

FILED

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

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U.S. BANKRUPTCY COURT NORTHERN DISTRICT OF OHIO AKRON IN RE:))))))	ADMINISTRATIVE ORDER NO. 18-02 JUDGE ALAN M. KOSCHIK
ADMINISTRATION OF CHAPTER 13 CASES IN THE AKRON BANKRUPTCY COURT		

ADMINISTRATIVE ORDER ESTABLISHING PRESUMPTIVE FORM OF ORDER CONFIRMING CHAPTER 13 PLANS (AKRON COURT ONLY)

This Administrative Order is effective for all bankruptcy cases filed under chapter 13, or converted to chapter 13, on or after December 1, 2017, in the United States Bankruptcy Court, Northern District of Ohio, Akron location. This Administrative Order establishes the presumptive form of order confirming a chapter 13 plan and the terms thereof, and is intended to provide notice to all chapter 13 debtors, their creditors, the Chapter 13 Trustee, and any other parties-in-interest in applicable chapter 13 cases of the substantive effect of confirmation on any proposed chapter 13 plan that is ultimately confirmed by this Court.

The presumptive order confirming plan is attached to this Administrative Order as Exhibit A (the "Presumptive Order Confirming Plan").

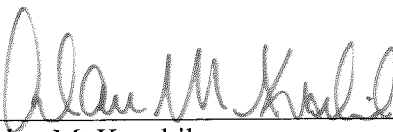
All parties-in-interest are hereby given notice of this practice and of the presumed effect of confirmation on any chapter 13 plan. As provided in paragraph 3 of the Presumptive Order Confirming Plan, any inconsistencies between the confirmation order and the debtor's confirmed chapter 13 plan will be resolved in favor of the confirmation order. When considering any plan proposed by a debtor, or when a debtor proposes a chapter 13 plan, all parties are advised to take the terms of the Presumptive Order Confirming Plan into account.

Any party-in-interest may seek a confirmation order that varies from Presumptive Order Confirming Plan in any specific case, either because of the facts of such debtor's case, the terms

of a proposed plan, an asserted interpretation of the Bankruptcy Code, or the Bankruptcy Code's application to the facts of a specific case. Every party seeking a variance from the Presumptive Order Confirming Plan shall do so by separate motion, along with a notice of motion, pursuant to Local Rules 9013-1, 9013-2, and 9013-3. Every motion seeking a variance from the Presumptive Order Confirming Plan must be filed before expiration of the deadlines established by existing rules for objecting to the debtor's proposed chapter 13 plan in that case. Such motion shall be served on all parties entitled to service of an objection to plan confirmation, including the debtor, the debtor's counsel, and the Chapter 13 Trustee. If a debtor proposing a plan contends that there is good cause for such a variance, the debtor shall also file a motion and notice of motion served on the parties entitled to notice of the proposed chapter 13 plan prior to the deadline to object to the plan's confirmation.

Every movant seeking a confirmation order that varies from the Presumptive Order Confirming Plan shall set forth a short and plain statement explaining the legal and factual grounds supporting the proposed variance. Each party opposing such a motion shall respond no later than the later of (i) the deadline to respond to motions pursuant to Local Rule 9013-1(b), or (ii) fourteen (14) days after the date first set for the first meeting of creditors pursuant to 11 U.S.C. § 341. The Court will set all such motions for a preliminary hearing, regardless of whether a party files a response or objection to the motion. At the preliminary hearing, the Court shall establish, as needed, either a discovery schedule or a briefing schedule for any legal memoranda necessary to resolve the motion.

IT IS SO ORDERED.



Alan M. Koschik
United States Bankruptcy Judge

EXHIBIT A

THE UNITED STATES BANKRUPTCY COURT NORTHERN DISTRICT OF OHIO

IN RE:) CHAPTER 13 PROCEEDING
)
) ORDER CONFIRMING PLAN
)
) CASE NO.
)
) JUDGE Alan M. Koschik

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Pursuant to 11 USC § 1324, the above-captioned Debtor(s)' most-recently filed or amended Chapter 13 plan (the "Plan") was scheduled for a confirmation hearing before the Court. All parties entitled to notice of the confirmation hearing pursuant to Bankruptcy Rule 2002 were given due notice. All objections to confirmation have been resolved, either by an amended Plan acceptable to the objecting party or an order of the United States Bankruptcy Court (the "Court").

