

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF MISSISSIPPI**

**REVISED STANDING ORDER DELINEATING CERTAIN POST CONFIRMATION  
PRACTICES IN CHAPTER 13 BANKRUPTCY CASES**

In order to enable Chapter 13 debtors and secured creditors and/or mortgage servicers to better ascertain an accurate amount owed on the indebtedness prior to the entry of the Chapter 13 discharge, the secured creditors/mortgage servicers shall undertake the following practices and procedures subsequent to the confirmation of the debtors' Chapter 13 plan, to-wit:

1. Secured creditors/mortgage servicers should carefully monitor post-petition payments made in a Chapter 13 case. If the underlying indebtedness is paid current post-petition, then the secured creditors/mortgage servicers should not seek to recover late fees. No late fees should be recovered or demanded for systemic delay, but should be limited only to actual defaults, for example, when the debtor fails to remit the payment due to the Chapter 13 trustee. *See, In re Lee*, 167 B.R. 417 (Bankr. S.D. Miss. 1992), *aff'd*, 168 B.R. 319 (S.D. Miss. 1993), *aff'd*, 22 F.3d 1094 (5<sup>th</sup> Cir. 1994).

2. Payments made on the pre-petition/pre-confirmation arrearage claim should be exclusively applied to the arrearage claim. Regular monthly mortgage payments that are paid post-confirmation are to be applied to the monthly installment due in the month that the payment was made to the Chapter 13 trustee.

3. Secured creditors/mortgage servicers should file a notice and reason for any payment change with the court and provide a copy to the Chapter 13 trustee, the Chapter 13 debtors, and the debtors' attorney of record. This specifically applies to payment changes resulting from an adjustable interest rate, as well as, any changes resulting from a loss or reduction in an interest credit.

4. Secured creditors/mortgage servicers are required to file a notice with the court, the Chapter 13 trustee, the Chapter 13 debtors, and the debtors' attorney of record, as to any protective advances made in reference to a secured claim, such as, "force placed" insurance premiums or property taxes.

Entered 11-7-08 at 10:45 A.M.,  
United States Bankruptcy Court  
Northern District of Mississippi  
David J. Parker, Clerk *DJP*

Should the secured creditors/mortgage servicers elect, this notice may be filed and disseminated in the form of an amended proof of claim.

5. Secured creditors/mortgage servicers should not collect or attempt to collect from the Chapter 13 debtors any post-confirmation/pre-discharge fees, including attorney fees, unless approved by the Bankruptcy Court. An application to approve such fees may be made pursuant to Rule 2016, Federal Rules of Bankruptcy Procedures, or pursuant to an amended proof of claim which must be filed with the court and the Chapter 13 trustee, as well as, noticed to the Chapter 13 debtors and the debtors' attorney of record. This provision does not prohibit creditors or servicers from assessing fees or charges to the debtors' accounts for record keeping purposes only. *See, In re Thompson*, 351 B.R. 402 (Bankr. N.D. Miss, 2006). However, in keeping with the intent of this order which is to assist in determining an accurate amount of the indebtedness owed by Chapter 13 debtors, the better practice would be for the creditors or servicers to have all such assessments approved, even if for record keeping purposes only, as set forth in this provision.

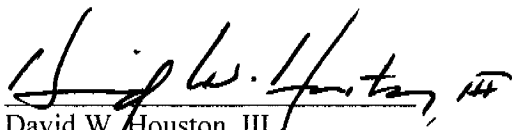
6. Secured creditors/mortgage servicers should be mindful of the provisions of §524 (i) of the Bankruptcy Code which became effective October 17, 2005, as result of the enactment of the Bankruptcy Abuse Prevention Consumer Protection Act of 2005 ( BAPCPA).

Failure to comply with the provisions of this Standing Order may subject the offending party to sanctions, including, but not limited to, the disallowance of all or any part of the secured claim, actual and exemplary damages, costs, and attorney fees.

This Revised Standing Order replaces that certain Standing Order entered by the court on the 15<sup>th</sup> day of July, 2008.

This Revised Standing Order shall be applicable to cases filed on or after December 1, 2008.

So Ordered, this the 6<sup>th</sup> day November, 2008.

  
David W. Houston, III  
United States Bankruptcy Judge