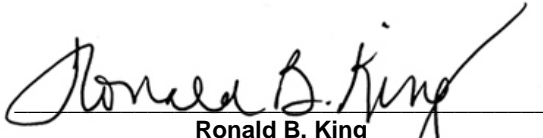



SIGNED this 12th day of January 2004.



  
Larry E. Kelly  
Chief United States Bankruptcy Judge

  
Leif M. Clark  
United States Bankruptcy Judge

  
Ronald B. King  
United States Bankruptcy Judge

  
Frank R. Monroe  
United States Bankruptcy Judge

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UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
WACO DIVISION

**FIRST AMENDED STANDING ORDER  
RELATING TO CHAPTER 13 CASE ADMINISTRATION IN THE WACO DIVISION**

The Bankruptcy Judges for the Western District of Texas for the Waco Division have determined that Chapter 13 cases will be more efficiently administered if confirmation hearings are scheduled after the bar date for filing proofs of claim. In order to provide adequate protection for creditors and to assist debtors, attorneys, and the Chapter 13 Trustee in the orderly administration of cases with this delayed confirmation process, the following procedures are necessary:

1. ADOPTION OF CHAPTER 13 PLAN FORMAT:

Attached as Exhibit #1 to this Standing Order is a Chapter 13 Plan Form Dated February 1, 2004, which shall be used by all Chapter 13 debtors in cases filed on or after that date. This Plan Form also includes a motion to value collateral and a motion to avoid liens under 11 U.S.C. Section 522.

Notwithstanding Local Bankruptcy Rule 3015, no separate plan summary shall be filed or served. *The Plan Form may be revised periodically, by amendment to this Order.* The Clerk shall make available to the public the then applicable Chapter 13 Plan Form at the court's website at <http://www.txwb.uscourts.gov>.

2. SERVICE OF THE PLAN AND PRE-CONFIRMATION AMENDMENTS:

(a) Whether or not the plan is filed with the Chapter 13 petition at the commencement of the case, the debtor shall be responsible for serving the plan on all creditors.

(b) Whenever a Chapter 13 plan is amended prior to confirmation, the debtor shall serve the amended plan on all creditors, parties in interest and the Chapter 13 Trustee within two (2) business days after the filing with the court.

(c) Absent leave of court, the last date that a debtor may file a pre-confirmation amended plan is thirty (30) days prior to the confirmation hearing date. The court will only consider de minimis, nonsubstantive, or technical amendments to the plan at the confirmation hearing.

(d) A certificate of service must be filed with the Clerk of the Court reflecting service of any plan or amended plan and should indicate service was made on the Chapter 13 Trustee.

3. INTERIM DISBURSEMENTS BY THE CHAPTER 13 TRUSTEE:

In order that funds paid to the Chapter 13 Trustee are distributed as rapidly as possible to creditors, and that the creditors receive the benefit of all such payments, the Chapter 13 Trustee shall be required to disburse, in the first regular disbursement following the Section 341 Meeting, all funds received from the debtor in each case. For all disbursements made prior to the actual confirmation of the debtor's plan, the disbursement shall be made: first, to administrative expenses, including the Trustee's Fee and Expense Allowance, and the debtor's attorney's fees as provided in the plan but not to exceed the greater of 25% of the plan payment or \$100/month; and then to other priority and secured creditors as provided in the plan. However, before disbursements are made to other priority or secured claimants, certain conditions must be established: (1) the claim must be listed in the debtor's Schedules and not reflect

that it is contingent, unliquidated or disputed; (2) the claimant must have a timely proof of claim on file; and (3) the claim as filed must agree with the classification in the debtor's Schedules. No pre-confirmation disbursement will be made to claimants unless or until all conditions are met. Further, if there is a difference between the amount claimed and the amount scheduled by the debtor, for purposes of interim distribution the Trustee will use the lower amount.

4. DEADLINE FOR FILING PROOFS OF CLAIM BY DEBTORS:

Pursuant to Federal Rule of Bankruptcy Procedure (FRBP) 9006(c), the time under FRBP 3004 that a debtor has to file a proof of claim for creditors who fail to timely file a claim is reduced. After the effective date of this Order, a debtor may file a proof of claim in the name of the creditor no later than ten (10) days prior to the first scheduled confirmation hearing. All other provisions of FRBP 3004 remain unaffected by this Order.

5. DEADLINE FOR FILING OBJECTIONS TO CLAIMS:

Objections to proofs of claim must be in writing and filed no later than thirty (30) days prior to the confirmation hearing date. However, if a proof of claim is filed within thirty (30) days of the confirmation hearing, parties have thirty (30) days from date of that filing to file any objections to such claim.

6. DEADLINE FOR FILING RESPONSES TO OBJECTIONS TO CLAIMS:

Responses to objections to claims must be filed by the deadline provided in the notice included in such motion pursuant to Local Bankruptcy Rule 9014. If no such notice is included, no response is necessary and the objection to claim shall be set for hearing.

