

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OKLAHOMA



In re:

CHAPTER 13 CASES -  
ADEQUATE PROTECTION  
OF SECURED CREDITORS

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Misc. Order No. 162

**ORDER**

Upon due deliberation of 11 U.S.C. Section 1326(a)(1) as amended by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, the Court orders as follows:

1. Each creditor entitled to adequate protection under 11 U.S.C. Section 1326(a)(1)(C) shall be provided adequate protection by the Chapter 13 Plan in the form of a lien on each pre-confirmation plan payment to the Chapter 13 Trustee in the amount stated in the plan for such creditor.

2. The Chapter 13 plan shall provide for equal monthly amounts to each creditor entitled to adequate protection, unless otherwise agreed by a creditor in a writing filed in the case.

3. The Chapter 13 debtor shall not pay adequate protection payments directly to any creditor.

4. There shall be a presumption that only the creditors provided a lien on pre-confirmation plan payments by the plan are entitled to adequate protection under 11 U.S.C. Section 1326(a)(1)(C).

5. A creditor may file written objection to the provision for adequate protection in the plan, however, the Chapter 13 plan shall control until otherwise ordered by the Court.

6. The Trustee shall hold all plan payments received (including the portion of the plan payments upon which a lien has been provided for under the plan) until confirmation of a plan, dismissal or conversion of the case. If a plan is confirmed, the Trustee shall disburse all payments held as provided in the confirmed plan. If the case is dismissed or is converted to another chapter prior to confirmation of a plan, the adequate protection lien provided for in the plan shall attach to plan payments received by the Trustee on or before the date of conversion or dismissal and the Chapter 13 Trustee is authorized to disburse the funds to which the adequate protection lien has attached to the creditor entitled thereto (subject to paragraphs 7 and 8 below).

7. If one or more amended plans are filed which contain different payment amounts for a creditor entitled to adequate protection and the case is either dismissed or converted to another chapter prior to confirmation of a plan, the lien shall attach to the highest payment amount stated in the plans for that creditor and that amount shall be paid to the creditor by the Trustee.

8. No adequate protection payments shall be paid to any creditor unless a secured proof of claim has been filed for that creditor. If a secured proof of claim has not been filed by or on behalf of a creditor entitled to adequate protection prior to the date of dismissal or conversion of the case to another chapter prior to confirmation of a plan, the adequate protection lien shall be extinguished and the Trustee is hereby authorized to disburse the funds which otherwise would have been disbursed to that creditor to the debtor free and clear of any lien or interest of any creditor.

9. All adequate protection payments made by the Chapter 13 Trustee shall be made in the ordinary course of Chapter 13 Trusteeship business.

10. Upon disbursement of adequate protection payments under this order, the Chapter 13 Trustee is hereby allowed the Trustee's percentage fee as periodically fixed by the United States Attorney General, or his designee, under 28 U.S.C. Section 586(e).

11. This order shall apply to all Chapter 13 cases filed on or after the date of entry.

IT IS SO ORDERED.

Dated: February 15, 2006.

BY THE COURT:



TERRENCE L. MICHAEL, CHIEF JUDGE  
UNITED STATES BANKRUPTCY COURT



DANA L. RASURE  
UNITED STATES BANKRUPTCY JUDGE