The Chapter 13 Trustee (the "Trustee") has reviewed the Plan for compliance with 11 USC § 1325. Based on that review, the Trustee has recommended confirmation of the Plan.

Pursuant to 11 USC § 1325(b)(4) and the Debtor's Chapter 13 Statement of their Current Monthly Income and Calculation of Commitment Period, the minimum number of months in the Debtor(s)'s Applicable Commitment Period for the Plan is: ___.

Confirmation of the Plan

- 1) The Plan complies with the applicable provisions of Title 11 of the United States Code (the "Bankruptcy Code").
- 2) The Plan is hereby confirmed pursuant to 11 U.S.C. § 1325.
- 3) The Plan is incorporated into this order confirming plan ("OCP") as if fully rewritten herein, provided, however, that any inconsistencies between the Plan and this OCP shall be resolved in favor of this OCP.
- 4) All creditors, including without limitation (i) secured creditors, and (ii) unsecured creditors asserting

priority claims pursuant to 11 U.S.C. § 507(a), seeking to be paid under the Plan must timely file a proof of claim pursuant to Bankruptcy Rule 3002, or have a proof of claim filed on their behalf by the Debtor or the Trustee pursuant to Bankruptcy Rule 3004, for their claim to be deemed allowed. Allowed secured claims will be paid as provided by Sections 3.1, 3.2, and 3.3 of the Plan. A proof of claim is also necessary for holders of secured claims to provide the Trustee correct account numbers and mailing addresses and to ensure correct payment of any asserted arrearage claims, mortgage installment payments, unsecured deficiency claims, and all claims not subject to bifurcation under 11 U.S.C. § 506. Bifurcation of undersecured claims into secured and unsecured claims shall be determined pursuant to this Order and the Debtor's confirmed plan pursuant to Bankruptcy Rule 3015(g)(1).

- 5) Holders of secured claims on either real or personal property of the Debtor(s) do not need to seek relief from the automatic stay pursuant to Bankruptcy Code Section 362 for the limited purpose of supplying the Debtor(s) coupon books, notice of a change in address of the creditor, notice of a change in servicing agent for the creditor, annual 1098 tax information, and all other information that provides the Debtor(s) an accounting of payments paid both by the Debtor(s) directly and by the Trustee.
- 6) Legal fees for Debtor(s) attorney shall be governed by the Court's Administrative Order 12-3 which is incorporated herein as if fully rewritten.
- 7) If the Plan requires the Debtor(s) mortgage payments ("Conduit Payment") to be made by the Trustee from a portion of the Debtor's Chapter 13 Plan payment, the Plan is deemed to incorporate the Court's Administrative Order 16-01.
- 8) Copies of all Administrative Orders regarding Chapter 13 Plans in cases pending before the Court in Akron, Ohio can be found on the Court's web site at www.ohnb.uscourts.gov or the Chapter 13 Trustee's web site at www.chapter13info.com.

Property of the Estate, Vesting of Property and Surrendered Property

- 9) The property of this bankruptcy estate shall consist of all items listed in Bankruptcy Code Sections 541 and 1306, including, but not limited to all post-petition assets and income acquired by the Debtor(s).
- 10) Any property of the estate acquired after the commencement of the case and not reported to the Trustee, as well as any property of the estate held by the Debtor(s) on the petition date and not scheduled in accordance with Bankruptcy Rule 1007(h), shall remain property of the estate and will not vest in the Debtor(s) upon confirmation pursuant to 11 USC § 1327(b).
- 11) All property owned by the Debtor(s) pre-petition that is properly disclosed on the petition schedules shall remain in possession of the Debtor(s) and shall vest in the Debtor(s) upon confirmation. Creditors, as that term is defined in Bankruptcy Code Section 101, may not proceed against such property without obtaining relief from the automatic stay from the Court pursuant to 11 USC § 362(d).
- 12) If the Plan provides for the surrender of any real or personal property, upon confirmation the creditor holding the lien on the surrendered property and to which the property is to be surrendered is hereby granted relief from stay pursuant to 11 USC § 362(d) with respect to the surrendered property only. Unless the Court orders otherwise, creditors with liens on the surrendered property and who filed a timely proof of claim shall have one year from the date of this order of confirmation to file an unsecured deficiency claim. If a creditor seeks to file an unsecured deficiency claim after one year, the creditor must obtain leave of the Court.

