Robert G. Drummond
Chapter 13 Standing Trustee
P. O. Box 1829
Great Falls, Montana 59403-1829
Telephone: (406) 761-8600
Facsimile: (406) 453-4663
I. D. Number 0636
Trustee@MTChapter13.com

(Appellant)

UNITED STATES BANKRUPTCY APPELLATE PANEL
OF THE NINTH CIRCUIT

In re MICHAEL LUEDTKE and KATHERINE LUEDTKE, Debtors.	Case No. 13-60098-13
ROBERT G. DRUMMOND, Chapter 13 Standing Trustee, Appellant v. MICHAEL LUEDTKE and KATHERINE LUEDTKE, Appellees	BAP No. MT-13-1313

ON APPEAL FROM THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF MONTANA

BRIEF OF APPELLANT

UNITED STATES BANKRUPTCY APPELLATE
PANEL OF THE NINTH CIRCUIT

In re MICHAEL LUEDTKE and KATHERINE LUEDTKE, Debtors.	Case No. 13-60098-13
ROBERT G. DRUMMOND, Chapter 13 Standing Trustee, Appellant. v. MICHAEL LUEDTKE and KATHERINE LUEDTKE, Appellees.	BAP No. MT-13-1313

CERTIFICATION REQUIRED BY BAP RULE 8010(a)-1(b)

The undersigned Appellant, certifies that the following parties have an interest in the outcome of this appeal. These representations are made to enable judges of the Panel to evaluate possible disqualification or recusal:

Appellees/Debtors:	Michael and Katherine Luedtke
Attorney for Appellees/Debtors:	Edward A. Murphy
Appellant/Trustee:	Robert G. Drummond

DATED August 19, 2013.

/s/ Robert G. Drummond
Robert G. Drummond
Appellant/Trustee

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I.

BASIS OF APPELLATE JURISDICTION

This is an appeal of an Order from the United States Bankruptcy Court for the District of Montana. This court has jurisdiction over this matter pursuant to 28 U.S.C. § 158(b)(1).

II.

STATEMENT OF ISSUE PRESENTED

Did the bankruptcy court err in overruling the Trustee's Objection to Confirmation by holding that the incorporation of the National Standards and Local Standards issued by the Internal Revenue Service in the means test appearing at 11 U.S.C. § 707(b)(2)(A)(ii) allows deduction of an additional $200.00 transportation expense for an old vehicle when calculating disposable income under 11 U.S.C. §1325(b)(1)?

III.

STANDARD OF REVIEW

This court reviews issues of law, including interpretation of the Bankruptcy Code and Rules of Procedure, *de novo*, and reviews findings of fact for clear error. *Bunyin v. United States (In re Bunyin),* 354 F.3d 1149, 1150 (9th Cir. 2004) and *Schook v. CBIC (In re Schook)*, 278 B.R. 815, 820 (9th Cir. B.A.P. 2002). In this case, the court reviews the decision of the court below *de novo*.

IV.

STATEMENT OF THE CASE

A. When the Trustee objected to confirmation of the Debtors' proposed Chapter 13 Plan based upon the disposable income requirements, the parties submitted the factual issues to the court by Stipulation (Excerpt No. 15). The Debtors and the Trustee entered into a Stipulation of Facts that were pertinent to

the issue at hand as follows:

1. The Debtors, Michael J. Luedtke and Katherine L. Luedtke, filed their Chapter 13 bankruptcy petition in the United States Bankruptcy Court for the District of Montana on January 30, 2013 (Docket No. 1) (Excerpt No. 1).

2. The Debtors filed their Chapter 13 Statement of Current Monthly and Disposable Income on February 22, 2013 (Docket No. 13) (Excerpt No. 8).

3. In their Chapter 13 Statement of Current Monthly and Disposable Income, the Debtors calculated their annualized current monthly income on Line 15 in the amount of $76,876.32. Based upon their applicable household size (2), the Debtors checked the box on Line 17 stating that "The applicable commitment period is 5 years."

4. The Debtors computed their monthly disposable income on Line 59 of Form B22C in the amount of $0.18. In making this computation, the Debtors deducted $672.00 on Line 27(a).

5. The parties stipulate and agree that the Local Standards for transportation expenditure for a household with two or more vehicles is $472.00.

6. The parties further stipulate and agree that the Debtors have added $200.00 to their transportation expense based upon the age and mileage of one of their vehicles. The Debtors have a 1993 Ford Taurus with 118,000 miles on it.