7. MOTIONS TO VALUE PROPERTY OR TO AVOID LIENS INDEPENDENT OF THE PLAN:

Some motions to value property or to avoid a lien will be contained within the debtor's plan

as provided in Section IV or Section V of the Plan Form. Any request by the debtor to value property of the estate or to avoid a lien under section 522(f), independent of the plan, must be in writing and filed no later than thirty (30) days prior to the confirmation hearing date.

8. DEADLINE(S) FOR FILING RESPONSES OR OBJECTIONS TO MOTIONS TO VALUE AND MOTIONS TO AVOID LIENS:

(a) Responses or objections to the valuation or lien avoidance proposed in a plan using Section IV or Section V of this Plan Form must be in writing and filed no later than ninety (90) days after the original plan is served or twenty (20) days after an amended plan is served, whichever is later.

(b) Responses or objections to motions to value or avoid liens that are filed separately from the plan must be in writing and filed by the deadline provided in the notice included in such motion pursuant to Local Bankruptcy Rule 9014. If no such notice is included, no response is necessary and the motion shall be set for hearing.

9. DEADLINE FOR FILING OTHER OBJECTIONS TO THE DEBTOR'S PLAN:

Any other objection to the confirmation of the debtor's plan must also be in writing and shall be filed no later than ten (10) days prior to the confirmation hearing date.

10. HEARING ON OBJECTIONS TO PLAN AND RESPONSES/OBJECTIONS TO MOTIONS TO VALUE AND AVOID LIENS:

Unless otherwise noticed and scheduled for a specific hearing date, all timely filed objections to confirmation and responses or objections to motions to value and to avoid liens shall be heard at the confirmation hearing, which shall be set after the bar date for filing claims.

11. AMENDMENTS TO THE PLAN OF REORGANIZATION, MOTIONS FOR MORATORIA, MOTIONS TO CURE PLAN ARREARAGE, MOTIONS TO SELL PROPERTY, AND MOTIONS TO INCUR DEBT:

(a) All motions to modify Chapter 13 plans must:

(1) be noticed to all creditors and parties in interest, including the Chapter 13 Trustee, within two days of filing;

(2) contain negative notice language affording creditors a twenty-day opportunity to file objections to the proposed relief;

(3) specifically indicate the number of months (if any) which the motion proposes to extend the term of the plan from the date of confirmation through completion; and

(4) reference the debtors' Schedules I and J and indicate what material changes have occurred, if any.

A "Motion for Moratorium," a "Motion to Cure Plan Arrearage," and a "Motion to Temporarily Suspend Plan Payments" are motions to modify a Chapter 13 plan within the meaning of this paragraph. Such motions shall state clearly the reason for such request and indicate if any prior moratorium has been granted and, if so, give the details and time period(s) covered. These motions do *not* require "pre-approval" from the Chapter 13 Trustee. The granting of a moratorium does NOT excuse a debtor's obligation to make up the missed payments under the plan.

(b) Debtors' motions to sell property and debtors' motions to incur debt may be filed with twenty-day negative notice language. Such motions also do not require the Trustee's "pre-approval." Any such motion which does not contain twenty-day negative notice language may be denied by the Court or, alternatively, may be set for hearing in the ordinary course of the Court's calendar. If debtors seek to incur debt, they shall also file Amended Schedules I and J, and state in the motion:

(1) the reason or need for the incurring of the debt; and

(2) the item to be purchased or refinanced, the amount of the debt and other relevant financing terms.

(c) References to twenty-day negative notice language as used in this paragraph incorporate the provisions of Local Rule 9014.

12. PLAN PROVISIONS FOR “SURRENDER” OF PROPERTY AND IMPACT ON THE AUTOMATIC STAY; PLAN DISBURSEMENTS AFTER TERMINATION OF THE AUTOMATIC STAY:

Entry of an order confirming a plan that provides for surrender of property as treatment of a secured claim shall operate to modify the automatic stay imposed pursuant to 11 U.S.C. Section 362(a) or 1301(a) to permit the holder of the claim to exercise its rights with respect to obtaining possession and title to the property. Unless otherwise provided by the plan or confirmation order, this modification of the automatic stay becomes effective ten (10) days after entry of an order of confirmation and no separate motion for relief from the automatic stay need be filed by the affected secured creditor.

Unless the court orders otherwise, the Trustee will cease disbursements on a claim after the earlier of (a) sixty (60) days after an order granting relief from the stay is entered or a Notice of Termination of Stay is filed, or (b) the date the Trustee receives a Notice of Repossession or Foreclosure. For the purposes of this paragraph, the “modification” described in the paragraph above is considered to be an order granting relief from the stay.

