



U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

TAWANA C. MARSHALL, CLERK
THE DATE OF ENTRY IS
ON THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed June 13, 2014

United States Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

IN RE:	§	
	§	
AMENDED STANDING ORDER	§	
CONCERNING	§	GENERAL ORDER
ALL CHAPTER 13 CASES	§	2014-03

STANDING ORDER CONCERNING ALL CHAPTER 13 CASES

IT IS HEREBY ORDERED:

1. **EFFECTIVE DATE AND NOTICES HEREOF.** Unless otherwise provided herein or ordered by the Court in an individual case, effective immediately, this General Order governs and supersedes General Orders 2010-01 and 2013-01 regarding all Chapter 13 cases filed on or after the date of entry of this order, in all Divisions of the United States Bankruptcy Court for the Northern District of Texas. Conspicuous notice of this General Order shall accompany the Notice of Section 341 Meeting of Creditors. The Chapter 13 Trustee shall place a copy of this General Order on the Trustee's website and, upon request, shall furnish a copy of it to any party in interest in any pending case.

2. **DEFINITIONS.** The following definitions shall apply to this General Order:

Base Amount - The sum of the Payments in the Debtor's confirmed or modified Plan.

Claims Bar Date - for all claims other than claims of governmental units, 90 days after the first date set for the Section 341 Meeting of Creditors (Fed. R. Bankr. P. 3002) and, for claims of governmental units (11 U.S.C. § 502(b)(9)), 180 days after the date of the order for relief or 60 days after the date of the filing of a tax return under Section 1308 of the Bankruptcy Code, whichever is later.

Collateral - The property securing a claim.

Debtor's Counsel - The attorneys representing the Debtor and, with regard to pro se debtors, the Debtor.

Payment - The amount to be paid by the Debtor to the Trustee beginning no later than 30 days after the Petition Date (and each month thereafter until Plan completion) in accordance with Section 1326(a)(1)(A) of the Bankruptcy Code and as specified in the Plan, the Order Confirming the Plan, or the Order approving any modification of the Plan. A Payment may be for purposes of a pre-confirmation or post-confirmation disbursement, may include payments for leases of personal property that become due after the Petition Date in accordance with Section 1326(a)(1)(B) of the Bankruptcy Code, and/or adequate protection payments in accordance with Section 1326(a)(1)(C) of the Bankruptcy Code, to the extent the Trustee makes such payments.

Petition Date - The date the Chapter 13 case was filed or the date of conversion to Chapter 13 from another chapter.

Plan - The document to be filed by the Debtor within 14 days of the Petition Date and any amendment (pre-confirmation) or modification (post-confirmation) thereto on a form approved by the Trustee and containing all information required by the Trustee's form. Any changes or additions to the Trustee's approved form shall be underscored and/or printed in a distinctly different font, and shall be placed at the end of the document so as to be obvious and conspicuous. Any changes to the Trustee's approved form that do not conform to the preceding sentence shall not be considered a part of the Plan as confirmed by the Court.

Service - Service upon an attorney or party may be by personal delivery, facsimile transmission, e-mail (if the attorney or party has consented to electronic notice under General Order 2004-06) or by United States first-class mail addressed to the address provided by the Debtor pursuant to 11 U.S.C. § 521. If requested and authorized by a party, in lieu of providing individual notices, the Trustee may provide a report setting forth the information otherwise contained in the notice which will be sent either via regular U.S. mail or email on the same date that the individual notices are sent. However, if an address has been provided to the Debtor pursuant to 11 U.S.C. § 342 or Fed. R. Bankr. P. 2002(g)(1), or to the Clerk pursuant to 11 U.S.C. § 505(b)(1) and Fed. R. Bankr. P. 5003(e), then service shall be to that address, or as otherwise ordered by the Court pursuant to Fed. R. Bankr. P. 2002(p)(1). Service by mail is complete upon mailing. Service of a Notice of Electronic Filing or a Daily Summary Report of Bankruptcy Filings (as both are defined in General Order 2004-06) is the equivalent of service of the document by first-class mail, postage prepaid, by the approved participant in the Court's Electric Filing Program (as defined by General Order 2004-06). Electronic service is complete upon electronic confirmation of electronic service. When there is a right or requirement to do some act or undertake some proceedings within a prescribed period after service of a notice or other paper and the notice or paper is served by United States first-class mail, three days shall be added to the prescribed period. When a Debtor is represented by an attorney, service shall be on both the Debtor and Debtor's Counsel.

Surrendered Collateral - The Collateral to be surrendered under the Plan.

Trustee - The Trustee appointed in the case by the United States Trustee, including the Standing Chapter 13 Trustee, or the United States Trustee if serving as Trustee in the case.

