

**EXHIBIT 6-4** Sample Chapter 13 Plan When Family Income Is Greater Than the State's Median Family Income for a Comparable Size Family

**UNITED STATES BANKRUPTCY COURT**  
**FOR THE \_\_\_\_\_ DISTRICT OF \_\_\_\_\_**

In re: McPHERSON, Eric	)	
McPHERSON, Jennifer	)	
(Baxter, Jennifer)	)	Case No: 03-00000-R
8110 South Windsor Drive	)	Chapter 13
ss#: 1277	)	
2787	)	
Debtors	)	

**CHAPTER 13 PLAN**

**LENGTH OF PLAN:** 60 months

**PLAN PAYMENT:** Debtor(s) shall pay \$1,000.00 per month. The Trustee shall deduct the Trustee's preset percentage fee from each payment.

**DATE OF COMMENCEMENT:** Plan payments shall commence on or before 45 days after the Chapter 13 Petition is filed.

**PRIORITY CLAIMS:** (To be paid in full without interest)

CLAIMANT	DESCRIPTION	CLAIM AMOUNT	MONTHLY PAYMENT AND HOW PAID
Attorney	Legal Fee	\$1,000.00	\$ 50.00 × 20 months
IRS	Taxes	8,000.00	\$133.33 × 60 months
State Tax Commission	Taxes	3,500.00	\$ 58.33 × 60 months
Former Spouse	Child Support and Alimony	1,400.00	\$ 23.33 × 60 months

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**SECURED CLAIMS:** (Exclusive of debt secured only by home mortgages)

CLAIMANT	FILED OR SCHEDULED CLAIM	COLLATERAL	ALLOWED SECURED CLAIM	INTEREST RATE	MONTHLY PAYMENT AND HOW PAID
Second Mtg. Co.	\$ 6,000.00	2nd Mortgage	\$6,000.00	7.5%	\$120.23 × 60 months
Sears	\$850.00	Washer/Dryer	\$500.00	10%	\$10.62 × 60 months
Auto Finance Co.	\$12,000.00	Chevrolet Blazer	\$8,000.00	10%	\$169.98 × 60 months
Rockwell Construction	\$ 2,500.00	Lien on Residence	\$2,500.00	7.5%	\$50.09 × 60 months

Note: Secured creditors shall retain their liens to the extent of allowed secured claim stated above. The allowed secured claim of each secured creditor shall be the value of the collateral, as indicated above, or the amount of the claim, whichever is less, with the balance of the claim as scheduled or filed being allowed as an unsecured claim, with the lien of the creditor being avoided on the unsecured portion pursuant to 11 U.S.C.A. §§ 506(a) and (b).

**HOME MORTGAGE(S):** (Debtor's principal residence)

CLAIMANT	DESCRIPTION	ALLOWED CLAIM AMOUNT	INTEREST RATE	MONTHLY PAYMENT AND HOW PAID
First Mortgage Co.	Residence	\$60,000.00	8.0%	Regular payments (\$500) direct to Creditor
First Mortgage Co.	Arrearage	\$1,575.00	N/A	\$ 39.38 × 40 months

**SPECIAL UNSECURED CLASS(ES):**

CLAIMANT	DESCRIPTION	ALLOWED CLAIM AMOUNT	INTEREST RATE	MONTHLY PAYMENT AND HOW PAID
Friendly Finance Co.	Co-Debtor	\$1,500.00	15.0%	\$35.68 x 60 months

**PROPERTY TO BE SURRENDERED:** The following property shall be surrendered to the named claimant in full satisfaction of the secured claim stated below with the balance, if any, relegated to general unsecured status.

CLAIMANT	COLLATERAL	ALLOWED SECURED CLAIM	BALANCE RELEGATED TO UNSECURED
Capital Finance Co.	Buick Regal	\$3,000.00	\$4,000.00

(Continued)

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**LIEN AVOIDANCE(S):** The Debtor(s) shall file a separate Motion or Motions to avoid the liens or security interests of the following claimants pursuant to 11 U.S.C.A. § 522(f) and, if applicable, the claim(s) of such claimant(s) shall be relegated and treated as general unsecured claims below:

CLAIMANT	COLLATERAL
Second Mortgage Co.	Household Goods

**UNSECURED CLAIMS:** All claims not specifically provided for above and those relegated to unsecured status above shall be paid as general unsecured claims, without priority, on a pro rata basis.

