

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA

Filed May 3, 2010

In re)
CHAPTER 13 ADEQUATE PROTECTION)
PAYMENTS PURSUANT TO THE)
BANKRUPTCY ABUSE PREVENTION)
AND CONSUMER PROTECTION ACT)
_____)

BANKRUPTCY GENERAL ORDER

NO. 175

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

1. The debtor must comply with 11 U.S.C. § 1326(a)(1)(B) & (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. Subject to paragraph 3 below and upon receipt of Plan Payments, the chapter 13 trustee will perform the debtor’s obligations under section 1326(a)(1)(B) & (C) by promptly transmitting payments in amounts specified in a debtor’s chapter 13 plan (“Adequate Protection Payments”) to the following creditors (“Adequate Protection Creditors”):
 - (a) a lessor scheduled to be paid through the plan on account of monthly lease obligations that become due after the order for relief as required by 11 U.S.C. § 1326(a)(1)(B); and
 - (b) a secured creditor 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 a personal property section of the plan with an installment is entitled to Adequate Protection Payments in such amount unless the plan states otherwise.
3. Notwithstanding paragraph 2 above and except as ordered in paragraph 7 below, the chapter 13 trustee must hold Adequate Protection Payments until the relevant Adequate Protection Creditor files a proof of claim.
4. The debtor cannot reduce the amount of the Adequate Protection Payments paid to the chapter 13 trustee without an order of the Court.
5. 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.

6. If the case is dismissed or converted prior to confirmation of the chapter 13 plan, the chapter 13 trustee must disburse any amount tendered as Adequate Protection Payments to Adequate Protection Creditors with filed proofs of claim as soon as practicable.
7. 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 to Adequate Protection Creditors as provided for in debtor's chapter 13 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.

IT IS FURTHER ORDERED that the period of comment is from now until June 3, 2010. Absent further order of this Court the effective date of this order shall be June 10, 2010. Any comments should be submitted to the Clerk of the Court at 325 West "F" Street, San Diego, California 92101-6991. Please note on the envelope: "In re: 1326(a)(1) Payments."

DATED: May 3, 2010

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

s/ Louise DeCarl Adler
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