

SIGNED this 8th day of November, 2005.



  
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

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FIRST JOINT STANDING ORDER  
RELATING TO CHAPTER 13 CASE ADMINISTRATION UNDER BAPCPA  
IN THE EL PASO AND WACO DIVISIONS

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**IT IS HEREBY ORDERED:**

**1. EFFECTIVE DATE AND NOTICES HEREOF:**

Unless otherwise provided herein or ordered by the Court in an individual case, this First Joint Standing Order governs and supersedes prior Standing Orders relating to Chapter 13 Case Administration in the El Paso and Waco Divisions for the Western District of Texas in all cases filed on or after October 17, 2005. The Chapter 13 Trustee for each of these two Divisions shall place a copy of this Standing Order on the Trustee's website and, upon request, shall furnish a copy of it to any party in interest in any pending case.

**2. ADOPTION OF CHAPTER 13 PLAN FORMAT:**

Attached as **Exhibit # 1** to this Standing Order is a Chapter 13 Plan Form dated October 17, 2005, that 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. § 522. Notwithstanding Local Bankruptcy Rule 3015, no separate plan summary shall be filed or served. *The Plan Form may be revised periodically, by amendment or supplement 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>.

**3. ADOPTION OF FORMS:**

**a.** Attached as **Exhibit # 2** to this Standing Order is a Supplement to the Confirmation Order. Such form may be used in cases where the debtor has not filed all required tax returns (of whatever kind). Use of this form will allow the Court to confirm plans where the debtor has not filed the required tax returns. The debtor may request an extension of the time allowed in the Supplement by filing with the Court a "Motion to Extend Time to File Returns," which the Court, upon notice and hearing, may grant. Such motion should be filed prior to the date the returns first come due under the Supplement to the Confirmation Order. In no case shall such extension exceed 120 days after the completion of the Section 341 Meeting of Creditors.

**b.** Attached as **Exhibit # 3** to this Standing Order is a Declaration of the Debtor(s) Concerning Confirmation Requirements. Such Declaration shall be completed by the debtor(s) and presented to the person presiding at the Section 341 Meeting of Creditors. If the case can be confirmed no later than ten days after completion of the Section 341 Meeting, this completed form will satisfy the confirmation requirements of §§ 1325(a)(8) and (9) regarding domestic support obligations, as that term is defined in 11 U.S.C. § 101(14A), and tax returns.

**c.** Attached as **Exhibit # 4** to this Standing Order is a Questionnaire for Debtors. Such Questionnaire shall be sent to all debtors by the Trustee and completed by all debtors and returned to the Trustee within 30 days of receipt. If not returned to the Trustee within the 30-day period, the Trustee shall file a motion to compel the debtor(s) to appear and show cause why they have not cooperated. Upon the Trustee's receipt of the completed Questionnaire, the Trustee shall file a motion, with 20 day negative notice, for issuance of a discharge. The Trustee in filing the motion, and the Court in ruling on it, may rely on the factual representations of the debtor(s) made in the Questionnaire, for purposes of satisfying the discharge requirements of 11 U.S.C. § 1328(a). The Trustee's motion shall be served on all creditors, all holders of domestic support obligations and any state child support enforcement agency required to receive notice under the Bankruptcy Code. Service of this motion shall satisfy the Trustee's notice requirements of 11 U.S.C. § 1302(d)(1)(C). If no objection to the Trustee's Motion is timely filed, the discharge hearing shall be deemed to have been waived and an order discharging the debtors shall be entered.

**4. DEBTOR'S DUTY TO FACILITATE NOTICE REGARDING DOMESTIC SUPPORT OBLIGATIONS:**

In order to facilitate the expeditious notice to domestic support obligation claim holders and the applicable state agencies required by 11 U.S.C. § 1302(d)(1)(A) and (B), the debtor shall, at the time the schedules are filed, provide to the Trustee: (1) the names and current addresses and telephone numbers of all persons to whom the debtor owes a domestic support obligation; and (2) the name, address and telephone number of the state child support enforcement agency in each state where a person described in clause (1) above resides. For purposes of this paragraph, a domestic support obligation claim holder must be listed even if the debtor is current on the obligation.

