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IT IS SO ORDERED.



John E. Hoffman Jr.
John E. Hoffman, Jr.
United States Bankruptcy Judge

Dated: February 7, 2017

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF OHIO
Eastern Division

In re: :
: Bankr. Case No.: 12-52497
KEVIN A. COTTER, and :
: Chapter 13
PROMIS L. COTTER, :
: Honorable John E. Hoffman Jr.
Debtors. :
:

KEVIN A. COTTER, :
: Adv. Proc. No.: 16-02087
Plaintiff, :
:

v. :
: NAVIENT SOLUTIONS, INC., :
: Defendant. :

**AGREED ORDER RESOLVING PLAINTIFF'S COMPLAINT
AGAINST NAVIENT SOLUTIONS, INC.**

This cause comes on before the Court upon the Plaintiff, Kevin A. Cotter (“Plaintiff”)’s, Complaint to determine the dischargeability of the student loan owed to Navient Solutions, Inc. (“Navient”) and the Answer thereto filed by Navient. Prior to the matter proceeding to trial on the merits, the parties resolved all issues in dispute between Plaintiff and Defendant, Navient. The Court finding the resolution fair and equitable hereby ORDERS same.

IT IS THEREFORE ORDERED that:

1. Plaintiff is indebted to Navient pursuant to the terms of the Promissory Note (“Promissory Note”) executed by Plaintiff to obtain one (1) educational loan (“Educational Loan”).
2. As of the date of the filing of this adversary proceeding, there was a balance due and owing under the Promissory Note, in the amount of \$29,255.79 (“Outstanding Balance”), with a variable interest rate and with interest accruing thereafter pursuant to the Promissory Note.
3. The Outstanding Balance is currently due and owing on the Educational Loan evidenced by the Promissory Note and the Educational Loan evidenced by the Promissory Note is a non-dischargeable educational loan, pursuant to 11 U.S.C. §523(a)(8).
4. For so long as the Plaintiff does not default under this Agreed Order, the Plaintiff’s Outstanding Balance shall be reduced to \$2,500.00 (“Reduced Balance”), and the variable interest rate shall be reduced to a fixed rate of 1% (“Reduced Interest”), and the Plaintiff shall repay the Reduced Balance at the Reduced Interest rate as follows: \$35.79 per month for a period of seventy-two (72) consecutive months. The first payment shall be due on the fifth (5th) day of the month following the date the Plaintiff’s Chapter 13 discharge is entered, and payments shall continue on the fifth (5th) day of each consecutive month thereafter.
5. All payments pursuant to this Agreed Order shall note the ten digit account number xxxxxx2232 (redacted here for privacy reasons) on each payment, and shall be mailed to, “Navient Solutions, Inc., P.O. BOX 9000, Wilkes-Barre PA 18773-9000,” or to any other address provided to the Plaintiff by Navient in writing.
6. The following shall be Events of Default hereunder: (a) the Plaintiff shall fail to make any payment due hereunder within thirty (30) days of the due date; or (b) the Plaintiff commences any further legal proceedings against Defendant, its successors or assigns.

7. Upon the occurrence of an Event of Default under this Agreed Order, any forgiveness of the principal and interest is revoked, and Plaintiff will be liable for the full amount of the Outstanding Balance plus interest pursuant to the applicable terms of the Promissory Note (less any payments made hereunder which, following default shall be applied first to interest that would have accrued had this Agreed Order not been in effect, and then to principal).
8. There is no penalty for prepayment under this Agreed Order, but any prepayment, unless it is payment in full, does not relieve Plaintiff of the obligation to make ongoing monthly payments.
9. In the event the Plaintiff, pursuant to applicable Navient policy and the terms of the Promissory Note, qualifies for, or the parties agree to, any deferment or forbearance of payment obligations, after this Agreed Order is approved, interest will continue to accrue during the time of any such deferment or forbearance, at the interest rate stated herein, so that the total amount to be repaid, and the monthly payments required, may increase from that stated herein.
10. Should any issues arise, related to billing or repayment of loan subject to this agreement, wherein the Plaintiff believes that billing or collection efforts related to the loan subject to this agreement is not in accordance with this Agreed Order, the Plaintiff agrees that such issues should be directed to a Supervisor or Manager in Navient's Bankruptcy Litigation Unit, who may be reached at 1-800-251-4127, or to any other telephone number provided by Navient in writing, or in response to a specific borrower inquiry. The parties understand that any such communications, if not directed as specified in this Paragraph, may not be addressed in a timely manner, or in a manner specifically in accordance with this Agreed Order.
11. Navient retains the right to receive its pro rata distribution on its allowed general unsecured claims under the Plaintiff's Chapter 13 Plan based upon the full amount of its general unsecured claim, and its general unsecured claim will not be reduced or affected by this Agreed Order. In the event the settlement funds paid pursuant to this Agreed Order and the pro rata distribution total more than 100% of Navient's claim amounts as filed, all overages will be returned to the Plaintiff by Navient.

12. In the event that the Plaintiff's bankruptcy case is converted to a Chapter 7, Chapter 11, or the Plaintiff obtains a hardship discharge, Plaintiff shall begin to make payments toward the Reduced Balance at the Reduced Interest rate, per this Agreed Order, as described in Paragraph 4, on the 5th day of the month following the date of conversion or hardship discharge. Should the Plaintiff fail to make the required first payment on the 5th day of the month following the date of the conversion or hardship discharge, then the Plaintiff shall be in Default and any forgiveness of the principal and interest is revoked, and Plaintiff will be liable for the full amount of the Outstanding Balance plus interest pursuant to the applicable terms of the Promissory Note (less any payments made hereunder which, following default shall be applied first to interest that would have accrued had this Agreed Order not been in effect, and then to principal). Paragraphs 6 and 7 above shall also apply as to any payments due after a conversion or hardship discharge.
13. In the event that the Plaintiff's bankruptcy case is dismissed or discharge is denied or revoked, the terms of this Agreed Order are no longer in effect and any forgiveness of the principal and interest is revoked, and the Plaintiff will be liable for the full amount of the Outstanding Balance plus interest pursuant to the applicable terms of the Promissory Note (less any payments made hereunder which, following dismissal of the bankruptcy case or denial or revocation of discharge, shall be applied first to interest that would have accrued had this Agreed Order not been in effect, and then to principal), in addition to any other remedies permitted under the applicable terms of the Promissory Note.
14. Except as provided in this Agreed Order, all other terms of the Promissory Note remains in effect and are hereby incorporated by reference.
15. Upon entry of this Agreed Order, this Adversary Proceeding shall be dismissed.

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IT IS SO ORDERED.

APPROVED:

/S/ Kevin A. Cotter

Kevin A. Cotter
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Plain City, OH 43064
Plaintiff

/S/ Matthew J. Thompson

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cc:

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Phyllis A. Ulrich, Attorney for Defendant, Navient Solutions, Inc.

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