7. The Debtors have proposed a Chapter 13 Plan (Excerpt No. 9) by virtue of which they would pay $150.00 per month for a period of sixty (60) months. Out of this total amount paid, the administrative expense for the attorney and Trustee would be paid. The balance of the funds would be payable to the class of general unsecured creditors.

B. In addition to the facts recited in the Stipulation of Facts, the Trustee also submitted the following mathematical calculations in his Brief (Excerpt No. 18) filed April 26, 2013:

1. The Debtors proposed a Plan by virtue of which they would make sixty payments of $150.00 per month.

2. Total funding under the Plan would be $9,000.00. From this amount, projected Trustee's fee would be $900.00, and the total attorney's fee would be $2,500.00. Thus, approximately $5,600.00 would be available for distribution to the class of general unsecured creditors.

V.

ARGUMENT

A. The Disposable Income Test Allows the Deduction of the Internal Revenue Local Standards From Current Monthly Income When Calculating Projected Disposable Income.

1. Congress made specific reference to expenses that could be deducted from current monthly income to determine projected disposable income.

When considering confirmation, each of the separate requirements must be present and the debtor has the burden of proving each element has been met. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). "Above median" income debtors are subject to the disposable income requirement appearing at 11 U.S.C. § 1325(b)(1) as it incorporates 11 U.S.C. § 707(b)(2). If a bankruptcy Trustee objects to confirmation of a Plan, the court may not confirm it unless it provides for full repayment of the unsecured claims or provides that all of the debtor's projected disposable income will be paid to the class of unsecured creditors. 11 U.S.C. § 1325(b)(1). *In re Smith (American Express v. Smith)*, 418 B.R. 359, 363 (9th Cir. BAP 2009). 11 U.S.C. § 707(b)(2)(A)(i) requires a debtor to complete his calculation of disposable income by computing current monthly

income (CMI), reduced by amounts "determined under clauses (ii), (iii), and (iv). For "above median" income debtors, the reasonableness of expenditures is determined in accordance with 11 U.S.C. § 707(b)(2)(A) and (B). *In re Martinez (Yarnall v. Martinez)*, 418 B.R. 347, 349 (9th Cir. BAP 2009) (citing 11 U.S.C. § 1325(b)(3)). Congress established several categories of allowed expenditures that may be deducted from CMI when computing projected disposable income. 11 U.S.C. § 707(b)(2)(A)(ii) (referenced as clause (ii)) specifies five categories of monthly expenses that may be deducted from CMI when calculating disposable income. That section provides:

> I. "The debtor's monthly expenses shall be" monthly expense amounts specified under the National and Local Standards issued by the IRS.
>
> II. "In addition, the debtor's monthly expenses may include" monthly expenses for the continuation of actual expenses for the care and support of an elderly, chronically ill, or disabled household member.
>
> III. "In addition, ... the debtor's monthly expenses may include" the debtor's monthly expenses for actual administrative expenses in a Chapter 13 Plan.
>
> IV. "In addition, the debtor's monthly expenses may include" actual expenses for a child less than 18 years of age to attend private or public school.
>
> V. "In addition, the debtor's monthly expenses may include" housing and utility expenses in excess of the allowed standard based on actual expenses.

The Debtors may deduct the "applicable monthly expense amounts specified under the National Standards and Local Standards, and the debtor's actual monthly expenses for the categories specified as Other Necessary Expenses issued by the Internal Revenue Service (IRS) for the area in which the debtor resides, as in effect on the date of the order for relief." 11 U.S.C. § 707(b)(2)(A)(ii)(I). That section provides:

> The debtor's monthly expenses shall be the debtor's applicable monthly expense amounts specified under the National Standards and Local Standards, and the debtor's actual monthly expenses for the categories specified as Other Necessary Expenses issued by the Internal Revenue

> Service for the area in which the debtor resides, as in effect on the date of the order for relief, for the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case, if the spouse is not otherwise a dependent.

Thus, Congress incorporated the IRS National and Local Standards which include allowances for vehicle ownership and operating costs.