**5. 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.

**6. PRE-CONFIRMATION DISBURSEMENTS BY THE CHAPTER 13 TRUSTEE:**

a. The Court hereby orders that all pre-confirmation adequate protection payments to those secured claimants that the debtor proposes to pay through the plan shall be made by the Trustee in the form of pre-confirmation, or “interim” disbursements made monthly, on the same dates the Trustee makes post-confirmation disbursements in other cases. The debtor is hereby ordered to remit such payments to the Trustee commencing 15 days after the filing of the petition. Provided all conditions for disbursement are met, the Trustee shall begin disbursing to creditors under this paragraph on the first regularly scheduled disbursement after 30 days after the petition is filed, unless otherwise provided herein or by separate order. Such interim disbursements by the Chapter 13 Trustee shall be in lieu of direct adequate protection payments by debtors to those secured claimants that the debtor proposes to pay through the plan, as provided in 11 U.S.C. § 1326(a)(1)(C), and no direct adequate protection payments by debtors to those creditors shall be required unless otherwise ordered by the Court.

b. In addition, the Court hereby orders that the Trustee shall include in such interim disbursements, payments on administrative expenses, including the Trustee’s Fee and Expense Allowance and, if and when the fee for filing the case has been paid in full, the debtor’s attorney’s fees as provided in the plan, but not to exceed the greater of: (a) 25% of the debtor’s total monthly plan payment or (b) \$100, provided that if the amount available after payment of other prior claims from the debtor’s monthly plan payment is less than \$100 per month, then such available amount may be paid on debtor’s attorney’s claim for fees and expenses.

c. With respect to interim disbursement payments made to priority or secured claimants other than the Trustee and debtor’s counsel, the following conditions must be met: (a) the claim must be listed in the debtor’s Schedules and must not be listed as contingent, unliquidated or disputed; (b) the claimant must have a timely proof of claim on file; and (c) the classification of the claim as filed must agree with its classification in the debtor’s Schedules. If there is a difference between the amount of the claim set out in the proof of claim and the amount scheduled by the debtor, for purposes of interim disbursements the Trustee will use the lower amount.

**7. ADDITIONAL ADEQUATE PROTECTION TO VEHICLE LENDERS:**

Pursuant to 11 U.S.C. § 363, the debtor shall not use a vehicle post-petition unless the

debtor: (i) maintains insurance on the vehicles in the amount required by the debtor's pre-petition contract; (ii) provides proof of insurance to the lienholder upon request; and (iii) provides the Trustee with all necessary information for a wage order not later than the date of the initial Section 341 Meeting of Creditors (if the debtor is a wage or salaried employee and the Court has not ordered otherwise).

**8. DEADLINE FOR FILING OBJECTIONS TO CLAIMS; LATE-FILED CLAIMS:**

**a.** Objections to proofs of claim must be in writing and filed no later than thirty (30) days after the later of: (1) the bar date applicable to the particular claim being objected to, or (2) the date the particular amended claim being objected to was amended. 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.

**b.** No objection to a late-filed claim shall be necessary; such claims are deemed disallowed unless otherwise ordered by the court. The burden is on the claimant to request, by motion, allowance of a late-filed claim.

**9. 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 the particular objection, pursuant to Local Bankruptcy Rule 9014. If no such notice is included in the objection to claim, no response is necessary and the objection to claim shall be set for hearing.

**10. ALLOWANCE OF CLAIM FOR PURPOSES OF TRUSTEE'S DISBURSEMENTS ON CLAIM:**

For purposes of the Trustee's disbursements on a claim under the plan, as soon as the deadline (as established herein) for filing an objection to a particular claim has passed, if no objection to the claim is then pending, the Trustee is authorized to rely on the most recent order determining the allowance of the claim or, if no such order has been entered, on the Court's official record of filed claims in the case.

**11. MOTIONS TO VALUE COLLATERAL OR TO AVOID LIENS INDEPENDENT OF THE PLAN, AND RESPONSES THERETO:**

**a.** While some motions under 11 U.S.C. § 506 to value collateral or under 11 U.S.C. § 522(f) to avoid lien may be contained within the debtor's plan as provided in Section IV or Section V of the Plan Form, the debtors may elect to separately file a motion to value collateral or to avoid a lien, independent of the plan. Any such independent motion must be in writing.

**b.** Responses or objections to motions to value collateral or to 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.

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

Any objection to the confirmation of the debtor's plan, including responses and objections to the motions to value collateral and to avoid liens that are contained in the plan, must be in writing and shall be filed no later than ten (10) days prior to the confirmation hearing date. All objections to a plan, including responses and objections to the motions to value collateral and to avoid liens that are contained in the plan, will be considered at the confirmation hearing.