Plan Payments

- 13) Unless the Court orders otherwise, the Debtor(s) are required to make their plan payment in the amount specified in their Plan to the Trustee each month pursuant to 11 USC § 1326.
- 14) Further the Debtor(s) are required to devote all future disposable income into the Plan as required by 11 USC §§ 1322(a)(1), 1325 (b)(1)(B), and 1329(b)(1).
- 15) Debtor(s) who are regularly employed must make their Plan payments by payroll deduction unless the Court has authorized direct payments.
- 16) Debtor(s) who are self-employed or who have other sources of income must make their plan payment by money order or certified check by the 20th of each month. An online payment option is available on the Trustee's web site at www.chapter13info.com.
- 17) Should the Court approve a temporary suspension in Plan payments, those suspended payments must be caught up before the Debtor(s) can complete the Plan. All creditors entitled to interest on their claims shall continue to accrue interest during any period of payment suspension. If the Plan provides for conduit mortgage payments, the Debtor(s) shall not suspend their payments to an amount which is lower than an amount necessary for the conduit mortgage payment.

Responsibility of Debtor(s) in Incurring New Debt, Selling Property, Maintaining Insurance, Payment of Taxes, and Turnover of Tax Refunds to the Trustee

- 18) The Debtor(s) must give notice of any change of address to Debtor(s) attorney, the Trustee, and the Clerk of the U.S. Bankruptcy Court.
- 19) Debtor(s) shall not incur additional debt exceeding \$1,000 (one thousand dollars), cumulatively over the life of the Plan without approval from the Court.
- 20) Pursuant to Bankruptcy Code § 521(a)(3) and (a)(4) and Bankruptcy Rule 4002(a)(3) and (a)(4), the Debtor(s) is under a continuing obligation to cooperate with the Trustee and disclose all income and assets.
- 21) The Debtor(s) shall not transfer any interest in real property without approval from the Court.
- 22) The Debtor(s) shall not transfer any interest in personal property valued at \$1,500 (one thousand five hundred dollars) or more without approval from the Court.
- 23) If the Debtor(s) seeks to refinance real estate, the Debtor(s) is under an on-going obligation to consult with Debtor(s) attorney before completing said refinancing. Refinancing must be reviewed by the Trustee and approved by the Court.
- 24) If the Debtor(s) seeks to modify their mortgage, the modification is subject to Administrative Order 10-01. The Debtor(s) is under an on-going obligation to consult with their attorney before completing a mortgage modification. Modifications must be reviewed by the Trustee and approved by the Court.
- 25) If the Plan is a conduit mortgage plan and the Debtor(s) modifies the mortgage, the Trustee shall treat the modification order as a notice of a change in the monthly mortgage payment amount. The Plan shall remain a conduit mortgage plan after a modification and the new mortgage amount shall be paid by the Trustee.
- 26) If the Debtor(s) is permitted, by Court order or otherwise pursuant to Administrative Order 16-01, to make mortgage payments directly to the mortgage creditor instead of conduit payments made via the Trustee, the Debtor(s) is required to make those payments on a timely basis.
- 27) The Debtor(s) is under a continuing obligation to maintain insurance all on real property during the Plan. Furthermore, the Debtor(s) is under a continuing obligation to maintain minimum automobile liability coverage required by Ohio law during the Plan.
- 28) Debtor(s) who are self-employed and who earn income as a sole proprietor, a shareholder or member of an incorporated entity, owner of rental properties, or otherwise, are required to supply updated financial information concerning the business enterprise from which the Debtor(s) derive their income as requested by the Trustee.
- 29) The Debtor(s) is under a continuing obligation during the Plan to pay all applicable taxes as such taxes become due, including, but not limited to, (a) income taxes to federal, state, and local taxing authorities, (b) local property taxes, and (c) sales and payroll taxes for which the Debtor(s) is personally responsible. The Debtor(s) must timely file all post-petition tax returns. Upon request of the Trustee, the Debtor(s) must supply copies of tax returns to the Trustee during the Plan.
- 30) Pursuant to In re Freeman, 86 F.3d 478 (6th Cir. 1996), all non-exempt tax refunds are property of the estate.
- 31) Non-exempt tax refunds, which excludes Earned Income Tax Credits and child and dependent care credits, in excess of \$1,500 must be paid to the Trustee, for the benefit of creditors, for distribution according to the Plan. The Debtor(s) may make application to the Trustee and the Court if the Debtor(s) has a compelling reason to retain tax refunds in excess of \$1,500.

