UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA

FILED
DEC 1 2008
UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

In re

AMENDMENT TO GENERAL ORDER 05-03, *CHAPTER 13 CASES*

GENERAL ORDER 08-02

Paragraph 3(b) of General Order 05-03, *Chapter 13 Cases*, is hereby amended to indicate the new location of the bankruptcy court facility in Modesto, California.

A copy of General Order 05-03, as amended by this General Order, is attached.

DATED: DEC - 1 2008

FOR THE COURT:

Honorable Christopher M. Klein,
Chief Judge

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OCT 2 8 2005
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EASTERN DISTRICT OF CALIFORNIA

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**EASTERN DISTRICT OF CALIFORNIA**

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| In re | ) | |
| | ) | |
| | ) | GENERAL ORDER |
| CHAPTER 13 CASES | ) | No. 05-03 |
| | ) | (Eff. October 17, 2005) |
| | | AS AMENDED BY GENERAL ORDER 08-02 |

Paragraph 1. Applicability

(a) This General Order applies to cases filed on or after October 17, 2005. Paragraphs 7, 8, 9, and 10, however, apply to all cases under chapter 13 regardless of when they were filed.

(b) The definitions set forth in the Local Rules of Practice for the United States Bankruptcy Court, Eastern District of California ("Local Bankruptcy Rules") effective April 28, 2005, and all subsequent amendments, apply to all terms used in this General Order.

(c) To the extent this General Order conflicts with the provisions of the Local Bankruptcy Rules, the provisions of this order shall take precedence. In all other respects, the Local Bankruptcy Rules shall apply in all chapter 13 cases.

(d) By this General Order, and the chapter 13 plan required by it, the court seeks to streamline the procedures for chapter 13 plan confirmation and the adjudication of related matters, such as lien avoidance and valuation of assets, maximize the likelihood of successful financial reorganization and performance of chapter 13 plans, insure nondiscriminatory and fair treatment of claims, and provide for the prompt approval and payment of professional fees. The court determines that the procedures and forms mandated in this General Order are reasonably calculated to obtain these goals and fairly balance the administrative necessities imposed on the court and the chapter 13 trustee ("the Trustee") by a large and complex chapter 13 caseload with the due process rights of the debtor and creditors.

Paragraph 2. Mandatory Forms

(a) All chapter 13 debtors, as well as the Trustee and holders of unsecured claims when proposing a plan pursuant to 11 U.S.C. § 1329(a) (all references to sections are to sections of the Bankruptcy Code), shall utilize the standard form chapter 13 plan attached as Exhibit 1 to this General Order. This standard

form includes optional motions to value collateral and motions to avoid liens pursuant to section 522(f)(1)(A) & (B). All references in this General Order to “the chapter 13 plan” include these optional motions.

(b) Other than to insert text into the designated spaces, to expand the tables to include additional claims, or to change the title to indicate the chapter 13 plan is a modified plan, the preprinted language of the chapter 13 plan shall not be altered. Unauthorized alterations shall be given no effect whatever. This does not mean that the debtor is prohibited from proposing additional or different plan provisions. As long as consistent with the Bankruptcy Code, the debtor may propose additional or different plan provisions or specify that any of the standard provisions in the chapter 13 plan will not be applicable in a particular case. Each such provision or deletion shall be set out on a separate page that is appended to the chapter 13 plan.

(c) The debtor may include in, or file with, the chapter 13 plan any motions pursuant to section 522(f) to avoid judicial liens (Attachment M-1), or nonpossessory, nonpurchase-money liens (Attachment M-2). While the debtor may make a section 522(f) motion after confirmation of the chapter 13 plan, to the extent a lien is not avoided at or prior to confirmation, the underlying claim must be treated as secured in the chapter 13 plan and paid accordingly unless and until a section 522(f) motion is granted. In such a case, the court will determine whether amounts paid on account of the secured claim must be disgorged by the creditor.