**13. AMENDMENTS TO THE PLAN OF REORGANIZATION, MOTIONS FOR MORATORIUM, 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 debtor's Schedules I & J and indicate what material changes have occurred, if any.

**b.** 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 reasons 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.

**c.** The debtor shall not incur consumer debt without prior approval of either the Court or the Trustee. Trustee's approval shall be sought by the submission of a written request to the Trustee by the debtor's attorney (or the debtor, if not represented by counsel), and such request shall not be filed with the Clerk. At the time the request is submitted to the Trustee, however, the debtor shall also file with the Clerk Amended Schedules I & J. In the written request to the Trustee, the debtor shall state:

- (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.

If the request is approved by the Trustee, the Trustee shall file such approval with the Clerk. If the application is not approved by the Trustee within ten (10) days, a motion to incur debt, which shall contain the same information as the request to the Trustee and shall also reference the Trustee's lack of approval of the request, may then be filed with the Clerk.

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

a. 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. § 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.

b. Unless the Court orders otherwise, the Trustee will cease disbursements on a claim after the earlier of (a) sixty (60) days after an order for 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.

c. 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.

**15. DUTIES OF TRUSTEE:**

It is sufficient for the purposes of Local Bankruptcy Rules 2016(c)(1) and 3015(e)(3) that the Trustee note his or her recommendation concerning confirmation of the debtor’s Chapter 13 plan by signing off on the confirmation order.

**16. DEBTOR’S COUNSEL: SCOPE OF REPRESENTATION AND COMPENSATION:**

**a. Scope of Representation; Benchmark Fee:**

(1) An attorney representing the debtor(s) in a Chapter 13 case shall represent the debtor(s) in *all* matters in or related to that case, from the earlier of the filing of the petition (if the attorney signs the petition) or the filing of a notice of appearance by the attorney (if the debtor originally filed the petition pro se) until the case is dismissed or otherwise closed (including disposition of any motion to reinstate the case), absent court approval of counsel’s withdrawal from representation.

(2) The Bankruptcy Court for the Western District of Texas may from time to time establish a standard benchmark fee for debtor’s counsel in a routine non-business Chapter 13 case, and a standard benchmark fee for debtor’s counsel in a routine business case (see subparagraphs (3) and (4) below). An attorney may not receive a post-petition retainer or payment from the debtor other than as specified in this Standing Order without leave of court. As guidelines, the Court contemplates that the following matters will be included in the standard benchmark fee:

- (a)** all conferences with the debtor, including budget consultations and timely responses to debtor inquiries, whether by telephone or in writing;
  - (b)** preparation of the bankruptcy petition, schedules, statement of affairs, plan and pre-confirmation amendments thereto;
  - (c)** representation of the debtor at the § 341 meeting of creditors, including any continuances thereof;
  - (d)** representation of the debtor at confirmation and discharge hearings (including reset confirmation hearings);
  - (e)** representation of the debtor in connection with two motions under 11 U.S.C. § 362;
  - (f)** representation of the debtor on motions to dismiss, including Trustee motions to dismiss with or without prejudice;
  - (g)** preparation of and representation of the debtor on routine motions, which include the following:
    - (i)** motions for moratorium;
    - (ii)** motions to waive pay order;
    - (iii)** motions to pay filing fees in installments;
    - (iv)** a first motion to reinstate the case;
    - (v)** objections to claims and motions to value collateral and to avoid liens;
    - (vi)** motions to extend time to file paperwork; and
    - (vii)** motions to convert or dismiss the case;
  - (h)** providing notices to creditors, where appropriate, such as explaining the automatic stay;
  - (i)** making and performing, or assisting the debtor in making or performing, the disclosures and duties required by 11 U.S.C. §§ 521, 527, 528 and 1308 including completion of the Questionnaire required at the end of the case (see Paragraph 3c above); and
  - (j)** other miscellaneous normal, customary services including correspondence with clients, review of correspondence from clients, communication with the Trustee, Trustee's office and Clerk's office.
- (3)** In an individual non-business case, the Court deems \$2750 ("the Individual Standard Fee") as reasonable compensation and reimbursement of expenses for an attorney representing the debtor in accordance with 11 U.S.C. § 330(a)(3)(B).
- (4)** In an individual business case, the Court deems \$3250 ("the Business Standard Fee") as reasonable compensation and reimbursement of expenses for an attorney representing the debtor in accordance with 11 U.S.C. § 330(a)(3)(B).