Unsecured Claims per Schedule F:	\$77,100.00
Unsecured portion of Secured Claims per Schedule D:	<u>\$ 8,350.00</u>
Total Projected Unsecured Claims:	\$85,450.00
Approximated Percentage Payback to Holders of Unsecured Claims (Unsecured Priority and Unsecured Nonpriority Claims) (per Schedules E and F)	18.75%

Note: The approximate payback to unsecured claims may be more or less depending on claims actually filed and allowed.

**OTHER PROVISIONS:**

1. All property of the estate under 11 U.S.C.A. § 1306 shall be and remain property of the estate and all stays shall remain in force and effect until conclusion of the case or other Order of the Court.
2. All claims will be treated as set forth above unless a creditor objects prior to the confirmation hearing and files a claim within ninety (90) days after the first date set for the meeting of creditors called pursuant to 11 U.S.C.A. § 341(a). Governmental units must file claims within 180 days after the order for relief.
3. Unsecured creditors without priority who fail to file a claim within the time stated in Paragraph 2 above, will not receive any distribution under this Plan.
4. All secured creditors shall retain their liens until conclusion of the Plan (except as to long-term secured debt, if any) thereafter, all secured creditors shall release all liens.
5. The above named Debtor(s) is/are enjoined from incurring any debts without prior approval of the Court, except such debts as may be necessary for emergency medical or hospital care.

Dated: \_\_\_\_\_

Respectfully submitted,

\_\_\_\_\_  
Attorney  
Bar #  
Address  
Telephone

**CALCULATION OF BEST INTERESTS OF CREDITORS TEST**  
**11 U.S.C.A. § 1325(a)(4)**

Assets Available for Administration in Chapter 7:

• Bass Boat	\$16,000.00	
• Savings Bonds	3,000.00	
	\$19,000.00	

Amount to be Paid by Debtors Under Plan:

\$60,000.00 (\$1,000 × 60)

Amount Available to Pay Unsecured Claims (Unsecured Priority and Unsecured Nonpriority Claims) in Chapter 13:

\$60,000.00	Amount to be paid by debtors under plan
- 3,600.00	Trustee Fee (6 percent) – 11 U.S.C.A. § 326(b)
\$56,400.00	Available for Distribution
- 18,575.00	Secured Claims
\$37,825.00	Amount to be paid on unsecured claims (unsecured priority and unsecured nonpriority claims) under the plan

\$37,825.00 exceeds \$19,000.00, so best interests of creditors test is met.

The following are the attorney's comments on why the plan was drafted as it was.

Drafting a Chapter 13 plan requires working backwards. First determine what the debtor's disposable monthly income is. Disposable monthly income is defined in the Bankruptcy Code at 11 U.S.C.A. § 1325(b)(2) and (3).

The McPhersons had \$3,750 a month of income. The attorney designed a budget of \$2,730 a month, thus leaving approximately \$1,000 in disposable monthly income.

Once the disposable monthly income has been calculated, the *means test* must be applied to determine the *applicable commitment period* (length of the plan). 11 U.S.C.A. §§ 1322(d), 1325(b)(4).

**Applicable Commitment Period**

- |   |         |
|---|---------|
| (1) Number of persons in debtor's household   | _____   |
| (2) Median family income in the applicable state<br>for the number of persons in the debtor's household | \$_____ |
| (3) Current disposable monthly income of debtor<br>and debtor's spouse                                  | \$_____ |
| (4) Multiply (3) by 12 months   | \$_____ |

If (4) IS NOT LESS THAN (2) (i.e., debtor and spouse's monthly income times 12 months) is greater than the applicable state's median family income for the comparable number of persons in the debtor's household)—then the plan may not provide for payments over a period that is longer than five years and no shorter than five years unless all of the unsecured claims are paid in full.

All of the priority claims must be paid in full with the exception of domestic support claims paid to a governmental unit.

The plan cannot be confirmed if the best interests of creditors test cannot be satisfied within the five-year term of the plan.

If (4) IS LESS THAN (2) (i.e., debtor and spouse's monthly income times 12 (months) is less than the applicable state's median family income for the comparable