(d) The debtor may include in, or file with, the chapter 13 plan all motions to value collateral and determine secured claims (Attachment M-3) pursuant to subsections (a) and (d) of section 506 and Federal Rule of Bankruptcy Procedure (“FRBP”) 3012. While the debtor may make a valuation motion after confirmation of the chapter 13 plan, to the extent collateral is not valued at or prior to confirmation of the chapter 13 plan, the amount of the secured claim will be the amount claimed by the creditor unless and until a valuation motion is granted. In such a case, the court will determine whether some or all of the amounts paid on account of the secured claim must be disgorged by the creditor.

(e) The debtor shall lodge with the Trustee at the initial meeting of creditors a proposed order confirming the chapter 13 plan. This order shall substantially comply with the form of the order appended hereto as Exhibit 2.

Paragraph 3. Service of Plan, Motions, and Objections

(a) **Service of the Chapter 13 Plan, Schedules, Statements, Domestic Support Obligation Checklist, and Class 1 Checklist and Authorization.** The chapter 13 plan shall be completed and filed within 15 calendar days of the filing of the petition as required by FRBP 3015(b) and Local Bankruptcy Rule 3015-1(a). The debtor or the debtor's attorney shall serve the chapter 13 plan, all motions to value collateral, and all motions to avoid liens, as well as the statement of financial affairs and the schedules on the Trustee. These documents, together with the Domestic Support Obligation Checklist, Exhibit 3, and the Class 1 Claim Checklist and Authorization to Release Information required by subparagraph 5(c)(2) below, must be received by the Trustee no later than 15 calendar days after the filing of the petition.

(1) The Trustee shall serve all creditors and other persons entitled to notice with a copy of the debtor's chapter 13 plan.

(2) If the Trustee does not receive the debtor's chapter 13 plan prior to mailing notice of the meeting of creditors held pursuant to section 341(a), the debtor or the debtor's attorney shall serve a copy of the proposed chapter 13 plan, together with a duplicate of the Notice of Chapter 13 Bankruptcy Case, Meeting of Creditors, & Deadlines, on the Trustee, the United States Trustee, all creditors, and any other persons entitled to notice of the chapter 13 plan. Such service shall be accomplished no later than 18 calendar days prior to the meeting of creditors. If at least 18 calendar days of notice cannot be given, the debtor shall seek confirmation of the chapter 13 plan by complying with the requirements of subparagraph 8(a) below.

(b) **Service of Plan Motions.** If the debtor has included in the chapter 13 plan any motions to avoid liens pursuant to section 522(f) or motions to value collateral pursuant to subsections (a) and (d) of section 506 and FRBP 3012, the debtor or debtor's attorney also shall serve the motions and the chapter 13 plan at least 18 calendar days before the meeting of creditors held pursuant to section 341(a) upon the respondent creditor(s) as required by section 342(c), FRBP 7004 and 9014, and Local Bankruptcy Rules 2002-1 and 9014-1. The chapter 13 plan shall be accompanied by a separate notice which contains the address of the debtor and the debtor's attorney and states:

> "You are hereby notified that the debtor has filed a proposed chapter 13 plan which includes a motion seeking to [describe the relief sought in the motion]. If you oppose the motion and/or wish to object to confirmation of the chapter 13 plan, it is incumbent on you to file and serve an objection no later than 7 calendar days after the first date set for the meeting of creditors held pursuant to 11 U.S.C. § 341(a) and set it for hearing on [***insert confirmation hearing date set in the Notice of Chapter 13 Bankruptcy Case, Meeting of Creditors, & Deadlines***] in the United States Bankruptcy Court, Eastern District of California, [Sacramento Division, located at U.S. Courthouse, 501 I Street, seventh floor, Courtroom 28, Sacramento, California 95814 ***or*** Modesto Division, located at 1200 I Street, Modesto, California 95354 ***or*** Fresno Division {for Fresno, Kings, Tulare, Madera, Merced, and Mariposa County cases}, located at U.S. Courthouse, 2500 Tulare Street, fifth floor, Courtroom (insert "A" for cases assigned to Judge Rimel or "B" for cases assigned to Judge Lee), Fresno, California 93721-1318 ***or*** Fresno Division {for Kern and Inyo County cases} located at 1300 18th Street, Bakersfield, California]. "

The notice of a hearing set in Bakersfield must also direct that all pleadings and documents be filed at the Fresno Division, 2500 Tulare Street, Suite 2501, Fresno, California 93721-1318.