(5) The Court will therefore allow an Individual Standard Fee or a Business Standard Fee and the bankruptcy clerk filing fees without the requirement of an application for compensation under 11 U.S.C. § 330 and Fed.R.Bankr.P. 2016(a).

**b. Additional Compensation:**

(1) Notwithstanding the foregoing, an attorney may for cause shown request additional fees for the services listed. Such request may be made through the filing of a formal application for compensation and following the National and Local Rules for such procedure. Alternatively Debtor's counsel may follow the expedited procedure provided hereafter. In no event however shall counsel condition representation upon payment of an additional fee prior to undertaking a task. Counsel's choice is to undertake the work and then seek compensation or to decline the work and file an application for permission to withdraw from further representation in the case.

(2) **Expedited Application for Additional Compensation:**

(a) If (and only if) debtor's counsel's employment agreement with the debtor regarding attorneys fees and scope of employment authorizes fees and expenses to be charged beyond the amount originally agreed to be paid, as disclosed by counsel pursuant to Fed.R.Bankr.P. 2016(b), and only if and when the fee for filing the case has been paid in full, counsel may seek the allowance and payment of additional fees and expenses. In the interest of establishing *a simpler, more expeditious, and less expensive process* for requesting and obtaining allowance of such additional attorneys' fees and expenses in Chapter 13 cases, as an alternative to the procedure established under Local Rule 2016(4), the following procedure may be used. This abbreviated procedure may be used not more than three times in any case, and the total additional fees and expenses that are requested in a case using this abbreviated procedure may not be more than the amount originally charged.

(b) Except as provided below in subsection (b)(2), such additional fees may only be requested by the filing by counsel of a **"Motion for Additional Fees."** If previous motions for additional fees have been filed, then subsequent motions shall be identified numerically as "Second Motion for Additional Fees," etc. The content of the motion shall:

(i) include the 20-day negative notice language of Local Bankruptcy Rule 9014(a) and be served on all creditors with allowed claims, the debtor(s) and the Trustee;

(ii) state the amount agreed to be paid under the original fee agreement, and the amount of any pre-petition retainer;

(iii) state the dates and amounts of all previous requests for additional fees and expenses, and the amount awarded on each;

- (iv) briefly describe the services performed for the current request;
- (v) state the proposed source of payment of the fees and expenses requested (e.g., directly by the debtor, through the plan, by a third party, from sales proceeds, etc.);
- (vi) briefly describe the anticipated effect of the allowance of the additional fees and expenses on the plan (i.e., on its feasibility, the amount of any reduction in the dividend to unsecured creditors, etc.); and
- (vii) contain a certificate of service indicating service on the trustee, debtor, and all other parties in interest in the case.

**(3) Exceptions:** In the few limited instances listed below, a request for additional attorneys fees and expenses may be included in a pleading that requests other relief. That a request for additional fees and expenses is included shall be noted in the caption of the pleading (and in the caption of the form of the order submitted with the pleading), which caption shall also indicate how many such requests have preceded the current request (e.g., “. . . and Fourth Request for Additional Debtor’s Attorneys Fees”). The pleading shall comply with the requirements of subsection 2(b)(i) through (vii), above, and may include 20-day negative notice. If 20-day negative notice is included, and if no party in interest files a timely response, the court may approve the request for additional attorneys fees and expenses, in addition to the other relief requested, without further notice or hearing.

The *only* pleadings which may include such requests for additional attorneys fees and expenses are:

- (a) applications to sell property where the proceeds of the sale will be the source of payment of any authorized additional fees and expenses; and
- (b) motions or other pleadings where a third party, not the bankruptcy estate or the debtor, will be the source of payment of any authorized additional fees and expenses.

Notwithstanding the foregoing, responsive pleadings may not include requests for additional attorneys fees and expenses of counsel for the debtor.

## 17. 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 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 of the debtor of sixty (60) days or more days on payments under a proposed or confirmed plan;
- f. failure of the debtor to comply with the provisions of a prior order which provides for such relief;
- g. failure of the debtor to submit tax returns pursuant to § 521(e)(2); or
- h. failure of the debtor to submit payment advices pursuant to § 521(a)(1)(B)(iv).

