultimately, however, this perceived "debacle" has not shortened the time Mr. Pace had to pay off his Amended Plan, such that he has not been harmed in this regard; in fact, the Trustee and the Court have done what they can to ensure that he has every opportunity to pay off his case.

All that understood, the confirmed Amended Plan represented an unusual and very favorable opportunity for Mr. Pace as compared to most chapter 13 debtors. Chapter 13 debtors typically hope to cure and reinstate a long-term mortgage loan. In order words, the best result is the mortgage loan, in arrearage when the case is filed, is current upon plan completion. However, the obligation on the balance of the mortgage loan continues, often many years (or even decades) after the Chapter 13 case is completed. By contrast, the Amended Plan, if completed, allows Mr. Pace to pay approximately 29% of the principal amount of the mortgage loan on the Property, pay nothing on the balance of the loan (or any of other unsecured proofs of claim), and own the Property free and clear post-discharge. Also, the evidence shows Mr. Pace signed the Amended Plan raising the secured claim to $54,000. Although Mr. Pace originally testified that he did not

recall the meeting to sign the Amended Plan and the $54,000 figure, he later adamantly testified that when he met Mr. Dearfield in the parking lot he was alone. In questioning, Mr. Dearfield had suggested that Mr. Pace that there was another person in the car who had driven Mr. Pace, but Mr. Pace was emphatic that nobody had driven him, which, in context, was a tacit admission that Mr. Pace actually had met Mr. Dearfield in the parking lot to sign the Amended Plan. Thus, it is not credible to believe he did not sign the Amended Plan in the parking lot meeting at Dearfield Law, and the color copy of the wet-ink signed Amended Plan later filed, which Mr. Dearfield testified had been retrieved from storage,[29] corroborated Mr. Pace's signature.

The consequences of an attorney fraudulently signing a document purporting to have a client's signature would raise serious ethical concerns. However, there is absolutely no evidence that this occurred; instead, Mr. Pace's claim that he did sign, or did not recall signing the Amended Plan during the meeting in the parking lot of Mr. Dearfield's office, was not credible. That said, years later, long after the Amended Plan had been confirmed and Mr. Pace had made payments, it does appear that Dearfield Law relayed incorrect information to Mr. Pace concerning the duration of his plan payments based on the Trustee's incorrect statements, and did not do a deeper dive to tie those figures back to the Amended Plan, which potentially could have nipped this issue in the bud. However, it is typically not the job of chapter 13 debtor's counsel to audit the Trustee's records and neither party introduced evidence on what is or is not reasonable or standard practice for debtor's counsel to do in this situation. The record also did not demonstrate that Mr. Dearfield or Dearfield Law engaged in any misconduct, in any respect. To the contrary, post-confirmation they continued to provide Mr. Pace with representation and information, at his request, without charging him any further fees. Moreover, the fees that Mr. Dearfield and Dearfield Law charged in this case were all for pre-confirmation services and the itemized opt-out Application was unopposed and was approved by this Court. Those fees were, in broad strokes, for the legal services to advise Mr. Pace and to file this chapter 13 case, to assist Mr. Pace in complying with his statutory duties, to propose a plan, and to negotiate with the Servicer and obtain confirmation of the Amended Plan. Mr. Dearfield and Dearfield Law did all of that work, and it was successful. The period of time for which Mr. Pace complains there have been errors is post-confirmation, for which

[29] Mr. Dearfield explained in both his Response (Doc. 109) to the Fee Motion and at the hearing that following the death of his long-time Paralegal, Julie Terry (who was identified as one of the Dearfield Law professionals in the Application), he closed up his office in Dayton and put all the records in storage, which made finding the original signed Amended Plan more difficult.

period Dearfield Law has not charged any fees. Thus, even if the Court were to hold that Dearfield Law's conduct was sub-par post-confirmation, the fees approved do not relate to that period of time, particularly given that Dearfield Law opted out of the no-look fee, such that all post-confirmation fees would have to be applied for pursuant to LBR 2016-1(b)(3), and none have been.