Order of Distribution

- 32) After payment of the Trustee's authorized percentage fee and/or administrative expenses pursuant to 28 USC §586, funds shall be distributed by the Trustee as follows: (i) conduit mortgage payments on the Debtor(s) primary residence pursuant to Administrative Order 16-1; (ii) conduit mortgage payments on real property other than the Debtor(s) primary residence pursuant to Administrative Order 16-1; (iii) attorney fees as allowed under applicable rules and guidelines pursuant to Administrative Order 12-3; (iv) fixed monthly payments on allowed secured claims pursuant to the Plan; (v) administrative expense claims approved by Court order; (vi) all other allowed secured claims provided for by the Plan, *pro rata*; (vii) priority domestic support obligation claims pursuant to 11 USC §507(a)(1), *pro rata*; (viii) other priority unsecured claims pursuant to 11 U.S.C. §507(a), *pro rata*; and (ix) general non-priority unsecured claims, *pro rata*.

- 33) If the Trustee has received insufficient funds from the Debtor(s) to make the required monthly payment(s) to secured creditors, the Trustee may use best efforts to pay secured creditors from the funds on deposit with the Trustee on the date of distribution.
- 34) Should the Debtor(s) Plan payments result in payment(s) to priority unsecured creditors and non-priority unsecured creditors while leaving a balance owing to secured creditors, the Trustee is authorized to override the fixed monthly payment amounts in the Plan to finish payment to secured creditors on a pro rata basis in order to expedite payment to the secured creditors prior to payment to priority unsecured creditors and non-priority unsecured creditors.

Administration of Case by the Trustee

- 35) Pursuant to Bankruptcy Code §1302(b)(4), the Trustee is authorized and permitted to send notices, plan balances and other general information concerning the administration of the Plan directly to the Debtor(s).
- 36) The Trustee is authorized to charge the usual and customary administrative fee pursuant to 28 USC §586 on all receipts paid into the plan until the case is discharged, converted, or dismissed.
- 37) Unless the Court orders otherwise, the Trustee shall pay allowed claims pursuant to the Plan and this OCP.
- 38) The Trustee is authorized to adjust the percentage dividend to non-priority unsecured creditors or base dollar amount to non-priority unsecured creditors if funds other than the scheduled plan payments are received by the Trustee unless the Court has ordered the funds distributed to secured or priority creditors. This can include, but is not limited to, the turnover of tax refunds, property sales, inheritance, or bonuses while the Chapter 13 Plan is pending.
- 39) The Trustee is authorized to adjust the percentage dividend to non-priority unsecured creditors or base dollar amount to non-priority unsecured creditors if any creditor returns funds to the Trustee for any reason. The returned funds will be distributed to the remaining non-priority unsecured creditors.
- 40) The Trustee is authorized to adjust the percentage dividend to non-priority unsecured creditors or base dollar amount to non-priority unsecured creditors if the amount of allowed non-priority unsecured claims filed by the claims bar date is different than the amount that was anticipated by the Debtor(s) in the Plan; *provided, however*, that the dividend may not exceed 100 percent of the allowed non-priority unsecured claims.
- 41) Unless the Court orders otherwise, the Trustee is authorized to adjust the percentage dividend to non-priority unsecured creditors or base dollar amount to non-priority unsecured creditors in order for the Debtor(s) plan to account for the Debtor(s)' full applicable commitment period.
- 42) The Trustee is not authorized to change the amount of the Plan payments unless the Trustee has filed a motion to modify the Plan, with notice to the Debtor(s) and Debtor(s)'s attorney, and the Court approves the motion.
- 43) At the conclusion of this case the Trustee shall return all excess funds to the Debtor(s). If a joint case and the Debtor(s) have different addresses, unless the Court orders otherwise, the Trustee shall divide the funds equally between the parties and send each Debtor(s) their share of any remaining funds.
- 44) If the Trustee has funds on hand and this case is either dismissed or converted to another chapter of the Bankruptcy Code, the Trustee shall return all funds on hand directly to the Debtor(s), unless otherwise ordered by the Court.

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Approved:

/s/ Keith L. Rucinski
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