The creditor retains the right to file an amended unsecured deficiency claim after the foreclosure has occurred except to the extent otherwise provided in any confirmed plan. Unless otherwise provided by an order of the court, any such deficiency claim shall be filed no later than ninety (90) days after the automatic stay is terminated, as determined by the order granting relief from the stay or the Notice of Termination of Stay.

13. SUMMARY DISMISSAL OF CASE:

A Chapter 13 case may be summarily dismissed upon submission of an order by the Trustee for any one of the following causes:

- (a) failure of the debtor to timely pay the filing fee;
- (b) failure of the debtor to timely file a plan or to use the applicable Plan Form;
- (c) failure of the debtor to timely file Schedules;

- (d) unexcused failure of the debtor to appear at the scheduled Meeting of Creditors (Section 341 Meeting);
- (e) delinquency by the debtor of sixty (60) or more days on payments under a proposed or confirmed plan; or
- (f) failure of the debtor to comply with the provisions of a prior order which provides for such relief.

14. DUTIES OF TRUSTEE:

It is sufficient for the purposes of Local Bankruptcy Rule 3015(e)(2)(III) that the Trustee note his or her recommendation concerning confirmation of the debtor's Chapter 13 plan by signing off on the confirmation order.

15. EFFECTIVE DATE:

The provisions of Paragraphs 12, 13, and 14 of this Order become effective for all Chapter 13 cases filed in the Waco Division which are pending on February 1, 2004 or which are filed after that date. All other provisions, including the adoption of the Plan Form described in Paragraph 1, become effective only for Chapter 13 cases filed in the Waco Division on or after February 1, 2004.

IT IS THEREFORE ORDERED that the above procedures are hereby adopted for the Bankruptcy Court for the Western District of Texas in the Waco Division.

IT IS FURTHER ORDERED that the Clerk of the Court shall give notice of this Order by serving a copy on the Chapter 13 Trustee for the Waco Division of the Western District of Texas and by posting a copy on the Court's official web site at <http://www.txwb.uscourts.gov>

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IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION

IN RE:

§  
§  
§ CASE NO.  
§  
Debtor(s) § Chapter 13 Proceeding

**DEBTOR(S)' CHAPTER 13 G AMENDED PLAN  
AND MOTIONS FOR VALUATION AND LIEN AVOIDANCE**

*Creditors are hereby notified that the following Plan may be amended at the Meeting of Creditors (Section 341 Meeting). Any amendment may affect your status as a creditor. The Debtor's estimate of how much the Plan will pay, projected payments, and estimates of the allowed claims may also change. The following information advises creditors of the status of the case based on the information known at the time of its preparation. Any special concerns of a creditor may justify attendance at the Meeting of Creditors and such other action as may be appropriate under the circumstances. More detailed information is on file at the Office of the United States Bankruptcy Clerk in Waco, Texas. Local Bankruptcy Rules and Standing Orders on procedures are available at the Clerk's Office and online at [www.txwb.uscourts.gov](http://www.txwb.uscourts.gov).*

*Use of the singular word "Debtor" in this Plan includes the plural where appropriate.*

**Plan Summary**

- A. The Debtor's plan payment will be \$\_\_\_\_\_ per month, paid by **G** Pay Order or **G** Direct Pay, for \_\_\_\_\_ months. The gross amount to be paid into the Plan is \$\_\_\_\_\_.
- B. The Plan proposes to pay all allowed priority claims in full, all secured claims to the extent of the value of the collateral, and approximately \_\_\_\_\_ % of each unsecured allowed claim.

THIS PLAN DOES NOT ALLOW CLAIMS. YOU MUST FILE A PROOF OF CLAIM TO RECEIVE DISTRIBUTIONS UNDER ANY PLAN THAT MAY BE CONFIRMED. CREDITORS ARE REFERRED TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE AND THE LOCAL BANKRUPTCY RULES FOR THE WESTERN DISTRICT OF TEXAS FOR INFORMATION ON DEADLINES FOR FILING SECURED CLAIMS AND UNSECURED CLAIMS.

- C. The value of the Debtor's non-exempt assets is \$\_\_\_\_\_.
- D. The Debtor's monthly net income of \$\_\_\_\_\_, less monthly expenses of \$\_\_\_\_\_, equals \$\_\_\_\_\_, which is the amount available monthly for the Plan.
- E. If the payment of any debt is proposed to be paid directly by the Debtor outside the Plan, it is so noted in Section VI(1), set forth below.



## Plan Provisions

### **I. Vesting of Estate Property**

**G** Upon confirmation of the Plan, all property of the estate shall vest in the Debtor and shall not remain as property of the estate.

**G** Upon confirmation of the Plan, all property of the estate shall not vest in the Debtor, but shall remain as property of the estate.