3. DISMISSAL WITHOUT FURTHER NOTICE. A Chapter 13 petition may be dismissed without prejudice after 14 days (as to subsection "d-5" and "e" deficiencies) or seven (7) days (as to subsections "a," "b," "c," "d-1," "d-2," "d-3," or "d-4" deficiencies) if prior written Notice of Intent to Dismiss ("NOI") is filed with the Court and served on the Debtor and Debtor's Counsel, and without further notice unless any default or deficiency is cured prior to the expiration of such period. The Clerk is authorized to enter an Order of Dismissal upon certification by the Trustee, or such other authority ordered by the Court or allowed by law, that:

a. The Debtor did not file all of the documents required by Sections 521(a)(1) and 521(b) of the Bankruptcy Code within 14 days of the Petition Date, unless within such time the Debtor filed a motion to extend such time; or

b. The Debtor did not file with the petition or serve on all scheduled creditors (or to be scheduled creditors if the schedules have not yet been filed), a Plan as required by Section 1321 of the Bankruptcy Code and Fed. R. Bankr. P. 3015(b) and an Authorization for Adequate Protection Disbursement as required herein on forms prescribed by the Trustee within 14 days of the Petition Date, unless within such time(s) the Debtor filed with the Clerk and served on all scheduled creditors (or to be scheduled creditors) a motion to extend such time(s); or

c. The Debtor did not pay to the Trustee within 30 days after the Petition Date the first Payment specified in the Plan as required by Section 1326(a)(1) of the Bankruptcy Code; or

d-1. The Debtor failed to attend the Section 341 Meeting of Creditors as required by Section 343 of the Bankruptcy Code (the "Section 341 Meeting") or any continued Section 341 Meeting which the Trustee required the Debtor to attend, without the agreement of the Trustee to continue the Section 341 Meeting; or

d-2. The Debtor failed to provide to the Trustee not later than 7 days before the date first set for the Section 341 Meeting, a copy of the Federal Income Tax Return or a transcript for the most recent tax year ending immediately before the Petition Date for which a return was filed, as required by Section 521(e)(2)(A)(i) of the Bankruptcy Code, or the Debtor failed to timely file with the appropriate taxing authorities, tax returns as required by Section 1308 of the Bankruptcy Code, unless the Trustee agrees to hold open the Section 341 Meeting (up to 120 days) as provided in Section 1308(b)(1) of the Bankruptcy Code, or unless extended by the Court as provided in Section 1308(b)(2) of the Bankruptcy Code. In the event the Trustee agrees to hold open the Section 341 Meeting, the Trustee shall nevertheless file a report of the initial meeting annotated to show that the meeting is being held open; or

d-3. The Debtor did not timely file with the Court, upon written request filed with the Court and served on the Debtor and Debtor's Counsel, tax returns or transcripts as required by Sections 521(f) and 521(g)(2) of the Bankruptcy Code; PROVIDED, HOWEVER, that pursuant to Fed. R. Bankr. P. 4002(b)(5) and the Interim Guidance Regarding Tax Information established by the Director of the Administrative Office of the United States Courts, the United States Trustee, the Trustee, or any party in interest that desires to obtain access to the Debtor's tax information must file, and serve upon the Debtor and Debtor's Counsel, a motion with the Court which should include (i) a description of the movant's status in the case, to allow the Court to ascertain whether the movant may properly be given access to the requested tax information, (ii) a description of the specific tax information sought, (iii) a statement indicating that the information cannot be obtained by the movant from any other sources, and (iv) a statement showing a demonstrated need for the tax information. Access to the Debtor's tax information will only be permitted after the Court approves the request.

d-4. The Debtor did not timely provide to the Trustee documents that establish the identity of the Debtor, including a driver's license, passport, or other document that contains a photograph of the Debtor as required by Section 521(h) of the Bankruptcy Code; or

d-5. The Debtor failed to cooperate with the Trustee as necessary to enable the Trustee to perform the Trustee's duties under the Bankruptcy Code as required by Section 521(a)(3) of the Bankruptcy Code. Any such notice shall state specifically what the Debtor did or did not do constituting such failure to cooperate; or

e. The Debtor did not pay to the Trustee when due, any Payment (except the first) specified in the Plan; PROVIDED, HOWEVER, that:

(i) The NOI shall specify the exact dollar amount due to bring all Payments completely current, as of the 14th day after the date of the NOI; and

(ii) No Order of Dismissal shall be submitted or requested by the Trustee with regard to a subparagraph "e" deficiency if an Interlocutory Order ("I/O") satisfactory to the Trustee has been approved by the Debtor or Debtor's Counsel and delivered to the Trustee as of the 14th day after the date of the NOI; and

(iii) No Order of Dismissal shall be submitted or requested by the Trustee if, prior to the expiration of the NOI period, a response is filed and served by the Debtor, set by Debtor's Counsel on the Court's next available Chapter 13 docket after the expiration of 14 days, and notice of such setting is filed and served by Debtor's Counsel at least 14 days prior to such setting.