2. The Internal Revenue Standards adapted in the statute are different than the Internal Revenue Manual.

The Internal Revenue Standards referenced in 11 U.S.C. § 707(b)(2)(A)(ii)(I) are contained in tables prepared by the IRS. As explained by Judge Lundin in his treatise:

> Subclause (I) of § 707(b)(2)(A)(ii) mandates that a debtor's monthly expenses shall be the "expense amounts specified under the National Standards." The expense amounts specified under the National Standards are issued by the IRS in "Allowable Living Expense Tables (Collection Expense Standards)" attached as an exhibit to the Financial Analysis Handbook. When you go looking for this exhibit, you will find that the Allowable Living Expense Tables are "web based" and are located by following URLs specified by the IRS. At this writing, the search for the National Standards Tables begins at http://www.irs.gov/individuals/article/0,,id=96543,00.html. When you follow that link, you will be redirected to the National Standards Tables at http://www.irs.gov/businesses/small/article/0,,id=104627,00.html.
> ...
>
> And remember that the National Standards tables are an exhibit to the Internal Revenue Manual. The Manual itself is modified on a different schedule than the tables that are exhibits to the Manual. For example, the Internal Revenue Manual was not modified on October 1, 2007, to reflect the many substantial changes to the National Standards tables that took place on that date. The Internal Revenue Manual itself was modified with a revision date of May 9, 2008. In between October 1, 2007, and May 9, 2008, the Internal Revenue Manual discussed in detail National Standards that no longer existed, and the tables linked to the Internal Revenue Manual offered numbers, categories and organization that were not explained in the Internal Revenue Manual.

Keith M. Lundin & William H. Brown, Chapter 13 Bankruptcy, 4th Edition, § 475.1 at ¶ __11__, Sec. Rev. Apr. 14, 2009.

The tables are referenced in the Internal Revenue Manual (IRM), Part 5, Chapter 15, the Financial Analysis Handbook, with a link to a web page

describing the National and Local Standards.[1] The transportation standards for taxpayers with a vehicle consist of two parts: nationwide figures for monthly loan or lease payments referred to as ownership costs, and additional amounts for monthly operating costs broken down by Census Region and Metropolitan Statistical Area (MSA).

http://www.irs.gov/individuals/article/0,,id=96543,00.html. Thus, these are the National and Local Standards incorporated into the disposable income calculation. 11 U.S.C. § 707(b)(2)(A)(ii)(I).

The IRM § 5.15.1.7 (10-2-2009) states:

> Vehicle Operating standards are based on actual consumer expenditure data obtained from the United States Bureau of Labor Statistics (BLS) which are adjusted with Consumer Price Indexes (CPI) to allow for projected increases throughout the year. (These CPI are used to adjust all ALE standards).

Thus, the Standards are based upon Bureau of Labor Statistics and Census Bureau data. See, *Wedoff*, Means Testing in the New Section 707(b), 79 Am. Bankr. L.J. 231, 254 (2005). The IRS transportation standard describes operating costs as including maintenance, repairs, insurance, fuel, registrations, licenses, inspections, parking and tolls. IRM § 5.15.1.7 ¶4(b) (10-02-2009). The introduction to the IRS tables located at http://www.irs.gov/businesses/small/article/0,,id=104623,00.html specifically states that a taxpayer is allowed operating costs. For each automobile, the taxpayers will be allowed the lesser of the amount actually spent for operating costs or the allowed Standard. Likewise, the IRM also states that the debtor will be allowed the Standard or the actual verified amount, whichever is less. IRM § 5.15.1.9 (10-2-2009). Nothing in the Standards or the tables references a $200.00 "old car" deduction. *In re Ford*, 2006 WL 4458358 (Bankr. N.D. Ohio 2006).

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[1] http://www.irs.gov/businesses/small/article/0,,id=104623,00.html.

The IRS tables include a disclaimer that specifically states that bankruptcy calculations can be found on the website for the U.S. Trustee program. Under a link to Means Testing information, the United States Trustee program provides allowed expenditure data based upon the date the bankruptcy case was filed. On numerous occasions, the U.S. Trustee's office discloses that the Census Bureau's median family income data accessible through this page has been occasionally updated. http://www.justice.gov/ust/index.htm. Thus, as Census Bureau data is updated, the United States Trustee's office updates the allowed IRS deductions. It is significant that the $200.00 "old car" deduction claimed here and allowed by the bankruptcy court has never changed, nor is it referenced in the Standards on the U.S. Trustee's website. It was added to Chapter 8, Part 5 of the IRM after the passage of BAPCPA. *In re Ford*, 2006 WL 4458358 (Bankr. N.D. Ohio 2006). Thus, the "old car" deduction is not based upon any Census Bureau data, nor is it included in the National Standards Tables.

