SUMMARY OF CRAMDOWN INTEREST RATE CASES

Case	Type of Property	Debtors' Position on Interest Rate	Lender's Position on Interest Rate	Court's Outcome on Rate	Length of Maturity	Relevant Facts & Consideration
In re Valenti, 105 F.3d 55 (2d Cir. 1997)	Automobile: 1990 Pontiac Bonneville	9%: cost of funds approach, assuming creditor could make new loans at prevailing rates in commercial market	15.7%: "Forced loan": Rate charged by creditor at time of plan confirmation to consumers in same geographic area	U.S. Treasury rate with maturity equal to repayment schedule plus risk premium of 1%-3% (remanded to Bankruptcy Court)	Remanded to Bankruptcy Court for determination	Circumstances of the debtor, including prior credit history, and viability of plan. If parties are unable to stipulate as to risk premium, court may conduct hearing limited to determination of that premium.
In re Marfin Ready Mix Corp., 220 B.R. 148 (Bankr. E.D.N.Y. 1998)	Real property; property taxes not paid	9%, as reasonable market rate	18%: provided by statute for delinquent taxes	Applying *Valenti*, U.S. Treasury rate with maturity equal to repayment schedule plus risk premium of 1%-3%	Left to parties to stipulate	Circumstances, including debtor's payment history, viability of plan. Court stated that if parties cannot stipulate to reasonable risk premium, evidentiary hearing would be held.
In re Woodmere Investors Ltd. P'ship, 178 B.R. 346 (Bankr. S.D.N.Y. 1995)	"Older" apartment complex	7.62%: Six year treasury note plus risk factor of 225 basis points	Risk factor should be 450 to 500 basis points	6 year treasury rate plus 350 basis points	6 years	100% loan-to-value ratio; debt service coverage below the norm
In re Gramercy Twins Assocs., 187 B.R. 112 (Bankr. S.D.N.Y. 1995)	Commercial office building in Manhattan	Parties agreed to formula approach, but debtor argued 8% was proper rate	Parties agreed to formula approach, lender argued for 500 to 575 basis points risk factor	Minimum of 9.43%: 5 year treasury note with risk factor of at least 425 basis points	5 years, with balloon payment at end of 5 years	Relatively high loan to value factor (85%) increases risk factor; debtor's option to refinance or sell property increases risk of repayment
In re Dindiyal, 1993 WL 540373 (Bankr. E.D.N.Y. 1993)	Three residential rental properties	Market rate, which is equal to 8.5%	Market rate, which is equal to 9%	"Market" rate of 9% plus 1% risk factor = 10%	25 years	Long period of time for repayment; premises need major repairs; debtors' outside income is limited which could lead to deterioration of property

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In re Danny Thomas P'ship, 231 B.R. 298 (Bankr. E.D. Ark. 1999)	Apartment complex	7.64%: 10-year treasury rate plus 2% risk factor	8.5%-9%: 30-year treasury obligation plus 2.5-3% risk factor	7.64%: 10-year treasury rate plus 2% risk factor	10 years	<u>General</u>: debt service coverage ratio; loan to value ratio; age and condition of property <u>Positive</u>: location has well developed, stable, strong economic base; property values are appreciating in the area; local economy supports this kind of development <u>Negative</u>: Considerable amount of property maintenance has been deferred; a number of units were out of service; recent excessive tenant turnover
In re Duval Manor Assocs., 191 B.R. 622 (Bankr. E.D. Pa. 1996)	Apartment building	7%: Interest rate for government bond for same time period as loan (7 years, 5.92%) plus 1% risk premium	Coerced loan rate = 12.44% (equal to 5.77% risk free rate + 6.11% risk premium + 0.56% prepayment premium)	Risk free rate (7 year government bond) plus 1% risk premium = court rounds this to 7%	7 years	Vacancy rate of apartment complex has decreased from 28%-20% in year loan originally obtained to 18% at plan confirmation; improvements in earned income; reduced expenses and "other efficiencies"; environmental problems have been contained
In re River Village Assocs., 161 B.R. 127 (Bankr. E.D. Pa. 1993)	Apartment complex in economically depressed area	9%: Treasury bill rate of 6% plus 3% risk premium	Coerced loan rate should apply; 9% too low	9%: Treasury rate of 6% plus 3% for risk	15 years	Amount and quality of the collateral; risk of default; length of payout period
In re Bloomingdale Partners, 155 B.R. 961 (Bankr. N.D. Ill. 1993)	Apartment building valued at $10M	8%; debtor initially argued cost-of-funds approach, then later advocated risk-adjusted rate of return	Treasury rate plus risk factor	Treasury rate plus adjustment for risks to creditor of plan. Court found risk factor in range of 325 to 350 basis points, or 9.5%, and determined plan not fair and equitable.	7.5 years	Risks of plan on creditor must be quantified to compensate lender for level of risk imposed. Court describes details of testimony by 6 expert witnesses as to risk, including market risk, project risk, and management risk. Court would not accept rate below rates on standard loans where market semi-efficient