4. ADEQUATE PROTECTION DISBURSEMENTS.

a. Debtors Shall Authorize Adequate Protection Disbursements By The Trustee. Unless otherwise ordered by the Court, within 14 days of the Petition Date, the Debtor shall file and serve on all scheduled creditors (unless service is made by the Clerk), an ~~A~~Authorization For Adequate Protection Disbursements ("AAPD") in a form prescribed by the

Trustee. Any Payments may be held by the Trustee in a non-interest bearing account. Any amendment to the AAPD shall be filed with the Court, served on all affected creditors, and on the creditors' counsel if a Notice of Appearance has been filed and served on Debtor's Counsel by creditor's counsel, and shall contain a Certificate of Service reflecting this service. Protection concerning motor vehicles shall be presumed adequate if in a monthly amount equal to 1.25% of the value of the motor vehicle determined by averaging the wholesale and retail values contained in the most recent NADA publication for a comparable motor vehicle. If the Trustee is disbursing the current post-petition mortgage payments, the payment amount thereof must be included in the AAPD.

b(1). Trustee Shall Disburse Adequate Protection Payments. Unless otherwise ordered by the Court, the Trustee shall disburse adequate protection payments monthly as provided in the AAPD, whether or not a proof of claim has been filed, in the following order:

- (a) Trustee's Fee, any Noticing Fees allowed by the Court, and a \$5.00 account reserve;
- (b) Filing fees;
- (c) Current post-petition mortgage payments, if applicable;
- (d) Adequate protection payments provided for secured claims; and
- (e) Fees for Debtor's Counsel, unless the Debtor is pro se;
- (f) Priority claims.

If funds received by the Trustee are insufficient to pay a full monthly payment to any specified category cumulatively, payments shall be made pro rata within such lettered category.

b(2). Pursuant to Section 1326(a)(1) of the Bankruptcy Code, and unless otherwise ordered by the Court, the Debtor must make the first Payment to the Trustee no later than 30 days after the Petition Date. The Trustee will then disburse those funds to the appropriate parties according to the AAPD in the next regularly scheduled monthly disbursement, subject to normal operating procedures.

c. Use Of Interest. Any interest received by the Trustee as a result of Payments shall be paid into the Trustee's expense account and used exclusively to pay the compensation and reasonable and necessary expenses of the Trustee, as may be approved by the United States Trustee.

d. Trustee's Percentage Fee. Unless otherwise ordered by the Court, the Trustee shall be entitled to the percentage fee fixed by the Attorney General pursuant to 28 U.S.C. ' 586(e)(1)(B) on all pre-confirmation adequate protection Payments.

e. Stay Lifted As To Surrendered Collateral. The Plan shall describe any Collateral to be surrendered. THE AUTOMATIC STAY SHALL BE LIFTED and the Trustee shall cease disbursements on account of any Surrendered Collateral without further order of the Court as of the date the Plan or any amended Plan providing for surrender is filed. If a post-confirmation modification of the Plan is filed that provides for the surrender of any Collateral, the automatic stay shall be lifted and the Trustee shall cease disbursements to the affected creditor upon the filing of the modification. PROVIDED, HOWEVER, that the stay shall not be lifted if the Collateral is to be surrendered to, or for the benefit of, an insider of the Debtor and the Trustee files with the Court and serves on the Debtor, Debtor's Counsel, and the party to whom the Collateral is proposed to be surrendered (and/or for whose benefit), an objection to the proposed surrender within seven (7) days of the filing of the Plan, the amended Plan, or the Plan modification. If the Trustee files and serves such an objection, the automatic stay shall remain in effect until the Trustee's objection is disposed of. If the Trustee fails to timely file and serve an objection to the surrender of Collateral to, or for the benefit of, an insider of the Debtor, the automatic stay shall be lifted and the Trustee shall cease disbursements on account of the Surrendered Collateral without further order of the Court on the seventh (7th) day after the filing of the Plan, the amended Plan, or the Plan modification.

f. Payments Made For Adequate Protection Disbursement Considered Payments. Payments made by a Debtor to the Trustee for adequate protection disbursement shall be considered Payments pursuant to 11 U.S.C. § 1326(a) and 28 U.S.C. § 586(e)(2). Upon the entry of an order dismissing or converting the case pre-confirmation, any adequate protection Payments received by the Trustee shall be disbursed by the Trustee as provided in the AAPD or other order of the Court, and any balance refunded to the Debtor or, if requested by the Chapter 7 trustee, paid to the Chapter 7 trustee.

g. Adequate protection disbursements may include Trustee's Fees, Noticing Fees, Filing Fees, Payments on Secured Claims including applicable current post-petition mortgage payments, Priority Claims, and fees for Debtor's Counsel, unless the Debtor is pro se.