(c) **Objections to Plans and Plan Motions.** Creditors, as well as the Trustee, may object to the confirmation of the chapter 13 plan and to the granting of any valuation or lien avoidance motion included with the plan. An objection and a notice of hearing must be filed and served upon the debtor, the debtor's attorney, and the Trustee within 7 calendar days after the first date set for the meeting of creditors held pursuant to 11 U.S.C. § 341(a). The objection shall be set for hearing on the confirmation hearing date and time designated in the Notice of Chapter 13 Bankruptcy Case, Meeting of Creditors, & Deadlines as the confirmation hearing. The objection shall comply with Local Bankruptcy Rule 9014-1(a)-(e), (f)(2), & (g)-(l), including the requirement for a Docket Control Number on all documents relating to the objection. The notice of hearing shall inform the debtor, the debtor's attorney, and the Trustee that no written response to the objection is necessary. Absent a timely objection and a properly noticed hearing on it, the court may confirm the chapter 13 plan and grant the motions without a hearing.

## Paragraph 4. Attorney Representation and Attorneys' Fees

(a) Any attorney who is retained to represent a debtor in a chapter 13 case is responsible for representing the debtor on all matters arising in the case, including, without limitation, motions for relief from the automatic stay, motions to avoid liens, objections to claims, and adversary proceedings.

(b) Attorneys seeking to withdraw from representation of a debtor shall comply with Local Bankruptcy Rule 1001-1(c), incorporating by reference Rule 83-182 of the Local Rules of the United States District Court, Eastern District of California.

(c) Compensation paid to attorneys for the representation of debtors shall be determined according to the Guidelines for Payment of Attorneys' Fees in Chapter 13 Cases or, when the attorney elects not to comply with the Guidelines for Payment of Attorneys' Fees in Chapter 13 Cases, sections 329 and 330 of the Bankruptcy Code, FRBP 2002, 2016, and 2017, and other applicable authority.

(d) After the filing of the petition, a debtor's attorney shall not accept or demand from the debtor any payment for services or cost reimbursement without first obtaining a court order authorizing the fees and/or costs and specifically permitting direct payment of those fees and/or costs by the debtor.

(e) All attorneys shall file and serve on the United States Trustee and the Trustee the initial and supplemental disclosures of compensation required by FRBP 2016(b).

## Paragraph 5. Plan Payments

(a) Plan payments shall be made monthly and must be received by the Trustee on the twenty-fifth day of each month beginning the month after the petition is filed. Prior to confirmation, all plan payments to the Trustee shall be by cashier's check or money order. After confirmation of a plan, plan payments shall be by Wage Order. Debtors shall use the form of Wage Order requested by the Trustee. An exemplar of the Wage Order required by the chapter 13 Trustees is attached as Exhibit 4.

(b) Post-petition contract installment payments made directly by the debtor, or by a third person making payments on behalf of the debtor, to holders of Class 4 secured claims shall be paid whether or not the chapter 13 plan has been confirmed and whether or not the creditor receiving the payment has filed a proof of claim. All other payments required by the chapter 13 plan shall be paid by the Trustee to the claim holders.

(c) Except as otherwise ordered, the Trustee shall make on behalf of the debtor all post-petition contract installment

payments due to holders of Class 1 secured claims, and all preconfirmation adequate protection payments to holders of Class 2 secured claims that are required by section 1326(a)(1)(C) and the proposed plan.

(1) post-petition contract installment payments to Class 1 claim holders shall be made by the Trustee whether or not the chapter 13 plan has been confirmed and whether or not the holder of the claim has filed a proof of claim.

