UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

FILED
AUG 13 2002
UNITED STATES BANKRUPTCY CLERK
FOR THE DISTRICT OF NEBRASKA
OMAHA

GENERAL ORDER 02-05

CHAPTER 13 PROCEDURES

This General Order, effective August 30, 2002, revises the procedures contained in General Order 02-02 adopted and effective December 21, 2001, with regard to Chapter 13 cases. General Order 02-02 is hereby vacated. **All changes are in bold.**

1. First Meeting.

a) Notice. Upon the filing of a Chapter 13 Petition, the Clerk of the Bankruptcy Court (Clerk) shall schedule a "First Meeting of Creditors," as authorized by 11 U.S.C. § 341 and shall provide notice of the date and time of such meeting to the Chapter 13 Trustee, the debtor, counsel for the debtor and all parties listed on the matrix filed with the Petition. The notice shall provide that, if a Chapter 13 Plan is filed with the Petition, the initial objections to confirmation shall be filed no later than fourteen calendar days after the date set for the Meeting of Creditors.

b) Appearance at Section 341 Meetings. Debtors are required by the Bankruptcy Code and Federal Rules of Bankruptcy Procedure to attend a § 341 first meeting of creditors. The Chapter 13 Trustee, with authorization from the United States Trustee, will schedule a continued § 341 meeting if the debtor fails to appear at the originally scheduled meeting. No further notice will be provided by the Clerk or the Chapter 13 Trustee or the United States Trustee's office except through the CM/ECF system, when applicable. It is the responsibility of debtor's counsel to verify the date and time of the continued meeting and inform the debtors of the obligation to attend.

c) Dismissal for Failure to Appear. If the debtor fails to appear at the continued § 341 meeting, the Chapter 13 Trustee, with authorization from the United States Trustee, may notify the Clerk and the case will be dismissed without further notice or hearing.

2. Chapter 13 Plan.

a) Form. Chapter 13 Plans shall be in substantial conformity with Chapter 13 Form 13A which is attached. Form 13A is adopted and shall be used in all Chapter 13 cases filed on and after January 2, 2002. Chapter 13 Plans and Amended Plans are governed by Local Rule 9013-1 and are treated as a "Motion" under that rule. No "Motion to Confirm" is required.

b) Timely Filing of Plan, Schedules and Statement of Affairs. The Chapter 13 Plan, Schedules and Statement of Affairs must be filed within the time authorized by the Bankruptcy Code or the Federal Rules of Bankruptcy Procedure. If these required documents are not timely filed, and no motion for an extension of time has been filed, the Chapter 13 Trustee, with authorization from the United States Trustee, may notify the Courtroom Department by e-mail or phone and the case will be dismissed without further notice or hearing. Fed. R. Bankr. P. 1007(c), 3015(b), 11 U.S.C. § 1307(c)(9).

c) Plan Filed With the Petition. If the Plan is filed with the Petition, counsel for the debtor shall serve the Plan, with a resistance date of fourteen days after the 'Meeting of Creditors.' Because counsel will not have the exact date of the 'Meeting of Creditors' when the Petition and Plan are filed, the Notice may state "Any resistance to the Plan must be filed no later than fourteen days after the 'Meeting of Creditors'. Creditors will receive the 'First Meeting Notice' with the specific date for filing a resistance to the Plan from the Clerk of the Bankruptcy Court."

d) Plan Not Filed With the Petition. If the Plan is not filed with the Petition, it shall be filed and served, with appropriate resistance date, within fifteen days thereafter. No resistance date required under Local Rule 9013-1 shall be set earlier than fourteen days after the date first set for the Meeting of Creditors.

e) Confirmation. If a timely resistance/objection is filed, a confirmation hearing shall be scheduled. Such confirmation hearing shall not be scheduled prior to the completion of the Meeting of Creditors. If no timely objection to confirmation is filed, the Clerk shall enter a text-only order confirming the Plan as

filed. If counsel for the debtor, after consultation with the Trustee or a creditor, desires a specific order with language agreed to by the parties, counsel shall notify the Courtroom Department, by e-mail or phone, and request permission to submit such an order. No confirmation order shall be entered by the Clerk before the Meeting of Creditors has been completed.