5. DISBURSEMENT ON DISMISSAL OR CONVERSION AFTER CONFIRMATION. Unless otherwise ordered by the Court, if a case is dismissed or converted after confirmation, the Trustee shall disburse funds on hand from Payments as provided in the confirmed Plan for one disbursement cycle, and then refund the remaining balance to the Debtor.

6. CREDITOR'S CERTIFICATE OF CONFERENCE ON ' 362 MOTIONS AND OBJECTIONS TO CONFIRMATION, AND REQUIREMENT FOR TRUSTEE'S REVIEW AND APPROVAL OF ALL AGREED ORDERS AND REQUIREMENT TO PROVIDE LIMITED PAYMENT HISTORY, EVIDENCE OF DEBT, AND PERFECTION OF LIEN REGARDING REAL PROPERTY

a. A Creditor shall include a Certificate of Conference with Debtor's Counsel on any Section 362 motion to modify stay or any objection to confirmation. The Certificate of Conference shall state that the creditor or its counsel made a good faith effort to negotiate a settlement of the dispute with Debtor's Counsel or that Debtor's Counsel failed to respond to the creditor's communication (made during regular business hours) by the same time

on the second business day after such communication. The certificate of conference shall evidence that the creditor or creditor's counsel attempted at least once to contact Debtor's counsel by telephone or in person. In the event the Debtor and creditor reach an agreement with respect to a motion to modify stay or objection to confirmation, or any other contested matter between a Debtor and a creditor, the Trustee shall be permitted seven (7) days to review the Agreed Order prior to its presentation to the Court, without prejudice to the Trustee's right to object to the Agreed Order prior to it becoming a final order. The Court reserves the right to sanction parties and/or counsel who fail to confer in good faith prior to the filing of such motions and/or objections.

b. Notwithstanding L.B.R. 4001.1(e), if a creditor claiming a lien on real property files a Section 362 motion to terminate, annul, modify, or condition the automatic stay, the creditor shall file within 7 days a sworn affidavit detailing any alleged payment delinquency and providing a current chronological payment history beginning with the first payment alleged to be delinquent.

7. CONFIRMATION HEARING AND TRUSTEE'S PRE-HEARING CONFERENCE REGARDING CONFIRMATION.

a. The Clerk shall send the Section 341 Meeting Notice (the "Notice") promptly after the petition is filed. The Notice will set the Section 341 Meeting in accordance with Fed. R. Bankr. P. 2003(a).

b. The Debtor will be responsible for mailing a notice to all parties in interest on the date the Plan is filed, notifying such parties that the Plan has been filed and the date, place and time of the confirmation hearing. The confirmation hearing shall be set and commenced at the last available date the Court has scheduled confirmation hearings that is not more than 45 days after the Section 341 Meeting. Failure of the Debtor to timely send the notice may be grounds for dismissal of the case at the confirmation hearing.

c. The Chapter 13 Trustee will be responsible for mailing to all parties in interest a Notice of the date, place and time of the deadline for objecting to confirmation, the Trustee's Pre-Hearing Conference, and the Confirmation hearing.

d. Unless the Court orders otherwise, the hearing on Section 506 valuations, interest rate, and treatment under the Plan will occur at the confirmation hearing. Claim amount and classification will be determined by the TRCC (see paragraph 8 below) and other order of the Court. The TRCC may also contain a proposed Modification of the confirmed Plan.

e. Objections to confirmation of the Plan by the Trustee or any creditors shall be in writing and filed and served on the Debtor, Debtor's Counsel, and the Trustee no later than seven (7) days prior to the Trustee's pre-hearing conference (the "Objection Deadline"), or be deemed waived.

f. After the Objection Deadline and before the confirmation hearing, the Trustee shall conduct a Trustee's pre-hearing conference regarding confirmation (on the date and

at the time and place designated by the Trustee). Any matter resolved at the Trustee's pre-hearing conference may be contained in an Agreed Confirmation Order that the Trustee may submit to the Court for entry without the need for any amendment to the Plan or further notice to parties in interest, PROVIDED that no party not a party to the agreement is adversely affected by the agreement.

g. Any objections to confirmation of the Plan or valuation disputes not resolved at or before the Trustee's pre-hearing conference shall be heard by the Court at the confirmation hearing.

h. All objections to confirmation of the Plan and/or the motion for valuation shall be deemed waived:

(i) if not timely filed and served as provided above; or

(ii) if the proponent of any objection or motion fails to attend the Trustee's pre-hearing conference or give the Trustee prior written notice that a hearing is necessary.