(2) To assist the Trustee in making post-petition contract installment payments to Class 1 claim holders, the debtor shall complete the Class 1 Checklist and Authorization to Release Information, Exhibit 5, and deliver it to the Trustee within 15 calendar days of filing the petition. This document shall not be filed with the court.

(3) The Trustee may collect, with the authorization of the United States Trustee, the percentage fee fixed under 28 U.S.C. § 586(e)(1)(B) on all post-petition contract installment payments paid to holders of Class 1 secured claims, whether made before or after confirmation of the chapter 13 plan as well as on all adequate protection payments made by the trustee to holders of Class 2 secured claims.

(4) It may be administratively difficult for the Trustee to pay timely the post-petition contract installment payments due in the first month following the filing of the petition. If so, the Trustee shall pay from the debtor’s plan payments the applicable late charge prior to the completion of the plan whether or not it is demanded in a proof of claim.

(5) A late charge may not be imposed on a post-petition contract installment payment paid or tendered during the contractual grace period even though an earlier installment, or any late charge thereon, may not have been paid when due. For purposes of determining whether a late charge may be imposed, any post-petition contract installment payment tendered by the Trustee shall be applied by the holder of the Class 1 claim to the most recent post-petition contract installment payment to fall due.

(d) The debtor or the debtor’s attorney shall lodge a Wage Order with the order confirming the chapter 13 plan. Upon issuance of the order confirming the chapter 13 plan, the debtor

or the debtor's attorney shall serve the Wage Order on the debtor's employer and the Trustee.

(e) If there is more than one employer and it is necessary to deduct amounts from the wages received from more than one employer in order to collect the entire plan payment, a Wage Order shall be lodged for each employer.

(f) It is the responsibility of the debtor and the debtor's attorney to insure that the Wage Order is issued and served. If the Wage Order will not timely or completely fund a plan payment, the debtor shall make the necessary payment directly to the Trustee by cashier's check or money order. It is also the responsibility of the debtor and the debtor's attorney to modify the Wage Order when the plan payment changes or fluctuates.

(g) Notwithstanding the requirement of a Wage Order, if a debtor believes there is good reason to not make plan payments by Wage Order, that debtor shall make plan payments by cashier's check or money order. The debtor shall explain his or her reasons for not using a Wage Order to the Trustee at the meeting of creditors. If the Trustee is not satisfied with the debtor's explanation, the Trustee may move to dismiss the case. In response to that motion, the debtor may request exemption from the requirement of a Wage Order.

(h) If the Trustee finds that a Wage Order will be administratively difficult to implement, the Trustee may dispense with the requirement and accept plan payments by money order or cashier's checks directly from the debtor.

## Paragraph 6. Proofs of Claim, Claim Objections, and Notice of Filed Claims

(a) Prior to the expiration of the deadline to object to proofs of claims (see subparagraph (c) below), the Trustee shall pay claims as specified in the confirmed chapter 13 plan unless the Trustee is served with an objection to a claim which is set for hearing within 60 calendar days of its service. Until the objection is adjudicated or settled, the Trustee shall cease paying dividends on account of the objectionable claim. If the objection is overruled, at the request of the claimant or the Trustee, the court may make provision for payment of any dividends not paid while the objection was pending.

(b) The Notice of Filed Claims shall be filed and served by the Trustee upon the debtor and the debtor's attorney, if any, no later than the longer of 250 calendar days after the order for relief or 180 calendar days after plan confirmation.

(c) Objections to claims shall be filed and served no later than 60 calendar days after service of the Notice of Filed Claims. The debtor shall set a hearing on any objection

pursuant to Local Bankruptcy Rule 3007-1(d)(1) or (d)(2) on the earliest available court date.

(d) Nothing herein shall prevent the debtor, the Trustee, or any other party in interest from objecting to a proof of claim after the expiration of the deadline for objections specified in subparagraph (c) above. However, any objection filed after the expiration of that deadline shall not, if sustained, result in any order that the claimant refund amounts paid on account of its claim.