f) Extension of Time to File Plan. If an extension of time to file a Plan is granted and the Plan is not filed and noticed at least fifteen days prior to the first date set for the Meeting of Creditors, the Chapter 13 Trustee will notify the Clerk and the Meeting of Creditors will be continued. The Clerk will provide notice of the rescheduled meeting of creditors to the Chapter 13 Trustee and counsel for the Debtor. Notice of the rescheduled meeting of creditors shall be sent by counsel for the debtor to all creditors and parties requesting notice and a certificate of service shall be filed with the Court. If the Plan is not filed at least fifteen days prior to the second date set for the Meeting of Creditors, the Chapter 13 Trustee, with authorization from the United States Trustee, may notify the Clerk and the case will be dismissed without further notice or hearing.

g) Amended/**Modified** Plan. A Chapter 13 Plan may not be withdrawn. Such Plan may be superseded by a subsequently-filed Amended Plan. If an Amended Plan is filed, pre confirmation or post confirmation, it must be served, with appropriate resistance date, pursuant to Local Rule 9013-1. No resistance required under Local Rule 9013-1 shall be set earlier than fourteen days after the date set for the Meeting of Creditors. If an Amended Plan is filed while there are objections pending to a previously-filed Plan, whether or not a hearing has been scheduled, counsel for the debtor is required to notify those parties that have filed objections and notify the Courtroom Department, that such an Amended Plan has been filed and that no further action will be taken on the previously-filed Plan. **No separate "Motion to Modify Confirmed Plan" is necessary.**

h) Suspension of Payment. A motion to suspend payments to the Trustee, whether a Plan has been confirmed or not, shall be served on all parties in interest with the appropriate resistance date required by Local Rule

9013-1. If no resistance is filed, a text-only entry granting the motion shall be entered on the electronic docketing system. The Court shall not approve more than two motions to suspend payments during a case.

3. Employer Deduction. To enhance the possibility that a debtor will successfully complete a Plan, each Plan shall provide for an employer wage deduction and transmission to the Chapter 13 Trustee unless debtor, through counsel, files a detailed motion concerning the reason the debtor does not desire an employer deduction. Such motion shall be served upon the Trustee, with an appropriate resistance date required by Local Rule 9013-1. If the Trustee does not object, the motion will be granted by a text entry in the electronic docketing system. If the Trustee objects, a hearing shall be scheduled.

4. Motion to Reinstate. No more than one motion to reinstate a dismissed case shall be granted. A motion to reinstate a dismissed case, which must include a detailed explanation concerning the cause of the dismissal and the proposed cure of such cause, must be filed no later than ten days after the dismissal order is filed and served on all parties in interest with the appropriate resistance date required by Local Rule 9013-1. Failure to file such motion within ten days from the date of the dismissal shall result in denial of the late-filed motion, without a hearing.

5. Employment of Attorney for Debtor. No application for appointment as attorney for a Chapter 13 debtor is required.

6. Attorney Fees. General Order 97-1 which deals with professional fees in Chapter 13 cases is rescinded. In Chapter 13 cases, counsel for the debtor, without filing a fee application, may include in the Chapter 13 Plan a request for the allowance of up to $1,800.00 in attorney fees and expenses not to exceed **$200.00**. The amount of fees and anticipated expenses specified in the Plan shall be deemed allowed upon confirmation of the Plan. Such fees represent compensation for the specific items listed in numbered paragraph **7** below. If counsel for the debtor has provided extraordinary legal services to the debtor and earned fees in excess of $1,800.00 either prior to confirmation or following confirmation, counsel may file a detailed fee application, served in accordance with Local Rule 9013-1, either prior to or after confirmation of a Plan. Whether an objection to the additional fees is filed, or not, such fee application shall be closely scrutinized by both the Chapter 13 Trustee and the Court. The Chapter 13 Trustee may, but is not required to file a "comment" concerning the hourly rate, the time

involved, the services provided or the total amount of fees requested. Except for any prepetition retainer, counsel for the debtor may not receive fees directly from the debtor. Fees shall be paid through the Plan unless otherwise ordered. If a Chapter 13 case is dismissed or converted to another chapter prior to confirmation, the Chapter 13 Trustee is authorized to pay the balance of the attorney fees requested in the Plan from funds held by the Trustee. If counsel desires consideration of a request for additional fees, a separate motion must be filed.