(iii) if the confirmation hearing is continued by the Court, the Trustee shall file a notice of continued confirmation hearing.

8. TRUSTEE'S RECOMMENDATION CONCERNING CLAIMS AND PLAN MODIFICATION, IF REQUIRED.

a. As soon as practicable after the governmental Claims Bar Date, the Trustee may prepare and serve on Debtor's Counsel, all creditors who were scheduled, all creditors who filed claims, and any party that has filed a Notice of Appearance, a Trustee's Recommendation Concerning Claims and Plan Modification, if Required@the TRCC@ and a notice of hearing thereon.

b. The TRCC may list and propose disallowance of any claims scheduled but not filed.

c. Objections to the TRCC shall be filed within thirty (30) days from the date of service of the TRCC.

d. Unless an objection is timely filed as to the amount or classification of any claim or to any modification, the claim or modification will be allowed or approved as described in the TRCC, and such amount and classification will be final and binding on all parties without further order of the Court.

e. The TRCC shall include a notice of the time, date, and location of the court hearing on any objection, as well as the time, date, and location of the Trustee's pre-hearing conference thereon. If no objection is timely filed, no Trustee's pre-hearing conference or Court hearing will be held. Matters resolved at or before the pre-hearing conference may be

presented to the Court by the Trustee in the form of an Agreed Order prior to or at the scheduled court hearing.

f. All unresolved objections to the TRCC shall be deemed waived:

(i) if not timely filed and served as provided above, or

(ii) if the proponent of any such objection fails to attend the Trustee's pre-hearing conference, or give the Trustee prior written notice that a hearing is necessary.

g. The TRCC will not affect value of collateral, treatment under the Plan unless modified, or interest rate determined at confirmation, but may show these for information only.

9. IRS REFUNDS.

a. ***See Section 362(b)(26) of the Bankruptcy Code for setoff rights by the IRS.***

b. Unless otherwise ordered by the Court, the Trustee is hereby authorized to receive, endorse, deposit, and apply to any delinquency in a Debtor's Chapter 13 case any IRS refund issued by the IRS after the Petition Date and before the final Payment is made under the Plan, or the case is converted or dismissed, up to \$2,000. Any portion of the first \$2,000 of any refund not so applied will be forwarded by the Trustee to the Debtor.

c. Unless otherwise ordered by the Court, any IRS refund in excess of \$2,000 (the "Excess Refund") issued by the IRS and received by the Trustee after the Petition Date and before the final payment is made under the plan or the case is converted or dismissed may be kept by the Trustee (to the extent of such excess) and paid pro rata to the Debtor's allowed general unsecured creditors (timely filed non-penalty, then late filed non-penalty, then penalty unsecured). In such event the Base Amount will be increased by such amount, and the Plan will be deemed modified accordingly.

d. The Trustee may file a Notice of Intent To Disburse Excess (year) Tax Refund To Creditors And Raise Debtor's Plan Base ("Notice") and may set it for a Pre-Hearing Conference. If no objection is filed within twenty-one (21) days after the Trustee files the Notice, any opposition to the Trustee's treatment of the Excess Refund shall be deemed waived.

e. If an objection to the Trustee's Notice of Intent ("Objection") is timely filed, if not previously set by the Trustee, the contested matter will be set on the next Pre-Hearing Conference Docket after twenty-one (21) days from the date the Objection and a Notice of Hearing is filed.

f. If no other party in interest files a timely Response to the Notice or Objection prior to the Pre-Hearing Conference, the matter may be resolved in the Trustee's discretion by Agreed Order, or set for hearing before the Court.

10. COMPENSATION AND EXPENSE REIMBURSEMENT TO DEBTOR'S COUNSEL IN CHAPTER 13 CASES.

a. Unless otherwise ordered by the Court, this General Order governs the compensation of Debtor's Counsel and reimbursement of expenses in cases filed under Chapter 13 of the Bankruptcy Code on or after the date of entry of this order.

b. An attorney representing a Debtor under Chapter 13 shall be the attorney of record from the filing of the petition for relief under Chapter 13 (if signed by the attorney), from the filing of a notice of appearance on behalf of the Debtor (if the Debtor filed the case pro se), or from the date of the substitution of counsel (if the Debtor filed the case with other counsel) until the close or dismissal of the case (including disposition of motion(s) to reinstate), unless relieved of representation by order of the Court in accordance with L.R. 83.12.