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Till v. SCS Credit Corp., 541 U.S. 465 (2004) (plurality)	Truck	9.5%: prime plus risk factor	21%: rate lender would obtain if it could foreclose on vehicle and reinvest proceeds in loans of equivalent duration and risk	Formula approach: national prime rate plus risk premium, generally in range of 1%-3% (remanded to Bankruptcy Court)	Remanded to Bankruptcy Court for determination	Chapter 13; undersecured creditor State of financial markets, circumstances of estate, nature of security, duration and feasibility of plan, and effectiveness of Ch. 13 protections. *Burden of proof on creditors to support upward adjustment on risk factor*. Rate should be high enough to compensate creditor for nonpayment risk, but not so high as to doom plan.
In re American Homepatient, Inc., 298 B.R. 152 (M.D. Tenn. 2003), *affirmed*, 420 F.3d 559 (6th Cir. 2005)	Healthcare company's assets	6.785% based on coerced loan theory: 6-year treasury rate plus 350 basis points for risk	Blended rate of 12.16% based on a combination of senior debt, mezzanine debt and equity	Coerced loan theory (i.e. market rate): 6.785%	6 years	Chapter 11; undersecured lenders Repeated Sixth Circuit precedent upholding "coerced loan" theory in cramdown confirmations; current generally applicable market rates are best approximation of present value of secured claim; prepetition negotiated interest rate between the parties approximately the same as rate determined under "coerced loan" theory. Affirmance distinguishes *Till* because it was a Ch. 13 case; where there is an efficient market for a Ch. 11 debtor, the market rate should prevail.

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In re Prussia Assocs., 322 B.R. 572 (Bankr. E.D. Pa. 2005)	Hotel	6.5%: Formula approach = prime rate of 4.5% plus 2% for risk	"Market" rate of interest would be a blended rate of 9.72% based on mix of senior financing and mezzanine financing	6.5%: Formula approach = prime rate of 5.75% (on date of plan confirmation) plus 1.5% risk factor	25-year amortization, with balloon payment of outstanding principal and interest due in 7 years	Chapter 11 plan (confirmation denied due unwarranted releases and preferential treatment to certain creditors); creditor is oversecured; this is debtor's second chapter 11 case Court preferred formula approach over market rate because evidence presented for market rate was so widely divergent and low in probative value. Debtors' operations are improving; value of collateral is appreciating, hence the risk component of the formula approach is set at 1.5% because the risks attendant to the loan are neither negligible nor extreme.
In re Cantwell, 336 B.R. 688 (Bankr. D.N.J. 2006)	Second mortgage on real property	Formula method, but prime rate with no risk adjustment	NJ Law supports a 12% default interest rate	Formula method = prime plus 1% (risk of nonpayment "negligible")	1 year (second mortgage to be refinanced in a year, at which point oversecured creditor would be paid in full with interest)	Chapter 11 plan; oversecured creditor; plan contemplates refinancing a year after effective date whereby oversecured creditor will be paid in full with interest; until refinancing is complete debtors are to make monthly $1,000 adequate protection payments to the creditors and the creditor will be allowed to continue its foreclosure proceeding. Without evidence of an "efficient market" interest rate should be determined using formula method.