(e) If a creditor fails to file a proof of claim within the time required by FRBP 3002(c) or section 502, the debtor or the Trustee may file a proof of claim on behalf of the creditor pursuant to FRBP 3004. The time for the filing of such a claim is extended to 60 calendar days after service on the debtor or his counsel of the Notice of Filed Claims.

(f) If the Notice of Filed Claims includes allowed claims which are not provided for in the chapter 13 plan, or which will prevent the chapter 13 plan from being completed timely, the debtor shall file a motion to modify the chapter 13 plan, along with any valuation and section 522(f) motions not previously filed, in order to reconcile the chapter 13 plan and the filed claims with the requirements of the Bankruptcy Code. These motions shall be filed and served no later than 90 calendar days after service by the Trustee of the Notice of Filed Claims and set for hearing by the debtor on the earliest available court date. Paragraph 8 below shall apply to any motion to modify the chapter 13 plan.

(g) Nothing herein shall prevent the debtor, the Trustee, or the holder of an allowed unsecured claim from requesting plan modifications at other times.

(h) If the court enters an order valuing a creditor’s collateral and the creditor has filed or later files a proof of a secured claim in an amount greater than the value established for the collateral, the allowed secured claim shall be the value of the collateral determined by the court. It is unnecessary for the Trustee or the debtor to file a claim objection in addition to the motion valuing the collateral. If the creditor has filed or later files a proof of a secured claim in an amount less than the value established for the collateral, the allowed secured claim shall be the amount claimed by the creditor.

(i) If the court enters an order avoiding the judicial lien or nonpossessory, nonpurchase money security interest of a creditor and the creditor has filed or later files proof of a secured claim which identifies as security only the avoided lien or security interest, the claim shall be allowed as a general unsecured claim. It is unnecessary for the Trustee or the debtor to file a claim objection in addition to the lien avoidance motion.

## Paragraph 7. Payment Defaults

(a) If the debtor fails to make a payment pursuant to a confirmed plan, including a direct payment to a creditor, the Trustee may mail to the debtor and the debtor's attorney written notice of the default.

(b) If the debtor believes that there is no such default, the debtor shall set a hearing within 30 calendar days of the mailing of the notice of default and give at least 14 calendar days' notice of the hearing to the Trustee pursuant to Local Bankruptcy Rule 9014-1(f)(2). The court's self-set hearing rules and available hearing dates may be obtained from the court's Internet site, www.caeb.uscourts.gov, or at the court's public counters. At the hearing, if the Trustee demonstrates that the debtor has failed to make a payment required by the confirmed plan, and if the debtor fails to rebut the Trustee's evidence, the case shall be dismissed at the hearing.

(c) Alternatively, the debtor may acknowledge that the plan payment(s) have not been made and, within 30 calendar days of the mailing of the notice of default, either

(1) make the delinquent plan payment(s) and all subsequent plan payments that have fallen due, or

(2) file a modified plan and a motion to confirm the modified plan. If the debtor's financial condition has materially changed, amended Schedules I and J shall be filed and served with the motion to modify the chapter 13 plan. The debtor shall serve and shall set the motion for hearing pursuant to subparagraph 8(b) below.

(d) If the debtor fails to set a hearing on the Trustee's notice, or cure the default by payment, or file a proposed modified chapter 13 plan and motion, or perform the modified chapter 13 plan pending its approval, or obtain approval of the modified chapter 13 plan, all within the time constraints set out above, the case shall be dismissed without a hearing on the Trustee's application.

(e) Rather than utilize the notice of default procedure authorized by this paragraph, the Trustee may file, serve, and set for hearing a motion to dismiss the case. Such a motion may be set for hearing pursuant to either Local Bankruptcy Rule 9014-1(f)(1) or (f)(2).