c. In an individual, non-business case, the Court deems \$3,500 (the Standard Fee) as reasonable compensation and reimbursement of expenses for an attorney representing the Debtor in accordance with 11 U.S.C. § 330(a)(3)(B). The Court will therefore allow the Standard Fee, plus bankruptcy clerk filing fees and the cost of a credit report for each Debtor (collectively, the "Costs"), in an individual, non-business case, without the requirement of an application for compensation under 11 U.S.C. § 330 and Bankruptcy Rule 2016(a). PROVIDED, HOWEVER, that an attorney may request attorney's fees and expenses exceeding the Standard Fee and Costs upon (i) formal application under Rule 2016(a) and Section 10i of this General Order, with notice and hearing, for all fees and expenses; (ii) formal application under Section 10j of this General Order for fees and expenses exceeding the Standard Fee and Costs; or (iii) motion under Section 10k of this General Order for matters designated therein. Allowance of fees and expenses greater than the Standard Fee and Costs shall be by separate order of the Court.

d. An attorney may not receive a post-petition retainer or payment from the Debtor other than as specified in this General Order without leave of Court.

e. As guidelines, the Court contemplates that the following matters will be included in the Standard Fee:

(1) All conferences with the Debtor, including timely responses to Debtor inquiries, whether by telephone or in writing;

(2) Preparation of the bankruptcy petition, including emergency petitions, schedules, statement of financial affairs, chapter 13 statement of current monthly income (B22C), Plan, and AAPD;

(3) Preparation of, and representation of the Debtor on, a motion to continue or impose the stay;

(4) Representation of the Debtor at the Section 341 Meeting and any continued meeting;

(5) Representation of the Debtor at the pre-hearing conference and confirmation hearing;

(6) Representation of the Debtor in connection with two motions under 11 U.S.C. § 362, but not including an evidentiary final hearing;

(7) Representation of the Debtor on motions to dismiss, including Trustee motions to dismiss (with or without prejudice);

(8) Preparation of, and representation of the Debtor on, motions to avoid liens and judgments;

(9) Preparation of, and representation of the Debtor on, one motion to reinstate the case;

(10) Preparation of, and representation of the Debtor on, motions to except the Debtor from the mandatory wage directive provisions of this General Order.

(11) Preparation of documents and notices, including submissions for Trustee recommendation, and attendance at all hearings and/or pre-hearing conferences, including:

(i) Suggestion(s) of bankruptcy, and filing same in the appropriate courts;

(ii) Requests for plan Payment deferrals;

(iii) Motions for emergency refund of plan Payments;

(iv) Objections to claims and/or the TRCC, after appropriate review;

(v) The Plan and Plan documents;

(vi) The AAPD;

(vii) Notices to creditors, where appropriate, explaining the automatic stay;

(viii) Communications and negotiations with the Internal Revenue Service;

(ix) Communications to the Debtor explaining the Trustee's annual or semi-annual report;

(x) Motions to extend the time to file paperwork;

- (xi) Requests to the Trustee to reset the Section 341 Meeting;
 - (xii) Amendments of schedules and statement of financial affairs;
 - (xiii) All case-related correspondence;
 - (xiv) Notices or motions, if necessary, to convert the case;
 - (xv) Motions to dismiss the case;
 - (xvi) Motions regarding the manner of the Debtor's attendance at the Section 341 Meeting; and/or
 - (xvii) Interlocutory orders;
- (12) Wage order review;
 - (13) Budget consultations;
 - (14) Making and performing, or assisting the Debtor in making or performing, the disclosures and duties required by 11 U.S.C. § 521, 527, 528, and 1308;
 - (15) Taking all steps reasonably necessary to insure that the Debtor receives a discharge in the case; and
 - (16) Other miscellaneous normal, customary services, including correspondence to clients and review of correspondence from clients, communication with the Trustee and the Trustee's office, and communication with the Clerk.

f. The guidelines assume two lift stay motions and one motion to reinstate the case, all of which typically occur in the life of a Chapter 13 case. The guidelines assume the resolution of lift stay motions at preliminary hearings, or by agreement (at either preliminary or final hearings), and a typical hearing of 10 to 20 minutes on other contested matters routinely heard at a Chapter 13 Standing Trustee docket. The guidelines do not contemplate that the Standard Fee would include an evidentiary final hearing on a motion to lift stay, or an evidentiary hearing of more than 30 minutes on a motion to dismiss, objection to exemption, confirmation hearing, claims objection, or other contested matters, or would include representation of the Debtor in an adversary proceeding.