It also appears unlikely that Mr. Pace would not have known that the Amended Plan adjusted the amount of the secured claim to the mortgagee from $28,000 to $54,000. Mr. Pace consistently indicated at the hearing that he did not know any of amount due the Mortgagee other than $28,000. But this was perceived as self-serving testimony, particularly given that he tacitly admitted to having met Mr. Dearfield in a parking lot, the sole purpose of which was to sign his Amended Plan, the sole focus of which was to memorialize a negotiated resolution that Mr. Dearfield had reached with the Servicer concerning the cramdown amount. In fact, Mr. Dearfield's time entries attached to his Application (Doc. 50)[30] confirm that on September 17, 2020, after communications with the Servicer's counsel, Mr. Dearfield spoke to Mr. Pace "regarding cramdown" and on October 21, 2020, Mr. Dearfield "[p]repared amended chapter 13 plan prior to confirmation" and "[r]eview/edit/execute with Debtor amended chapter 13 plan prior to confirmation." Dearfield Law Ex. B at 8, item 36, at 10, items 57 and 58. Regardless, to the extent he did not read the Amended Plan he signed, or he forgot about what he signed, there are simply too many indicia here that Mr. Pace knew or reasonably should have known what was required to pay his Amended Plan in full, although Mr. Pace's own attorney later perpetuated the confusion caused by the Trustee's records. But this confusion did not equate to absolution from fully performing the Amended Plan as had been required way back in January 2021 when it was confirmed by the Court.

Just because Mr. Pace got his hopes up for an early exit does not mean that there is a legal basis to require someone else to step in and pay off his Amended Plan, at least not based on any of the assertions brought before the Court by Mr. Pace and Mr. Dearfield, which was a squabble over attorney fees. Thus, Mr. Pace is still responsible to comply with the terms of his Amended Plan and he has had the full time to perform under his Amended Plan – all the time that he was supposed to have way back when the Amended Plan was confirmed and a full year since the

[30] Mr. Dearfield also included the Application as Exhibit B for the hearing. *See* Doc. 114 at 9-15.

Trustee's incorrect "coding" of the Mortgagee's secured claim was discovered by the Trustee and corrected. In other words, the confusion caused by the Trustee's coding error did not deny Mr. Pace any opportunity to perform under his Amended Plan, or to ultimately acquire title to 1325 Salem Ave. free and clear of the mortgage lien. That all still depended solely on his ability to pay the amounts required by his Amended Plan, as in most chapter 13 cases, the same as it had been ever since he signed the Amended Plan in that former office parking lot way back in October 2020. Moreover, the only perceptible harm that resulted from the confusion, based on the evidence submitted to the Court, was that Mr. Pace came to view that he was entitled to an early payoff for $26,000 less than what he agreed to pay under the Amended Plan, and he was quite upset when that did not happen once the Trustee performed an audit. But there was no evidence that he relied upon the confusion in the Trustee's records to his detriment, beyond creating an out-of-reach expectation.

Once confirmed, the Amended Plan bound both Mr. Pace and the creditors of his bankruptcy estate. 11 U.S.C. § 1327(a). The Amended Plan had to be paid pursuant to its terms notwithstanding that the Trustee's office had not, over the course of over 4 years since it was confirmed, updated the amount of the Mortgagee's secured claim. The plan payment amount was the same that all the parties agreed or acquiesced to, and $28,000 was never agreed to as the amount of the secured claim by the Mortgagee or Servicer. The Original Plan, in which Debtor had proposed the cramdown value of $28,000, was not confirmed. Because Mr. Pace's obligations to his creditors are governed only by the Amended Plan, as modified by the Trustee (Doc. 97), the correct figure was and remains to be a total principal balance of $54,000, and it appears that Mr. Pace has approximately $9,950 to go according to the payoff letter. *See* Pace Ex. A (Doc. 126 at 5) (letter from Chapter 13 Office dated Feb. 12, 2026, RE: Official Payoff).