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In re Winn-Dixie Stores, Inc., 356 B.R. 239 (Bankr. M.D. Fla. 2006)	Tax liens on debtors' property	7%: LIBOR plus 150 basis points	Interest rates should be statutory rates for tax liens (10%-18%)	7%: Market rate of LIBOR plus 150 basis points	Not discussed	Chapter 11 plan; [no indication re whether claimants are over- or undersecured; suspecting that it will be paid in full however since it is a tax claim]; debtors' search for exit financing attracted 14 offers Existence of an efficient market; seniority of secured claimants' debt and resultant low risk of nonpayment. Also, secured tax claimants presented no evidence to support their proposal for they deemed an appropriate interest rate.
In re Northwest Timberline Enterprises, Inc., 348 B.R. 412 (Bankr. N.D. Tex. 2006)	Gas station and convenience store assets	8%: based on recent similar loans about which debtors' expert testified	Prime plus 5%-6% for risk adjustment	Formula approach: Prime (8%) plus 5.75% risk adjustment = 13.75%	Amortized over 25 years, with a 7 year balloon feature	Chapter 11 plan; undersecured creditor; Court found persuasive that on the eve of trial the debtors obtained a loan at 13% interest rate, further supporting this number as the appropriate interest rate.
In re Seaspan Dev. Corp., Nos. 04-21339, 04-21340, 2:05-CV-315, 2006 WL 2672298 (E.D. Tenn. 2006)	Marina and floating store	Marina and floating store	9.69%; basis not discussed	4%: contract interest rate; since market rate could not be determined	24 years	Chapter 11; oversecured creditor
Mercury Capital Corp. v. Milford Connecticut Assocs., L.P., 354 B.R. 1 (D. Conn. 2006)	Connecticut real estate with dilapidated buildings	6.125%: formula method	15%: coerced loan method	Formula approach if no "efficient market" rate exists; remanded to lower court to determine (1) if efficient market rate exists, and if not, appropriate rate using formula method	30-year amortization with final payment of the balance due 30 months after confirmation date	Chapter 11; no indication whether creditor is over- or under-secured
Drive Fin. Servs., Inc. v. Jordan, 521 F.3d 343 (5th Cir. 2008)	Automobile (Chevy truck	6%: basis not discussed	6%: basis not discussed	6%: basis not discussed	Not discussed	Chapter 13; fully secured claim pursuant to hanging paragraph of 11 U.S.C. § 1325(a); court found that since the facts were similar to *Till* then the *Till* decision would be binding here

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In re Jones, 530 F.3d 1284 (10th Cir. 2008)	Automobile	No interest	Formula ("prime-plus")	Formula method	Not discussed	Chapter 13; creditor's entire claim is secured pursuant to hanging paragraph of 11 U.S.C. § 1325(a) (because vehicle was purchased within 910 days preceding debtor's bankruptcy filing); court concludes that *Till*'s method for determining interest rates applies to 910 car claims.
In re Brice Road Devs., LLC, 392 B.R. 274 (B.A.P. 6th Cir. 2008)	Apartment complex	6%: efficient market rate	8%: tiered financing with blended interest rate, based on a mix of mezzanine debt and equity	6%: efficient market rate	Amortized over 40 years, with a 6-year balloon feature post confirmation	Chapter 11, undersecured creditor 6th Cir. precedent establishing that where an efficient market exists, market rate should be applied in determining the appropriate cram down rate
In re G-I Holdings Inc., 420 B.R. 216 (D. N.J. 2009)	Priority tax claim	formula method; LIBOR plus 1%	Lender proposed several options: (1) formula method using US prime rate, not LIBOR (6.25%), (2) efficient market rate (8.2-12.6%), or (3) statutory rate mandated by Congress for unpaid federal tax debts (approx. 6%)	formula method; LIBOR plus 1%	6 years	Chapter 11; secured creditor in this case is the IRS which did not have impaired claims
Good v. RMR Investments, Inc., 428 B.R. 249 (E.D. Tex. 2010)	Acres of unimproved land, and all mineral rights and contracts relating to the property	5.25%: Prime plus formula approach	15%: contractual rate of interest.	Presumptive contract approach, using prepetition contract default rate of 15%	Not discussed	Chapter 11; oversecured creditor; solvent debtor; challenge to cramdown interest rate brought after entry of order confirming the plan Court also concluded that payment of the contractual default rate would not reduce the payment that any other secured or unsecured creditor is entitled to receive under the plan.