B. Congress Implemented the IRS Standards - Not the IRS Manual.

The Internal Revenue Service Financial Analysis Handbook appears in the IRM at Section 5.15.1. The IRM explains that Chapter 15 provides instructions for analyzing the taxpayer's financial condition. IRM § 5.15.1.1 (1)(10-2-2009). The Internal Revenue Service Financial Analysis Handbook explains that National and Local Standards are guidelines established by the service to provide consistency in certain expense allowances such as groceries, household expenses, housing and transportation. IRM § 5.15.1.1 (5)(10-2-2009).

The legislative history to the *Bankruptcy Abuse Prevention and Consumer Protection Act of 2005* (BAPCPA) states:

> In addition to other specified expenses [§ 707(B)(2)(A)(ii), (iii) and (iv)], the debtor's monthly expenses-exclusive of any payments for debts unless otherwise permitted-must be the applicable monthly amounts set forth in the Internal Revenue Service Financial Analysis Handbook [pt. 5.15.1] as

> Necessary Expenses [pt. 5.15.1.7] under the National [pt. 5.15.1.8] and Local Standards [pt. 5.15.1.9] categories and the debtor's actual monthly expenditures for items categorized as Other Necessary Expenses [pt. 5.15.1.9].

House Report No. 109-31, Pt. 1, 109th Cong., 1st Sess. 48-51 (2005).

Thus, Congress specifically implemented the Internal Revenue Standards in BAPCPA. The legislative history indicates that the Standards implemented are in the IRS Financial Analysis Handbook which appear in Part 5, Chapter 15 of the IRM. No reference was made in the legislative history to Part 5, Chapter 8 of the IRM.

C. Chapter 8 of the Internal Revenue Manual Does Not Interpret the Collection Financial Standards.

1. The "old car" allowance only represents IRS policy.

In the case at hand, the bankruptcy court allowed the $200.00 "old car" deduction referenced in Chapter 8 of the IRM. Chapter 8 of the IRM governs offers in compromise. IRM § 5.8.1 (10-2-2009). Chapter 8 specifies procedures for collection employees to follow when considering a taxpayer's proposal to compromise tax debt. IRM § 5.8.1.1 (2) (6-24-2013). The offer in compromise section instructs revenue officers to utilize the Financial Analysis Handbook in measuring offers in compromise. The IRM is not a statute. It is not subject to an administrative process. Absent a reference to the IRM in the disposable income test, one cannot assume Congress intended the courts to be bound by the IRM. *In re Armstrong*, 370 B.R. 323, 331 (Bankr. W.D. Wa. 2007). Thus, the section states IRS policy, but does not interpret the Standards.

The offer in compromise section of the IRM incorporates the Internal Revenue Service Financial Analysis Handbook (IRM § 5.15.1 (10-2-2009)) to analyze financial information. IRM § 5.8.5.1 (1) (9-23-2008). The Financial Analysis Handbook, however, does not incorporate Chapter 8 of the IRM dealing

with offers in compromise. *In re Dittrich*, 2011 WL 3471090 (Bankr. D.W.D. Wa. 2011). Thus, Chapter 8 incorporates Chapter 15 - but Chapter 15 does not incorporate Chapter 8. There is no way to get to the "old car" deduction in Chapter 8 when the Standards are the starting point.

2. The IRM states that the "old car" deduction is over and above the Standards.

Moreover, the offer in compromise chapter of the IRM validates the premise that the $200.00 "old car" deduction is not part of the Standards. When instructing IRS collectors about evaluation of offers in compromise, the IRM instructs "in situations where the taxpayer has a vehicle that is currently over six years old or has reported mileage of 75,000 or more, an additional operating expense of $200.00 would generally be allowed per vehicle." IRM § 5.8.5.20.3 (10-22-2010). This Section of the IRM specifically recognizes that this is an allowance in addition to the Standards. The examples offered by the IRM in the offer in compromise section specifically reference the $200.00 operating expense allowance "in addition to the Standard." Thus, the "old car" deduction is something to supplement the Standards that was adopted by the IRS but not approved by Congress for use in the means test.

D. Congress Stated Which Expenses Should be Allowed in Excess of the Standards With Specifity.

The deductions allowed in the means test are specific and limited. The Ninth Circuit Court of Appeals has recognized, "when it introduced the means test, Congress provided, by reference to IRS guidelines, specific guidance as to what qualifies as a necessary expense for purposes of applying that test." *In re Egebjerg*, 574 F.3d 1045, 1052 (9th Cir. 2009). Congress imported the Internal Revenue Services' Local and National Standards for expenses into the means test calculation. *Blausey v. U.S. Trustee*, 552 F.3d 1124, 1133 (9th Cir. 2009).