**G** Other (describe):

### **II. Interim Disbursement of Plan Payments**

In accordance with the applicable Standing Order Relating to Chapter 13 Case Administration, the Debtor requests and consents to disbursement by the Chapter 13 Trustee of Plan payments prior to confirmation of the Plan to evidence the Debtor's good faith, promote successful completion of the case, and to provide adequate protection to secured creditors. The Chapter 13 Trustee shall begin disbursements as soon as practicable after the Section 341 Meeting of Creditors is concluded.

### **III. Executory Contracts/Unexpired Leases/Contracts for Deed**

Pursuant to 11 U.S.C. § 1322(b)(7) of the Bankruptcy Code, the Debtor hereby elects to assume the following executory contracts, unexpired leases, and/or contracts for deed, if any:

Pursuant to 11 U.S.C. § 1322(b)(7) of the Bankruptcy Code, the Debtor hereby elects to reject the following executory contracts, unexpired leases, and/or contracts for deed, if any:

### **IV. Motion to Value Collateral Pursuant to 11 U.S.C. § 506**

The Trustee shall pay allowed secured claims, which require the filing of a proof of claim, to the extent of the value of the collateral or the amount of the claim, whichever is less. The portion of any allowed claim that exceeds the value of the collateral shall be treated as an unsecured claim under Section VI (2)(F).

The Debtor moves to value the collateral described below in the amounts indicated. An affidavit or declaration pursuant to Local Rule 3012 is attached in support of each of the valuations

below. Objections to valuation of collateral proposed by this Plan must be filed by ninety (90) days after the original Plan is served or twenty (20) days after an Amended Plan is served, whichever is later. If no timely response or objection is filed, the relief requested may be granted in conjunction with confirmation of the Plan.

Creditor/Collateral	Estimated Claim	Value of Collateral	Monthly Payment or Method of Disbursement	Interest Rate	Anticipated Total to Pay	Other Treatment/Remarks
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**V. Motion to Avoid Lien Pursuant to 11 U.S.C. § 522(f)**

The Bankruptcy Code allows certain liens to be avoided. If a lien is avoided, the claim will not be treated as a secured claim but as an unsecured claim under Section VI (2)(F).

The Debtor moves to avoid the following liens that impair exemptions. Objections to lien avoidance as proposed in this plan must be filed by ninety (90) days after the original Plan is served or twenty (20) days after an Amended Plan is served, whichever is later. If no timely objection is filed, the relief requested may be granted in conjunction with confirmation of the Plan. (Debtor must list the specific exempt property said lien impairs and the basis of the lien--i.e., judicial, nonpurchase-money security interest, etc.)

Creditor	Property Subject to Lien	Amount of Lien to Be Avoided	Remarks
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**VI. Specific Treatment for Payment of Allowed Claims**

**1. PAYMENTS TO BE MADE BY THE DEBTOR DIRECTLY TO CREDITORS**

Creditor/Collateral, if any	Remarks	Debt Amount	Monthly Payment
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**2. PAYMENTS TO BE MADE BY TRUSTEE TO CREDITORS**

**A. Administrative Expenses (including attorney’s fees).** The Trustee may receive up to 10% of all sums disbursed, except on any funds returned to the Debtor.

Creditor	Estimated Amount of Debt	Payment Method: before secured creditors, after secured creditors, or along with secured creditors	Remarks
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**B. Priority Creditors**

Creditor	Estimated Amount of Debt	Payment Method: before secured creditors, after secured creditors, or along with secured creditors	Remarks
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**C. Arrearage Claims**

Creditor/Collateral	Estimated Claim	Estimated Value of Collateral	Monthly Payment or Method of Disbursement	Interest Rate	Anticipated Total to Pay	Other Treatment/Remarks
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**D. Cure claims on Assumed Contracts, Leases, and Contracts for Deed:**

Creditor/Subject Property, if any	Estimated Amount of Cure Claim	Monthly Payment or Method of Disbursement	Remarks
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**E. Secured Creditors**

Creditor/Collateral	Estimated Claim	Value of Collateral	Monthly Payment or Method of Disbursement	Interest Rate	Anticipated Total to Pay	Other Treatment/Remarks
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F. General Unsecured Creditors (including claims from rejection of contracts, leases and contracts for deed). *Describe treatment for the class of general unsecured creditors.*

Totals:

Administrative Claims \_\_\_\_\_  
Priority Claims \_\_\_\_\_  
Arrearage Claims \_\_\_\_\_  
Cure Claims \_\_\_\_\_  
Secured Claims \_\_\_\_\_  
Unsecured Claims \_\_\_\_\_

**3. SUPPLEMENTAL PLAN PROVISIONS**

The following are the Supplemental Plan Provisions:

Respectfully submitted this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Co-Debtor

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
Attorney for Debtor

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Address/Phone & Fax Number

**Certificate of Service**

**ATTACH PROPOSED PAYMENT SCHEDULE, IF AVAILABLE**