7. Services Included in Standard Allowable Fee.

Legal services covered by the standard allowable fee of $1,800.00 in Chapter 13 cases are the following:

a. Meet with the debtor to review the debtor's debts, assets, liabilities, income, and expenses. Counsel the debtor regarding the advisability of filing either a Chapter 7 or Chapter 13 case. Discuss both procedures with the debtor and answer the debtor's questions. Explain what payments will be made directly by the debtor and what payments will be made through the debtor's Chapter 13 Plan, with particular attention to mortgage loan payments, as well as any other claims which accrue interest.

b. Explain to the debtor how, when and where to make the Chapter 13 Plan payments. Explain to the debtor that the first plan payment must be made to the Trustee within thirty days of the date the Plan is filed.

c. Advise the debtor of the requirement to attend the § 341 Meeting of Creditors, and instruct the debtor as to the date, time and place of the meeting. Appear at the § 341 Meeting of Creditors with the debtor.

d. Advise the debtor of the necessity of maintaining liability, collision and comprehensive insurance on vehicles securing loans or leases.

e. Timely prepare and file the debtor's Petition, Plan, Statements and Schedules. Respond to objections to plan confirmation, and where necessary, prepare an amended plan. Prepare, file, and serve necessary modifications to the

Plan. Prepare, file, and serve necessary amended statements and schedules, in accordance with information provided by the debtor.

f. Prepare, file, and serve necessary motions to buy, sell, or refinance real property when appropriate.

g. Object to improper or invalid claims, if necessary, based upon documentation provided by the debtor.

h. Represent the debtor concerning motions for relief from stay.

i. When appropriate, prepare, file, and serve necessary motions to avoid liens on real or personal property.

j. Provide such other legal services as are necessary for the proper administration of the case.

8. Debtor(s) operating under a confirmed Plan must timely file post-petition tax returns, both state and federal, and pay post-petition taxes, both state and federal, on a timely basis. Debtor(s) shall comply with all requirements of Title 26 of the United States Code or applicable state tax code. Failure to file post-petition federal tax returns or failure to timely pay post-petition federal tax liabilities, in the manner prescribed by Title 26, or applicable state law, absent a showing of good cause, may be considered a material default of a confirmed Plan. All post-petition federal and state tax returns and all post-petition federal and state tax liabilities are included in this paragraph, including returns or liabilities for which Debtor(s) is/are responsible parties under 26 U.S.C. § 6672 or similar state laws.

9. Contacts.

United States Bankruptcy Court
for the District of Nebraska
111 South 18th Plaza, Suite 1125
Omaha, NE 68102

(402) 661-7444
(402) 661-7475 - Courtroom Department

Omaha_Courtroom@neb.uscourts.gov - Courtroom Department

United States Bankruptcy Court
for the District of Nebraska
460 Federal Building
100 Centennial Mall North
Lincoln, NE 68508

(402) 437-5100
(402) 437-5100 Ext. 3207 - Courtroom Department

Lincoln_Courtroom@neb.uscourts.gov - Courtroom Department

IT IS SO ORDERED.

Dated this 13th Day of August, 2002.

Timothy J. Mahoney, Chief Judge
United States Bankruptcy Court

IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEBRASKA

IN THE MATTER OF:	)	BK. NO.
	)	(Chapter 13)
DEBTOR,	)	
CODEBTOR,	)	***CHAPTER 13 PLAN***
	)	
DEBTOR(S).	)	

PAYMENTS

The Debtor(s) submit to the Standing Chapter 13 Trustee all projected disposable income to be received within the first three (3) years of the plan as follows:

A. Monthly payment amount: $_____
B. Number of payments: _____
C. Base amount (A X B): $_____

The payment shall be withheld from the Debtor's paycheck: Yes _____ No _____
Employee's name whose payroll is deducted: _____
Employer's name, address, city, state, phone: _____
Debtor is paid: Monthly __ Bimonthly __ Weekly ___ Biweekly __ Other ___

ORDER OF PAYMENT OF CLAIMS

Trustee fees shall be deducted from each payment made by the Debtor(s) to the Trustee.
Claims shall be paid in the following order: Debtor's attorney fees, secured claims, priority claims, co-signed consumer debts, general unsecured claims. Claims within each class shall be paid pro rata.

