

FILED
09 SEP 17 PM 1:45
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
AKRON

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE:)
)
ORDER GOVERNING PROCEDURES) Administrative Order No. 09-06
REGARDING SECOND CHANCE RELIEF) JUDGE MARILYN SHEA-STONUM
ORDERS, INCLUDING)
ALLOWANCE OF CREDITOR ATTORNEY)
FEES AND COSTS)

This Administrative Order addresses (1) the allowance of attorney fees and costs incurred by holders of claims based on notes secured by mortgages on chapter 13 debtors' residences in provisional settlement of motions for relief from stay occasioned by post-petition payment delinquencies and (2) the role of the Chapter 13 Trustee in facilitating these provisional settlements. The orders documenting these provisional settlements have come to be known as "Second Chance Relief Orders."

This Administrative Order is intended to increase the probability of debtors retaining their residence in situations where the debtors have defaulted on mortgage payments post-petition. Further, the Administrative Order is intended to provide creditors a reasonable "no look" attorney fee and recovery of costs as detailed herein. In order to promote efficiency and predictability, the Court is establishing a "no look" creditor's attorney fee that will be allowed in agreed Second Chance Relief Orders, as follows:


1. Provided that the parties to the motion for relief from stay have agreed to payment of the fees and costs associated with the motion, a Second Chance Relief Order may include recovery of any attorney fees actually incurred, not to exceed \$425.00 on a "no look" basis as a term of the Second Chance Relief Order.

2. The “no look” creditor’s attorney fee will be allowed by the Court in the context of Second Chance Relief Orders without further documentation or itemization.
3. Creditors are also permitted to recover the filing fee for the relief from stay motion (currently, \$150.00).
4. The creditor shall be responsible for filing a supplemental Proof of Claim to include the post-petition arrearage, allowed attorney fees and costs. The supplemental Proof of Claim shall provide a summary page which includes the amount of the arrearage and the amount of attorney fees and costs.
5. Upon the filing of the supplemental Proof of Claim, the Chapter 13 Trustee shall take all necessary administrative action to immediately commence the processing of payment for the supplemental Proof of Claim. Subject to available funds, the supplemental Proof of Claim shall be paid on a pro rata basis concurrent with other claims of secured creditors and prior to payment of unsecured creditors.
6. The amount of the “no look” fee does not constitute a cap. If the creditor seeks to recover more than the “no look” fee, the creditor may file a motion with the Court with time itemization for the fees being sought. The time itemization shall be recorded in one-tenths hourly allotments and shall be broken down by all work done by an attorney and non-attorney assistants.
7. Nothing in this Administrative Order shall prohibit the debtor, the Chapter 13 Trustee, the United States Trustee or other party in interest from filing an objection and seeking a hearing if they deem said objection appropriate when a creditor requests attorney fees and costs greater than the \$425.00 “no look” fee provided under this Administrative Order.
8. If the creditor negotiates with the debtor for a lump sum payment to bring all or a portion of the post-petition arrearage current, then the Second Chance Relief Order must contain an explanation which discloses the source of the funds for the lump sum payment that the debtor is using to pay the post-petition arrearage.
9. To assist the Court with monitoring compliance with this order, the Chapter 13 Trustee shall be required to be a signatory on each Second Chance Relief Order submitted to the Court.

In consideration of the “no look” fee amount, the creditor attorneys representing mortgage companies agree to perform the following duties, as necessary, with regard to motions for relief from stay and Second Chance Relief Orders.

- A. Reviewing all relevant material in connection with the motion for relief from stay, including the docket, the Proof of Claim filed, all relevant supporting loan documentation; including AOM and client payment history, ARM changes/escrow changes, copies of trustee ledgers, etc.;
- B. Preparing the General Order 99-1 Worksheet and any other documents necessary to establish the proper amount of the arrearage (i.e., pay history/ summary);

- C. Preparing the motion for relief from stay itself;
- D. Reviewing all support documents evidencing the arrearage;
- E. Filing the motion for relief from stay;
- F. Negotiating settlement terms with the debtor's attorney, preparing the proposed Second Chance Relief Order, procuring necessary signatures, and attending hearings (if necessary);
- G. Submitting the signed, proposed Second Chance Relief Order to the Court and filing any necessary supplemental Proof of Claim; and
- H. Communicating the settlement terms to creditor.


MARILYN SHEA-STONUM
U.S. Bankruptcy Judge