g. Other than Section 10b, this General Order does not apply to a Chapter 13 case converted to a case under Chapter 7 of the Bankruptcy Code. Upon entry of an order converting a case to Chapter 7, the amount and manner of payment of compensation for an attorney for Chapter 7 related services is a matter between the Debtor and his or her attorney.

h. In a Level 2 business case, the Court deems \$4,000 as reasonable compensation and reimbursement of expenses for an attorney under 11 U.S.C. § 330(a)(3)(B) (the “Business Standard Fee”). The Court will therefore allow the Business Standard Fee, plus bankruptcy clerk filing fees, in a Level 2 business case without the requirement of an application for compensation under 11 U.S.C. § 330 and Rule 2016(a). A Level 2 business case is when (1) the debtor’s monthly gross receipts (or the monthly gross receipts of any corporation, partnership, LLC, etc. controlled by the debtor) are \$10,000.00 or more, (2) the debtor incurs trade credit in the production of income that is not paid in full every month, (3) the business has any employees other than family, (4) the business has a liquor license, or (5) any other reason that in the opinion of the trustee justifies a more thorough investigation than is possible at a 341 docket.

i. In any case, the Debtor may elect to apply for all attorney’s compensation and expenses based solely on a lodestar analysis, with notice and hearing. The application must comply with 11 U.S.C. § 330, Rule 2016(a) and the Court’s Guidelines for Compensation and Expense Reimbursement of Professionals effective January 1, 2001. The application must include time records for all work performed on the case. For lodestar applications, the Court will not approve a fee over \$700 for the preparation of the fee application.

j. For applications requesting compensation and expenses for particular matters not included in the Standard Fee or the Business Standard Fee under this General Order, e.g., a final evidentiary hearing on a motion to lift stay, the attorney must include time records for the particular matter. For those matters, the Debtor’s attorney must use the lodestar analysis and comply with 11 U.S.C. § 330, Rule 2016(a) and the Court’s Guidelines for Compensation and Expense Reimbursement of Professionals effective January 1, 2001. For lodestar applications for particular matters, the Court will not approve a fee over \$400 for the preparation of the fee application.

k. Provided the Debtor agrees, and notwithstanding any other provision of this General Order, for certain matters not within the guidelines for the Standard Fee or the Business Standard Fee, and to encourage uniformity and consistency and to minimize the expense of the fee application process, the Court will approve, upon motion, and waive the application requirement, the following fees:

- (1) For a Plan modification, \$350, plus expenses not to exceed \$50.
- (2) For a motion to sell property, \$350, plus expenses not to exceed \$50.
- (3) For a motion to incur debt, \$350, plus expenses not to exceed \$50.
- (4) For a motion to lift (after the two motions to lift stay included within the Standard Fee or the Business Standard Fee), \$350, plus expenses not to exceed \$50.
- (5) For an Objection to a Trustee’s Notice of Intent to Disburse Excess (year) Tax Refund To Creditors And Raise Debtor’s Plan Base, a responsive pleading to a Trustee

motion to compel with regard to a tax return and/or tax refund, or a similar pleading addressing tax refunds and who is entitled to same, \$350, plus expenses not to exceed \$50.

(6) For modification of the Debtor's mortgage, \$350, plus expenses not to exceed \$50, but only if the application includes a certification that the Debtor's attorney has been significantly involved in the process to modify the Debtor's mortgage.

A motion under this paragraph may request that the Court authorize the Debtor to pay these fees or expenses directly to his or her attorney.

This General Order amends all previous standing orders regarding the setting of attorney fees in Chapter 13 cases.

11. COMPENSATION AND EXPENSE REIMBURSEMENT TO CREDITOR ATTORNEYS IN CHAPTER 13 CASES. The Court deems the lesser of (1) \$700 and (2) the actual amount paid or to be paid by the creditor to its attorney as fees and expenses to be reasonable compensation to a creditor's attorney who is entitled to compensation from a debtor's estate under 11 U.S.C § 506(b) and applicable non-bankruptcy law in any case, without prejudice to a party contesting entitlement to fees, or the reasonableness of the amount or mode of payment of fees and expenses. Allowance of fees and/or expenses in a greater amount shall be by separate order of the Court after a hearing on application or motion and notice. Effective February 1, 2007, the submission of an agreed order containing a provision providing for the recovery of attorneys' fees in a pending bankruptcy case shall constitute an affirmative representation to the judges of this Court by all signatories to the Agreed Order that there is objective evidence supporting a finding that the creditor has a properly perfected lien and is oversecured or is otherwise legally entitled to recover such fees. Upon the entry of this Order, such submission shall also constitute an affirmative representation by the creditor and its counsel that the attorney's fees provided for in the Order do not exceed the amount the fees actually paid or to be paid.