The Amended Plan was confirmed consensually only because the valuation was raised to a figure that the Mortgagee determined to accept. Without that acceptance, the Amended Plan likely would have needed a contested confirmation hearing with expert witnesses as to valuation, which would have further raised the administrative claims in this case, and ultimately may have cost Mr. Pace more money to complete the Amended Plan. Such a hearing would have had an uncertain outcome, with the ultimate valuation that could have been lower or higher than the $54,000 figure, not to mention that the case law is such that if contested it is possible that Mr. Pace

could not have crammed down the Mortgage to any amount less than the full principal balance due to 11 U.S.C. § 1322(b)(2).[31]

D. The Court Will Grant Mr. Pace Some Further Time

Throughout this process, Mr. Pace has asked for the opportunity to pay off his Amended Plan and obtain his discharge, which he refers to as an honorable discharge. The Court is empathetic to his efforts and struggle to save his home and therefore will provide him with some further time, a reasonable period of time.[32] Whether there is any other approach that could ultimately work to save his home is beyond the matters presently before this Court.

The Chapter 13 Trustee previously reached a compromise with Mr. Pace to vacate the dismissal of his chapter 13 case and allow him until February 28, 2026 to complete the Amended Plan. *See* Agreed Order (Doc. 98), following modification of his Amended Plan (Docs. 97 and 101). This was in resolution of the Trustee's Motion to Dismiss (Doc. 78) for failure to make plan payments, filed on September 17, 2024, which was based on 11 U.S.C. § 1307(c)(6) and was "revived" after the prior Dismissal Order (Doc. 83) was vacated. It appears that Mr. Pace is getting closer to completion of the Amended Plan, although he does appear to be behind. The Court sincerely hopes he can pay off his Amended Plan, as it could well be the difference in owning 1325 Salem Ave. free and clear or having a mortgage loan that would appear to spring back (increase) by over $150,000 if this case is dismissed, subject to further negotiations with the Mortgagee or Servicer.

The case law is unsettled on whether a court can permit a debtor more time to complete a chapter 13 plan by not dismissing the case under § 1307(c). *See Marshall v. Henry* (*In re Henry*), 368 B.R. 696, 700 & n.2 (N.D. Ill. 2007) (observing that neither the bankruptcy courts nor academics have "come to a consistent conclusion as to whether § 1322(d) or § 1329(c) require dismissal of a Chapter 13 case for cause when a confirmed plan, due to circumstances unknown to the debtor prior to the plan's confirmation, requires more than 60 months to complete.") It does not appear that the United States Court of Appeals for the Sixth Circuit has weighed in on this

[31] *See supra* note 6.

[32] Notably, Mr. Pace asked the Court about the payoff date during the hearing, and was informed of the deadline by the Court, despite the fact that he, as a *pro se* party, signed the agreed order with the Trustee, and after entry on April 18, 2025, Mr. Pace was served with a copy of the Agreed Order by the BNC. (Docs. 101, 102 at 3, and Audio File, 1:41:26-1:43:54).

issue. And this is a highly unusual situation, such that in this rare instance the Court is apt to exercise its discretion under 11 U.S.C. §§ 105(a) and 1307(c) to forestall the dismissal of his case for a brief period, which appears to have some support amongst other bankruptcy courts. *See, e.g.*, *Marshall v. Henry* (*In re Henry*), 368 B.R. 696, 701 (N.D. Ill. 2007) (concluding that "[o]nce we acknowledge that dismissal under § 1307 is a discretionary matter for the bankruptcy court, we find that Judge Hollis was not required to dismiss Henry's case simply because Henry's plan would not complete until after 60 months had elapsed. And looking at the statutes, case law, and legislative history, we agree with Judge Hollis' rationale in denying the motion to dismiss. Nothing in § 1307 requires such dismissal.")