## Paragraph 8. Motions to Modify Plans

(a) If the debtor modifies the chapter 13 plan before confirmation pursuant to section 1323, the debtor shall file and

serve the modified chapter 13 plan together with a motion to confirm it. Notice of the hearing on the motion shall comply with FRBP 2002(b). Because FRBP 2002(b) requires that parties in interest receive at least 25 calendar days' notice of the time fixed for filing objections and the hearing to consider confirmation of a chapter 13 plan proposed before confirmation of a plan, the debtor shall not set the hearing on the motion pursuant to Local Bankruptcy Rule 9014-1(f)(2). Notice of the hearing and the deadline for objections shall be given pursuant to Local Bankruptcy Rule 9014-1(f)(1). Local Bankruptcy Rule 9014-1(f)(1) requires 28 calendar days' notice of the hearing and notice that opposition must be filed 14 calendar days prior to the hearing. Therefore, to comply with both FRBP 2002(b) and Local Bankruptcy Rule 9014-1(f)(1), parties in interest must be served at least 39 calendar days prior to the hearing.

(b) If the debtor modifies the chapter 13 plan after confirmation pursuant to section 1329, the debtor shall file and serve the modified chapter 13 plan together with a motion to confirm it. Notice of the hearing shall comply with FRBP 3015(g). Because FRBP 3015(g) requires that parties in interest receive at least 20 calendar days' notice of the time fixed for filing objections and the hearing to consider confirmation of a modified chapter 13 plan proposed after confirmation of a plan, the debtor shall not set the hearing on the motion pursuant to Local Bankruptcy Rule 9014-1(f)(2). Notice of the hearing and the deadline for objections shall be given pursuant to Local Bankruptcy Rule 9014-1(f)(1). Local Bankruptcy Rule 9014-1(f)(1) requires 28 calendar days' notice of the hearing and notice that opposition must be filed 14 calendar days prior to the hearing. Therefore, to comply with both FRBP 3015(g) and Local Bankruptcy Rule 9014-1(f)(1), parties in interest must be served at least 34 calendar days prior to the hearing.

(c) The court may approve, on the written stipulation of the debtor and the Trustee, nonmaterial modifications of the chapter 13 plan. To be regarded as nonmaterial, the modification must not delay or reduce the dividend payable on account of any claim or otherwise modify the claim of any creditor absent the affected creditor's written consent.

## Paragraph 9. Automatic Stay

(a) A secured creditor who is receiving payments from the Trustee through the chapter 13 plan and who files a motion to modify, terminate, or annul the automatic stay obtains an order permitting it to foreclose on its collateral, shall serve an endorsed copy of the stay relief order on the Trustee either by utilizing Local Bankruptcy Rule 9022-1 or otherwise mailing an endorsed copy directly to the Trustee.

(b) Unless the court orders otherwise, when a motion to modify, terminate, or annul the automatic stay results in an order permitting a secured creditor to foreclose upon or repossess its collateral, the Trustee shall cease making payments on the creditor's secured claim if he has received a copy of the endorsed order more than five (5) court days prior to a scheduled plan distribution.

(c) Unless the court orders otherwise, if the court vacates or stays the order terminating the automatic stay or if it issues an injunction preventing the foreclosure or repossession, the Trustee shall recommence making payments on the creditor's secured claim if he has received a copy of the endorsed order or injunction more than five (5) court days prior to a scheduled plan distribution.

## Paragraph 10. Sale of Property and New Debt

(a) **Vehicle Loans.** If the Trustee consents, the court may approve an ex parte motion by the debtor to finance the purchase of a motor vehicle. The debtor's motion and the Trustee's approval is their certification to the court that: (1) all payments required by the chapter 13 plan are current; (2) the chapter 13 plan is not in default; (3) Schedules I and J were filed within the prior 30 calendar days and they demonstrate that the debtor has the ability to pay all future plan payments and projected living and business expenses, as well as repay the new debt; (4) the new debt is a single loan incurred to purchase a motor vehicle that is reasonably necessary for the maintenance or support of the debtor or a dependent of the debtor or, if the debtor is engaged in business, is necessary for the continuation, preservation, and operation of the debtor's business; (5) the only security for the new debt will be the motor vehicle to be purchased by the debtor; and (6) the new debt does not exceed $15,000.00.