TREATMENT OF CLAIMS

ADMINISTRATIVE AND PRIORITY CLAIMS

All claims entitled to priority under 11 U.S.C. §507 shall be paid in full in deferred cash payments unless the holder of a particular claim agrees to a different treatment of such claim. 11 U.S.C. §1322(a)(2). It is further provided that any and all pre-petition penalties, and post-petition penalties and interest, which have attached or will be attached to any such claim, shall be treated as a general unsecured claim and not entitled to priority. Such claims are as follows.
Trustee fees shall be deducted from each payment made by the Debtor(s) to the Trustee.
The Debtor(s)' Attorney applies for court approval of fees in the total amount of $_____ (not to exceed $1800). Prior to filing, Debtor(s)' Attorney received $_____ in fees, and the balance of $_____ shall be paid through this plan upon confirmation. Costs in the amount of $_____ are also allowed.
Priority Taxes: Federal: $_____ State: $_____ Total: $_____

SECURED CLAIMS

Home Mortgage (Name of Creditor: _____)

Any arrearage shall be paid through the Plan, and the Debtor(s) will pay the regular monthly mortgage payments directly to the mortgage holder.

Estimated Arrearage	***Post-confirmation Interest Rate***	***Pre-confirmation Interest Rate***	***Dollar Limit If Any On Pre-confirmation Interest***	***Total Amount:***
$_____	_____%	_____%	_____	_____

Other Secured Creditors

Name: _____ Security: _____ Value: _____

Post-confirmation Interest Rate	Pre-confirmation Interest Rate	Dollar limit if any on pre-confirmation Interest	Total Amount
_____	_____	_____	_____

_____ ***CO-SIGNED UNSECURED DEBTS***

The following co-signed consumer debts shall be paid in full at the contract rate of interest from petition date.

Name: _____ Claim: _____ Interest Rate: _____% Total: $_____

_____ ***LIEN AVOIDANCE***

The Debtor(s) shall file a Motion to Avoid the lien of the following creditor(s):

Name: _____

_____ ***SURRENDER OF PROPERTY***

The Debtor(s) shall surrender the following property to the Secured Creditor holding a lien against such property.

Name: _____ Property Surrendered: _____

_____ ***EXECUTORY CONTRACTS***

The Debtor(s) reject the following executory contracts:

Name:	Address:	City & State:	Zip Code:	Type of Contract:
_____	_____	_____	_____	_____

The Debtor(s) hereby assume the lease/executory contracts referenced below and provide for the lease payment to be included in the Chapter 13 plan.

Name:	Address:	City/ State:	Zip Code:	Type of Lease:	Vehicle Description	Number of Payments Remaining Under the Lease:
_____	_____	_____		_____	_____	_____
_____	_____	_____		_____	_____	
_____	_____	_____		_____	_____	
		_____		_____	_____	
				_____	_____	

The Trustee shall cure the prepetition lease arrearages in the amount of _____ and commence making the regular monthly lease payments in the amount of $_____ with the first payment due on _____, 20__, and shall continue the regular monthly lease payments thereafter from each payment made under the plan.

_____ ***UNSECURED CLAIMS***

Allowed unsecured claims shall be paid prorata all remaining funds.

ADDITIONAL PROVISIONS

The holder of any allowed secured claim provided for by the plan shall retain a lien securing such claim until the amount for which the claim is allowed as secured or the value of the collateral, securing such claim, whichever is less, is paid in full. 11 U.S.C. §1325(a)(5)(B).

Property of the estate, including the Debtor's current and future income, shall revest in the Debtor(s) at the time a discharge is issued, and the Debtor(s) shall have sole right to use and possession of property of the estate during the pendency of this case.

In order to obtain distributions under the plan, a creditor must file a proof of claim within 90 days after the first date set for the Meeting of Creditors. Claims filed after this bar date shall be disallowed except as provided in Bankruptcy Rule 3002.

Dated: _____.

Debtor(s)

By: _____

Attorney for the Debtor(s)