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EDUCATIONAL CREDIT
6 MANAGEMENT CORPORATION

7
8 UNITED STATES BANKRUPTCY COURT
9 EASTERN DISTRICT OF CALIFORNIA

10 In re:
11 BEVERLY W. GAIR and KEVIN L. GAIR,
12 Debtors.

Case No. 09-15508-A-7
Chapter 7
Adv. No. 12-01067-A

13 BEVERLY W. GAIR and KEVIN L. GAIR,
14 Plaintiff,

**STIPULATION FOR ENTRY OF
JUDGMENT**

15 v.

16 EDUCATIONAL CREDIT MANAGEMENT
17 CORPORATION,
18 Defendant.

19 IT IS HEREBY STIPULATED by and between Beverly W. Gair (“Plaintiff”), and
20 Educational Credit Management Corporation (“ECMC”), that the following facts are true and
21 that judgment be entered in this matter as follows:

22 1. Plaintiff and Kevin L. Gair executed one educational promissory note (the “Note”)
23 for a spousal consolidation loan. The loan was disbursed on October 11, 2002 in the amount of
24 \$67,329.47.

25 2. The Note evidences a student loan made to Plaintiff and Kevin L. Gair under a
26 program funded in whole or in part by a governmental unit within the meaning of 11 U.S.C. §
27 523(a)(8). The program, referred to as the Federal Family Education Loan Program (“FFELP”),
28

1 formerly known as the Guaranteed Student Loan Program), was established by the Higher
2 Education Act of 1965, as codified at 20 U.S.C. § 1071 *et seq.*

3 3. ECMC is a private, nonprofit corporation and a guaranty agency under the FFELP.
4 ECMC is a Minnesota corporation with its principal place of business located at 1 Imation Place,
5 Building 2, Oakdale, MN 55128.

6 4. ECMC currently holds all right, title and interest in the Note.

7 5. Plaintiff is a 53-year-old, single individual and is currently employed.

8 6. Plaintiff alleges that repayment of the Note would cause an undue hardship.

9 7. On or around July 25, 2005, Kevin L. Gair's portion of the Note was discharged
10 in the amount of \$10,241.48 due to Total and Permanent Disability and that portion of the Note
11 was subrogated to the United States Department of Education ("ED").

12 8. The unpaid balance of the Note is \$109,509.04 as of January 3, 2013.

13 9. Plaintiff and ECMC agree to a settlement of this adversary proceeding on the
14 following terms:

15 A. Plaintiff unconditionally agrees that her obligation to Defendant ECMC pursuant
16 to the Note shall be nondischargeable.

17 B. Plaintiff shall pay the sum of \$90,000.00 in principal balance at an interest rate of
18 0% in satisfaction of the entire debt stated in Paragraphs 1 and 8.

19 C. Plaintiff will make payments of \$250.00 each per month to ECMC for 30 years
20 (360 months).

21 D. Plaintiff's first payment shall commence on March 10, 2013 and each subsequent
22 payment will be due on the 10th of every month thereafter.

23 10. Upon compliance with and completion of the terms of this Stipulation, Plaintiff's
24 liability under the Note described in Paragraphs 1 and 8 shall be deemed satisfied, and any
25 remaining balance due under the original terms of the Note will be discharged. Upon discharge,
26 ECMC will execute and deliver a full, final and complete release of liability from the sums owed
27 under the Notes described in Paragraph 1.

28 11. All payments to ECMC shall be addressed and mailed to:

ECMC
Lockbox #8682
P.O. Box 75848
St. Paul, MN 55175-0848

1 12. If any one payment is more than thirty (30) days delinquent, Plaintiff shall be in
2 default. If Plaintiff fails to cure the default within ten (10) days of the date of the letter notifying
3 Plaintiff of such default, then this Stipulation shall become null and void, and all of the original
4 terms of the Note shall again be in effect, including unpaid principal, interest that would have
5 accrued, and regulatory collection costs if applicable, less any payments made under this
6 Stipulation.

7 13. ECMC's failure to provide a coupon payment booklet, monthly reminder notice,
8 or receipt for payment does not relieve Plaintiff's obligation and/or agreement to make
9 consecutive, timely, monthly payments as described above. Plaintiff will notify ECMC within
10 ten days of any change in her home address stated in paragraph 23 below.

11 14. Plaintiff may at any time choose to repay her student loan obligation to ECMC in
12 full or in part ahead of schedule without prepayment penalty. Consolidation, however, is not
13 considered prepayment. If Plaintiff consolidates the Note, the amount certified will be the
14 amount due under the original terms of the Note, including any charges or fees allowed by
15 federal regulations and this stipulation shall become void.

16 15. If any one or more terms or provisions of this Stipulation is/are held to be
17 unenforceable, the remaining terms and provisions shall remain in full force and effect and shall
18 be construed as if the unenforceable provisions had never been contained in this Stipulation.

19 16. Any amendment, modification, or waiver of any term or condition of this
20 Stipulation must be made in writing and signed by all parties hereto. Any attempted oral or
21 implied amendment, modification or waiver shall be null and void.

22 17. Except as provided in this Stipulation, all other terms of the Note remain in effect
23 and are hereby incorporated by reference. To the extent that the terms of the Note conflict with
24 the terms of this Stipulation, the terms in this Stipulation control.

25 18. The parties of this Stipulation acknowledge that they have been represented by
26 independent counsel of their own choice or have chosen to not have their own counsel
27 throughout all of the negotiations that have preceded the execution of this Stipulation.

28 19. This Stipulation constitutes the entire agreement of the parties.

1 20. Each person signing this Stipulation warrants that he/she is fully authorized to
2 sign this Stipulation on his/her behalf and on behalf of his/her respective predecessors,
3 transferors and/or assignors and that the Stipulation is therefore binding upon and enforceable
4 against the same.

5 21. This Stipulation is binding upon and shall inure to the benefit of the parties hereto,
6 their respective heirs, executors, administrators, predecessors, successors and assigns.

7 22. Each party agrees to bear his/her own costs, expenses and attorney's fees in
8 connection with the aforementioned lawsuit and claims.

9 23. All notices pursuant to this Stipulation shall be sent by U.S. Mail, postage paid:

10 **If to Plaintiff:**

11 Beverly Gair
12 33088 Coyote Lane
13 Squaw Valley, CA 93675-9733

14 **If to Defendant:**

15 ECMC
16 Attention: Legal Department
17 P.O. Box 64909
18 St. Paul, MN 55164-0909

19 24. The parties to this Stipulation certify that they have read and fully understand its
20 terms.

21 **IT IS SO STIPULATED.**

22 Dated: February 13, 2013.

23 Beverly W. Gair
24 Beverly W. Gair
25 Plaintiff, Pro Se

26 Dated: February 13, 2013.

27 LAW OFFICES OF MIRIAM HISER
28 By: Miriam Hiser
Miriam Hiser
Attorneys for Defendant EDUCATIONAL
CREDIT MANAGEMENT CORPORATION