Allowing additional expenses beyond the Standards in the means test runs contrary to the rules for statutory interpretation. The starting point in discerning Congressional intent is the existing statutory text. "There is a basic difference between filling a gap left by Congress' silence and rewriting the rules that Congress has affirmatively and specifically enacted." *Mobile Oil Corp., v. Higginbotham*, 436 U.S. 618, 625 (1978).

Congress acts intentionally and purposefully when it includes language in one section and omits it from another. *BFP v. Resolution Trust Corp.*, 511 U.S. 531, 537. When Congress wanted to allow expenditures in addition to the IRS allowed Standards, it said so with specificity. This court should hold that the $200.00 "old car" deduction is not an authorized deduction under 11 U.S.C. § 707(b)(2)(A)(ii)(I). *In re Johnson*, 2006 WL 2883243 (Bankr. M.D. NC 2006). Congress specifically stated that debtor's monthly expenses may include an additional allowance for food and clothing of up to 5% of the National Standards issued by the IRS. 11 U.S.C. § 707(b)(2)(A)(ii)(I). Congress specifically allowed an additional expense for housing and utilities "in excess of the allowance specified by the Local Standards for housing and utilities issued by the Internal Revenue Service." 11 U.S.C. § 707(b)(2)(A)(ii)(V). Congress specifically allowed certain actual expenses for private or public school if they could be documented and if the debtor could explain "why such expenses are not already accounted for in the National Standards, Local Standards, or other necessary expenses referred to in subclause (i)." 11 U.S.C. § 707(b)(2)(A)(ii)(IV). No such additional allowance was specified by Congress for vehicle operating expenses in either 11 U.S.C. § 707(b)(2)(A) or 11 U.S.C. § 1325(b). Thus, this court should hold that the "old car" deduction has been authorized in certain instances by the IRS, but not by Congress in the means test calculation.

E. The Bankruptcy Court's Holding is at Odds With the Statute and its Subsequent Interpretation by the Supreme Court .

This court should hold that absent a specific allowance in the statute, the court has no authority to grant an additional vehicle operating expense over and above the IRS Standards. If the statutory language is clear, this court should apply it by its terms unless to do so would lead to absurd results. The starting point for resolving a dispute over the meaning of a statute begins with the language of the statute itself. *United States v. Ron Pair Enterprises Inc.*, 489 U.S. 235, 241-42, (1989). The sole function of the court - at least where disposition required by its text is not absurd - is to enforce it according to its terms. *Lamie v. United States Trustee*, 540 U.S. 526, 534, 124 S. Ct. 1023, 157 L. Ed. 2d 1024 (2004). Interpretations that would render a statutory provision surplusage or a nullity should be rejected. *County of Santa Cruz v. Cervantes (In re Cervantes)*, 219 F.3d 955, 961 (9th Cir.2000).

In *Ransom v. FIA Card Services, N.A.*, _ u.s. _, 131 S.Ct. 716, 178 L.Ed.2d 603 (2011), the United States Supreme Court stated that the Collection Financial Standards - the IRS's explanatory guidelines to the National and Local Standards - may be consulted in interpreting the National and Local Standards.[2] *Ransom* at 726. The Supreme Court specifically recognized that the statute does not incorporate the IRS's guidelines and that the guidelines cannot control if they are at odds with the statutory language. *Ransom* at 726. Thus, the court may utilize the Collection Financial Standards in interpreting the National and Local Standards, but neither the IRM nor the IRS Financial Analysis Handbook (IRM 5.15.1 *et seq*) substitutes in place of the Standards. The *Ransom* court did not reference the Internal Revenue Manual. That court did not hold that the Manual

[2] The Collection Financial Standards are located at http://www.irs.gov/individuals/article/0,,id=96543,00.html.

may substitute for the Standards. As applied by the court below, the interpretation of the guidelines is at odds with the statutory language which only allows deduction of the Standards.

