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UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In re

JAMES & LEILANI ROSSOW

Case No. 91-13400 K

Debtors

ORDER RE-OPENING HEARING

Upon examination of pertinent law, it appears that one unsubstantiated assertion of fact on behalf of the credit union is highly material, and perhaps dispositive of the matter before the Court.

However, the assertion that the credit union regularly nets "retail or better" from cars that it chooses to send to auction strains credulity, for it would require that the auctioneer regularly obtain prices in excess of what a car dealer would obtain. Such a sustained achievement on the part of the auctioneer is not consistent with the credit union's own evidence of the factors which define a "retail" or "fair market" value.

Rather than disbelieving the assertion, the Court considers it to be in the interest of justice that the credit union be given an opportunity to substantiate it. Thus, the hearing is reopened.

1. At 2:00 p.m. on May 18, 1992, the hearing shall continue to permit the offer of evidence regarding the year, make and model of each and every vehicle which the credit union caused to be auctioned in calendar year 1991 or in any more recent 12-

month period.

2. The date of repossession of each said vehicle.
3. The NADA Average Retail Value of each said vehicle on the date of repossession.
4. The date the credit union received the net proceeds of sale of each of said vehicles.
5. The amount of said proceeds (net of all fix-up expenses and auctioneers fees and expenses).

The debtor will be permitted to cross examine, but may not offer further evidence.

SO ORDERED.

Dated: Buffalo, New York
April 21, 1992



U.S.B.J.