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SPCP Group, LLC v. Cypress Creek Assisted Living Residence, Inc., 434 B.R. 650 (M.D. Fla. 2010)	Assisted living facility	Not discussed	6.5-20+% based current/efficient market rates	5.25%: Formula method	Amortized over 20 years, with a 6-year balloon feature post confirmation	Chapter 11; undersecured creditor; debtors had ample cash flow and had been paying non-amortized interest rate of 7.25%; debtors' established ability to financially operate the assisted living facility and simultaneously accumulate cash Court opted for the formula method after determining that an efficient market for debtor's financing was lacking; hence the absence of a "market rate."
In re Seasons Partners, LLC, 439 B.R. 505 (Bankr. D. Ariz. 2010)	Student housing apartment complex	6.25%: market rate	9.15%: market rate as well, but different result from the Debtor's rate	6.25%: market rate, on the side of the Debtor. Court found Debtor's testimony to be more to the point, believable and persuasive.	Amortized for 25 years, with balloon 12 years from confirmation	Chapter 11; fully secured creditor Nature of creditor's security is predictable and realizable; Debtor stabilized itself from past financial problems: Debtors received new infusion of capital worth $1.5 million; new management that successfully raised occupancy rate to 83% range, convincing the Court of the prospects of better cash flow post-confirmation. Also creditor's prepetition contract rate was 6.125%
In re N. Valley Mall, LLC, 432 B.R. 825 (Bankr. C.D. Cal. 2010)	Shopping center	6%: "blended rate" across 3 tranches of debt		8.5%: using a "blended rate" approach based on the formula approach; blend is a combination of debt tranches with varying risk of depreciation: a "market rate," a second "mezzanine" rate, and a third equity rate	7 years	

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In re 20 Bayard Views, LLC, Case No. 09-50723, 2011 WL 797442 (Bankr. E.D.N.Y. Mar. 7, 2011)	37 condominium units and 40 parking spaces, as well as related rents and leases	4.75%: formula approach (after concluding no efficient market existed for the debt)	11.68%: blended rate based on three tranches of mortgage, mezzanine and equity interests	Formula approach. The Court determined that the debtor failed to show by a preponderance of the evidence that the risk component in its proposed rate sufficiently addressed the risks to the creditor; however the court did not itself suggest what an appropriate rate would be. Rather the Court denied the plan.	5 years	Court denied the Plan; chapter 11; fully secured lender Other factors: loan proposed by debtor's plan is for the full amount of the property's value, leaving no equity cushion in the event the value of the property decreases or the proceeds of a sale are less than expected; risk premium proposed by debtor does not provide a source of funds for the costs of a sale outside of the "war chest' for litigation expenses; possibility debtor's plan to sell condominiums may not succeed, since it would require purchasers to seek financing from a weak real estate financing market; equity holders' failure to indicate a willingness to fund any shortfalls; failure of debtor to indicate an alternate source of funds.
In re Mace, No. 08-06124, 2011 WL 284435 (Bankr. M.D. Tenn. Jan. 26, 2011)	Rental real properties	6%; efficient market	Efficient market	6%: efficient market	6% fixed for 20 years: 5 years, with adjustment to prime plus 2% floating monthly with a floor of 6% and a ceiling of 11%, amortized over a period of 20 years.	Chapter 11; unclear if creditor is over-or undersecured Courts considerations: Prior to bankruptcy petition, debtor never missed, or made late, any payments to secured creditor bank; no challenge to the feasibility of Trustee's plan.

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In re Red Mountain Machinery Co., 2011 WL 1428266 (Bankr. D. Ariz. April 14, 2011)	Large earthmoving equipment (caterpillars)	6%: formula approach	8.5-10.5%: blended rate based on a survey of publicly-reported debt issued by borrowers roughly comparable to the Debtor	6.5%: formula approach	20-year amortization with full balance due in 15 years	Chapter 11; fully-secured lender The court decided in favor of the Debtor's rate and payment period because (1) no market for a loan equivalent to the plan's treatment of secured lenders debt existed; (2) the Court found the Debtor's expert to be more persuasive; (3) the debt was guaranteed by solvent guarantors; (4) the debt would be significantly amortized over 15 years; and (5) lender proposed no facts, opinions or testimony to counter Debtor's position