The Code does not import the interpretive manual that supports the guidelines. *In re Hargis*, 451 B.R. 174, 178 (Bankr. D. Utah 2011). By allowing the unauthorized expense deduction, the bankruptcy court's holding is at odds with the overriding purpose of the enactment of BAPCPA - to ensure debtors repay creditors the maximum they can afford. *In re Egebjerg*, 574 F.3d 1045 (9th Cir. 2009) (citing H.R. Rep. 109-31, pt. 1 at 2 (2005) reprinted in 2005 U.S.C.C.A.N. 88, 89). In *Ransom*, the Supreme Court specifically stated, "if a debtor's actual expenses exceed the amounts listed in the tables, for example, the debtor may claim an allowance only for the specified sum, rather than for his real expenditures." *Ransom* at 727. Here, the added allowed deduction does not appear in the tables. The additional expense is at odds with the holding in *Ransom* because it directly contradicts the language of the Code. *In re Van Dyke*, 450 B.R. 836, 841 (Bankr. C.D. Ill. 2011). It also nullifies the limitations that Congress intended by using the Standards.

The interpretation of the bankruptcy court renders the use of the Standards moot. The $200.00 "old car" deduction was incorporated into the IRM after BAPCPA was passed. *In re Ford*, 2006 WL 4458358 (Bankr. N.D. Ohio 2006). The "old car" allowance is inconsistent with congressional intent in utilizing the Standards which would limit the deduction to the statistical average. *In re Armstrong*, 370 B.R. 323, 330 (Bankr. W.D. Wa. 2007). The court below applied the IRM in a fashion inconsistent with both congressional policy and the statute because it nullifies the limitations imposed by the Standards.

F. The Bankruptcy Court's Decision has the Effect of Incorporating the IRM, Instead of the Standards, Into the Statute and is not Authorized Under *Ransom*.

Relying on *Ransom*, the bankruptcy court stated that it could consult the IRM and that such consultation would not be at odds with statutory construction. It then implemented the IRM as if it had been referenced in the statute, a holding that went beyond merely consulting the IRM to interpret the Standards. The *Ransom* court, however, specifically limited its reference to the Collection Financial Standards as the explanatory guidelines for the Standards. *Ransom* at 726. The *Ransom* court did not reference the entire IRM as interpretive of the Standards. The *Ransom* court did not reference the offer in compromise chapter (5.8.1.1) as interpretive of the Standards. Thus, this court should recognize that the Collection Financial Standards are not the same thing as the IRM and that Chapter 8 of the IRM is not interpretive of the Standards.

The *Ransom* court recognized that the IRS guidance in the handbook might be insightful and persuasive but not controlling. *Ransom* at 726, Note 7. The *Ransom* court also recognized that the IRS revises the Standards as it deems necessary - a recognition of the difference between the IRM and the Revenue Standards. *Ransom* at 726, Note 7. The *Ransom* court did not adopt the entire IRM as guidance for the interpretation of the Standards. Thus, this court should hold that the bankruptcy court's interpretation of *Ransom* was over broad.

VI.

CONCLUSION

The bankruptcy court's interpretation in *Ransom* is over broad. In *Ransom*, the Supreme Court did not allow the IRM to substitute for the Standards. This court should hold that the "old car" deduction does not appear in the Standards which are incorporated into the statute. 11 U.S.C. § 707(b)(2)(A)(ii)(I) did not

incorporate the entire IRM into the statute. The Standards appear in the tables. The only transportation deduction allowed by the statute is in the Standards. This court should hold that the bankruptcy court erred by its over broad use of the IRM. Thus, this court should reverse the holding of the court below and remand with instructions.

DATED August 19, 2013.

Chapter 13 Standing Trustee
P. O. Box 1829
Great Falls, Montana 59403-1829

By /s/ Robert G. Drummond
Trustee/Appellant

CERTIFICATE OF MAILING

I hereby certify that on August 19, 2013, I electronically filed the foregoing document with the Clerk of the Court for the Bankruptcy Appellate Panel for the Ninth Circuit by using the CM/ECF system.

I further certify that parties of record to this appeal who either are registered CM/ECF users, or who have registered for electronic notice, or who have consented in writing to electronic service, will be served through the CM/ECF system.

I further certify that some of the parties of record to this appeal have not consented to electronic service. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within 3 calendar days, to the following parties:

Michael and Katherine Luedtke
4177 Grizzly Way
Stevensville, MT 59870

/s/ Tiffany Floerchinger
Tiffany Floerchinger

UNITED STATES BANKRUPTCY APPELLATE
PANEL OF THE NINTH CIRCUIT

In re MICHAEL LUEDTKE and KATHERINE LUEDTKE, Debtors.	Case No. 13-60098-13
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CERTIFICATION REQUIRED BY BAP RULE 8010(a)-1(c)

The undersigned, Appellant, certifies that the following are known related cases and appeals:

None.

DATED August 19, 2013

/s/ Robert G. Drummond
Robert G. Drummond
Appellant/Trustee