12. TRUSTEE'S NOTICING FEES.

a. The Standing Chapter 13 Trustees may charge, in addition to the percentage fee fixed pursuant to 18 U.S.C. § 586(e)(1)(B), noticing fees in each case administered by the respective Standing Trustee equal to \$.50, plus postage per envelope.

b. The Standing Chapter 13 Trustees may collect, in advance, as hereinafter provided, for reports or orders, including, but not limited to the Notice of Deadline For Objecting To Confirmation And Trustee's Pre-Hearing Conference and Confirmation, TRCC, Notice or Order of Dismissal or Conversion, Notice or Order of Debtor Discharge, Trustee's Final Report and Account, Request for Discharge, and/or Notices required under 11 U.S.C. § 1302(d) regarding domestic support obligations. It is hereby found and determined that said fees are reasonable and appropriate to defray the actual, necessary costs and expenses reasonably attributable to the giving of said notices. Subject to United States Trustee approval, the Standing Trustees may choose to reduce the number of notices for which noticing fees are collected. The

Standing Chapter 13 Trustees shall be entitled to collect noticing fees authorized hereby from the first and any subsequent monies received from the Debtor, whether before or after confirmation.

13. MANDATORY WAGE DIRECTIVE. Unless the Court orders otherwise, the Trustee may require a Debtor who is a wage or salary employee, to complete and deliver to the Trustee the information necessary for the submission of a wage directive by the Trustee, not later than the initial Section 341 Meeting. The Trustee will issue a wage directive to such Debtor's employer. Unless otherwise ordered by the Court, such directive may be terminated by the Trustee or the Court.

14. ADEQUATE PROTECTION TO VEHICLE LENDERS. In each Chapter 13 case, the Debtor's use of vehicles under Section 363 of the Bankruptcy Code is authorized only if the Debtor (i) maintains insurance on the vehicles in the amount required by the Debtor's prepetition contract; (ii) provides proof of insurance to the lien holder upon request; and (iii) provides the Trustee with all necessary information for a wage directive not later than the date of the initial Section 341 Meeting (if the Debtor is a wage or salaried employee and the Court has not ordered otherwise).

15. MONTHLY STATEMENTS WILL NOT VIOLATE THE AUTOMATIC STAY. Unless the Debtor or Debtor's Counsel has notified the creditor to discontinue sending post-petition statements, a creditor will be deemed not to have violated the automatic stay by voluntarily continuing to send the Debtor the usual and customary monthly statements concerning the Debtor's accounts. A creditor claiming a lien on real property and whose lien is provided for with "direct" payments in the Plan shall continue to send the Debtor regular payment statements, invoices, or other memoranda of regular payments due after the Petition Date, if it was the practice of the creditor to send the Debtor such statements before the Petition Date, and the continued sending of these payment statements, invoices, or other memoranda of regular payments will be deemed not to violate the automatic stay. If the current post-petition mortgage payments are being disbursed by the Trustee, the creditor shall file with the Court and send to the Debtor, Debtor Attorney, and Trustee any payment changes, invoices, or other memoranda of regular payment changes.

16. DOMESTIC SUPPORT OBLIGATIONS AND TAX RETURNS.

a. A Debtor with domestic support obligations shall provide the Trustee with the name, address, and telephone number of the domestic support claimant, if known, at or before the Section 341 Meeting.

b. No more than 7 days before the Trustee's pre-hearing conference concerning confirmation, a Debtor with domestic support obligations shall file with the Court a certificate pursuant to Sections 1325(a)(8) of the Bankruptcy Code.

c. Prior to confirmation, pursuant to Section 1325(a)(9) of the Bankruptcy Code, a Debtor shall file with the Court a certificate concerning all applicable Federal, State, and local tax returns as required by Section 1308 of the Bankruptcy Code.

17. CHAPTER 13 DISCHARGE. When a Debtor completes all payments to the trustee required by the plan, the trustee will file a Notice of Completion with the Court. No Order of discharge will be submitted by the trustee until the Debtor has filed his Certification and Motion for Entry of an Order of Discharge (per Clerk's Notice 07-06) and the 20 day time for any objection has expired with no objection having been filed. If the Debtor's Certification and Motion is not filed, no Discharge Order will be submitted by the Trustee. If the 20 days has passed and the Debtor has not filed the Certificate and Motion, and the case is ready to be closed otherwise, the clerk's office will close the case without a discharge. If the Debtor wishes to receive a discharge after the case has been closed, he will be required to reopen the case and pay the required filing fee to reopen the case and timely file the Certificate and Motion for a Chapter 13 Discharge.

SO ORDERED.

The court has authorized its Chief Bankruptcy Judge to enter this Order on behalf of the Court.

###END OF ORDER###