

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED March 18, 2011

In re)
) BANKRUPTCY GENERAL
) ORDER NO. 175-D
CHAPTER 13 ADEQUATE PROTECTION)
PAYMENTS PURSUANT TO THE)
BANKRUPTCY ABUSE PREVENTION AND)
CONSUMER PROTECTION ACT)
_____)

The Court, having considered the requirements of 11 U.S.C. §§ 1326(a)(1)(A)(B) and (C), orders as follows in relation to all chapter 13 cases filed after the effective date of this General Order:

1. The debtor must comply with 11 U.S.C. §§ 1326(a) (1) (B) and (C) by making payments under 11 U.S.C. § 1326(a) (1) (A) (“Plan Payments”) to the chapter 13 trustee pursuant to a chapter 13 plan.
2. The chapter 13 trustee will perform the debtor’s obligations under §§ 1326(a)(1)(B) and (C) by transmitting on a monthly basis a share of the Plan Payments actually received (“Adequate Protection Payments”) to the creditors provided for in a debtor’s chapter 13 plan (“Adequate Protection Creditors”) in the following amounts (or such greater or lesser amount as ordered by the Court):
 - a. 75% of the installment due to a lessor scheduled to be paid under paragraph 4 of the plan on account of monthly lease obligations that become due as required by 11 U.S.C. § 1326(a)(1)(B);
 - b. 1.25% of the scheduled value of the collateral, to a secured creditor scheduled to be paid under paragraph 5 of the plan on account of a claim secured by personal property, where such security interest is attributable to the purchase of such property as required by 11 U.S.C. § 1326(a)(1)(C); or
 - c. 75% of the payment due to a secured creditor scheduled to be paid under paragraph 6 of the plan on account of a claim secured by personal property, where such security interest is attributable to the purchase of such property as required by 11 U.S.C. § 1326(a)(1)(C).

It will be presumed that a secured creditor listed in paragraphs 5 or 6 of the plan, or a lessor listed in paragraph 4 of the plan, is entitled to Adequate Protection Payments calculated as set forth in paragraphs 2(a), (b), and (c) above.

3. Notwithstanding paragraph 2 above and except as ordered in paragraph 7 below, the chapter 13 trustee must hold Adequate Protection Payments until the Adequate Protection Creditor files a proof of claim.
4. The obligation of the chapter 13 trustee to make Adequate Protection Payments will terminate upon confirmation of the chapter 13 plan, with the creditor receiving thereafter the portion of the Plan Payments provided in the chapter 13 plan.
5. The debtor cannot propose in the chapter 13 plan Adequate Protection Payments in a lesser amount than as calculated in paragraph 2 of this order without a further order of the Court.
6. The chapter 13 trustee may assess an administrative fee for effecting Adequate Protection Payments and may collect such fee at the time of making the Adequate Protection Payments. The allowed expense fee must be no more than the chapter 13 trustee's then applicable percentage fee established by the designee of the Attorney General pursuant to 28 U.S.C. § 586(e)(1)(B) as such statute is in effect at the time of the disbursement.
7. If the case is dismissed or converted prior to confirmation of the chapter 13 plan, the chapter 13 trustee must disburse any amount due pursuant to this General Order as Adequate Protection Payments to Adequate Protection Creditors with filed proofs of claim as soon as practicable.
8. Notwithstanding paragraph 3 above, if dismissal or conversion occurs prior to the Fed. R. Bankr. P. 3002(c) bar date, the chapter 13 trustee must disburse Adequate Protection Payments in the amounts calculated pursuant to this General Order to Adequate Protection Creditors listed in paragraphs 4, 5, and 6 of the plan even if a proof of claim has not been filed. In so doing, the chapter 13 trustee is entitled to rely on this General Order and the chapter 13 plan and shall have no liability to a debtor or to any other party in connection with a payment made as provided herein. In the event the debtor has not provided for Plan Payments to a secured creditor or lessor in the chapter 13 plan, that creditor will not be entitled to Adequate Protection Payments without a further order of the Court.

The effective date of this General Order is April 1, 2011.

DATED: March 18, 2011

s/Peter W. Bowie
PETER W. BOWIE
Chief Judge, U.S. Bankruptcy Court

Out of District
LOUISE DeCARL ADLER
Judge, U.S. Bankruptcy Court

s/Laura S. Taylor
LAURA S. TAYLOR
Judge, U.S. Bankruptcy Court

s/Margaret M. Mann
MARGARET M. MANN
Judge, U.S. Bankruptcy Court