(b) **New Home Loans.** If the Trustee consents, the court may approve an ex parte motion by the debtor to finance the purchase of a residence. The debtor's motion and the Trustee's approval is their certification to the court that: (1) all payments required by the chapter 13 plan are current; (2) the

chapter 13 plan is not in default; (3) Schedules I and J were filed within the prior 30 calendar days and they demonstrate that the debtor has the ability to pay all future plan payments and projected living and business expenses, as well as repay the new debt; (4) the new debt is a single loan incurred to purchase a residence that is reasonably necessary for the maintenance or support of the debtor and his or her family; (5) the only security for the new debt will be the residence to be purchased by the debtor; and (6) the monthly payment (the principal and interest payment on account of the new debt plus all impounds, taxes, insurance, association fees, and bonds and other assessments) will not exceed the greater of the debtor's current such monthly payment or rental payment or $2,000.00.

(c) **Refinance of Existing Home Loans.** If the Trustee consents, the court may approve an ex parte motion by the debtor to refinance existing debt(s) encumbering the debtor's residence. The debtor's motion and the Trustee's approval is their certification to the court that: (1) all payments required by the chapter 13 plan are current; (2) the chapter 13 plan is not in default; (3) Schedules I and J were filed within the prior 30 calendar days and they demonstrate that the debtor has the ability to pay all future plan payments and projected living and business expenses, as well as repay the new debt; (4) the new debt is a single loan incurred only to refinance existing debt encumbering the debtor's residence; (5) the only security for the new debt will be the debtor's existing residence; (6) all creditors with liens and security interests encumbering the debtor's residence will be paid in full from the proceeds of the new debt and in a manner consistent with the chapter 13 plan; (7) the monthly payment (the principal and interest payment on account of the new debt plus all impounds, taxes, insurance, association fees, and bonds and other assessments) will not exceed the greater of the debtor's current such monthly payment(s) on the existing debt(s) being paid or $2,000.00. The court will not approve ex parte motions to obtain secured credit pursuant to section 364(d).

(d) **Sale of Property.** If the Trustee consents, the court may approve an ex parte motion by the debtor to sell real or personal property with a value of $1,000.00 or more other than in the ordinary course of business. The debtor's motion and the Trustee's approval is their certification to the court that: (1) the sale price represents a fair value for the subject property; (2) all creditors with liens and security interests encumbering the subject property will be paid in full before or simultaneously with the transfer of title or possession to the buyer; (3) all costs of sale, such as escrow fees, title insurance, and broker's commissions, will be paid in full from the sale proceeds; (4) the sale price is all cash; (5) the

debtor will not relinquish title to or possession of the subject property prior to payment in full of the purchase price; and (6) the sale is an arm's length transaction. "Trading in" a vehicle as part of the purchase price for a new vehicle complies with the requirements of (5) and (6) of this subparagraph. The court will not approve ex parte motions to sell property pursuant to section 363(f).

(e) **Other New Debt and Transfers.** If the Trustee will not give the consent required by subparagraphs (a), (b), (c), or (d) of this paragraph, or if the debtor wishes to incur new debt or transfer property on terms and conditions not authorized by subparagraphs (a), (b), (c), or (d) of this paragraph, the debtor shall file the appropriate motion, serve it on the Trustee, those creditors who are entitled to notice, and all persons requesting notice, and set the hearing on the court's calendar with the notice required by FRBP 2002 and Local Bankruptcy Rule 9014-1.

So ordered.

Dated: 28 October 2005

Michael S. McManus
Chief Bankruptcy Judge

Thomas C. Holman
Bankruptcy Judge

Christopher M. Klein
Bankruptcy Judge

W. Richard Lee
Bankruptcy Judge

Whitney Rimel
Bankruptcy Judge

Robert S. Bardwil
Bankruptcy Judge

Exhibit 1: Chapter 13 Plan

Exhibit 2: Confirmation Order

Exhibit 3: Obligation Checklist

Exhibit 4: Wage Order

Exhibit 5: Class 1 Checklist

Exhibit 5 cnt: Auth. to Release Info.