That said, the Trustee and Mr. Pace did enter into an Agreed Order based upon his failure to make payments under the Amended Plan, which is a recognized basis for dismissal under § 1307(c)(6). Accordingly, to the extent that the resolution of the Fee Motion created any uncertainty, the Court will hereby, *sua sponte*, extend the deadline under that Agreed Order for a period of forty-five (45) days from the current deadline of February 28, 2026 under paragraph 2 thereof, such that Mr. Pace shall have until and including **Tuesday, April 14, 2026** to pay off his case, lest the Trustee may submit an order to the Court dismissing this case without further notice or hearing.

VI. Conclusion

In the end, notwithstanding that in the high-volume world of chapter 13 bankruptcy debtors and debtor's counsel alike often rely upon the Chapter 13 Trustee's records, debtors are still responsible to perform their chapter 13 plans, which are effectively new agreements entered into with their creditors. Here, the mistake in those records was belatedly caught by the Chapter 13 Trustee upon an audit performed when the Chapter 13 Trustee's office thought the case was close to or at completion. And once discovered, the Chapter 13 Trustee moved to vacate the dismissal of Mr. Pace's case and entered into a compromise to provide him with the original opportunity he had to complete the payments in the Amended Plan, even modifying the Amended Plan, and to achieve the goal that he, and previously his counsel, had worked toward. Whether Debtor's expectation had been shattered or the Trustee had simply just caught up to what the Debtor had already known, or should have reasonably known, to be the case, we may never know for certain. But it is clear that the Amended Plan had been underfunded in comparison to the

allowed amount of the mortgagee's claim, even though that allowed amount was far less than the original amount of the claim, and it appears that Mr. Pace signed the Amended Plan and he continued to receive mortgage statements from his lender that showed a higher balance owed throughout his chapter 13 case.

Under these circumstances, even assuming that the Court could require Mr. Dearfield's fees to be disgorged under 11 U.S.C. § 329(b), which he disputes on the basis of *res judicata*, the Court does not find that his conduct justifies the return of the fees he was paid, which the Court previously approved as reasonable. Debtor counsel often rely on the Chapter 13 Trustee's books and records, and Mr. Dearfield's representation of Mr. Pace in filing this chapter 13 and obtaining confirmation of the Amended Plan that crammed down the mortgage on Mr. Pace's dual-purpose residence was, by all measures, a success in that it gave Mr. Pace the opportunity in chapter 13, which most debtors never have due to the restriction on such modification in 11 U.S.C. § 1322(b)(2), to own his home free and clear by paying a fraction of what he owed prior to bankruptcy.

The Court recognizes that chapter 13 is a long and difficult road for many debtors and the error in this case did not help, but that does not mean that Mr. Pace was thereby absolved from paying the amounts he had agreed to pay under his Amended Plan. It also does not mean that he did not understand what was happening. Nor does it justify requiring Mr. Dearfield to represent Mr. Pace, who appears to have been a very active Debtor, for free. What it does justify, however, is this Court exercising, in a rare instance, whatever equitable power it may have to provide Mr. Pace with just a little further time to try to complete his Amended Plan. And even if he cannot, perhaps a little extra time might give space for a creative solution.

Accordingly, for all the foregoing reasons, the Fee Motion is hereby **DENIED;** however, Mr. Pace is hereby permitted until and including **Tuesday, April 14, 2026** to pay off his case. After the April 14, 2026 deadline, the Trustee may submit an order to the Court dismissing this case without further notice or hearing.[33]

A member of the Court's staff will serve this Memorandum Opinion and Order by email to the email address provided by Mr. Pace in his Fee Motion (Doc. 103).

[33] In the event that this extension of time causes any issues for the Trustee's Office in administration of this case, the Trustee may seek to amend this deadline, particularly given that the Trustee was not a party to this contested matter.

IT IS SO ORDERED.

Copies to:

Default List

John G. Jansing, Chapter 13 Office, 409 E. Monument Ave., Suite 410, Dayton, OH 45402 (Chapter 13 Trustee)

Erin Renneker, Chapter 13 Office, 409 E. Monument Ave., Suite 410, Dayton, OH 45402 (Counsel for the Chapter 13 Trustee)