**18. EFFECTIVE DATE AND APPLICABILITY:**

- a. For purposes of enforcement, the provisions of this Order become effective November 7, 2005.
- b. The provisions of Paragraph 3c of this Order apply to all Chapter 13 cases in the El Paso and Waco Divisions of the Western District of Texas where the Order for Relief was entered on or after April 20, 2005.
- c. The provisions of paragraph 16 of this Order apply to all Chapter 13 cases in the El Paso and Waco Divisions of the Western District of Texas pending or filed on or after October 17, 2005.
- d. All remaining provisions of this Order apply to all Chapter 13 cases in the El Paso and Waco Divisions of the Western District of Texas where the Order for Relief was entered on or after October 17, 2005.
- e. The Court's prior Standing Orders regarding Chapter 13 case administration in the El Paso and Waco Divisions, dated January 12, 2004, shall remain in effect and continue to apply to all Chapter 13 cases in the El Paso and Waco Divisions of the Western District of Texas to which this Order does not apply.

IT IS THEREFORE ORDERED that the above procedures are hereby adopted for the Bankruptcy Court for the Western District of Texas in the El Paso Division and 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 Trustees for the El Paso Division and 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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**Exhibit #1**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO AND WACO DIVISIONS

IN RE:

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CASE NO.

Debtor(s)

Chapter 13 Proceeding

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

*Creditors are hereby notified that the following Plan may be amended at any time before confirmation. 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 El Paso or 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  Pay Order or  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 or the amount of the claim, whichever amount is provided for in Section VI below, and approximately \_\_\_\_\_% of each unsecured allowed claim.

THIS PLAN DOES NOT ALLOW CLAIMS. YOU MUST FILE A PROOF OF CLAIM BY THE APPLICABLE DEADLINE TO RECEIVE DISTRIBUTIONS UNDER ANY PLAN THAT MAY BE CONFIRMED. CREDITORS ARE REFERRED TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE, THE LOCAL BANKRUPTCY RULES FOR THE WESTERN DISTRICT OF TEXAS, AND THE APPLICABLE STANDING ORDER RELATING TO CHAPTER 13 CASE ADMINISTRATION FOR THIS DIVISION, FOR INFORMATION ON THESE AND OTHER DEADLINES.

- C. The value of the Debtor's non-exempt assets is \$ \_\_\_\_\_.
- D. 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**

- Upon confirmation of the Plan, all property of the estate shall vest in the Debtor and shall not remain as property of the estate.
- Upon confirmation of the Plan, all property of the estate shall not vest in the Debtor, but shall remain as property of the estate.
- Other (describe):

### **II. Pre-Confirmation Disbursements**

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 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 Debtor shall remit such payments to the Trustee commencing 15 days after the filing of the petition. Provided all conditions for disbursement are met and unless otherwise ordered by the Court, the Trustee shall begin disbursing to creditors as provided below, on the first regularly scheduled disbursement after 30 days after the petition is filed. Payments under this paragraph will cease upon confirmation of the Plan.

Creditor/Collateral	Pre-Confirmation Payment Amount	Other Treatment Remarks
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### **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 amount is provided for in Section VI(2), hereof, plus interest thereon at the rate specified in this Plan. Except for secured claims for

which provision is made to pay the full amount of the claim notwithstanding the value of the collateral, 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(s) move(s) to value the collateral described below in the amounts indicated. The values as stated below represent the replacement values of the assets held for collateral, as required under Section 506(a)(2). Objections to valuation of collateral proposed by this Motion and Plan must be filed no later than ten (10) days prior to the confirmation hearing date. 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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*"I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on \_\_\_\_\_, 200\_\_."*

\_\_\_\_\_  
Debtor

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

### 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 no later than ten(10) days prior to the confirmation hearing date. If no timely objection is filed, the relief requested maybe granted in conjunction with confirmation of the Plan. (Debtor must list the specific exempt property that the lien impairs and the basis of the lien—e.g., judicial lien, 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. INCLUDING POST-PETITION DOMESTIC SUPPORT OBLIGATIONS

A. Debtor(s) shall pay the following creditors directly. Creditors with claims based on a post-petition domestic support obligation (“DSO”), including all governmental units to which a DSO claim has been assigned, or is owed, or that may otherwise recover a DSO claim, *must* be paid directly. Minors

should be identified by their initials only. If no DSO creditor is listed, the Debtor represents he/she has no domestic support obligation.

All direct payments listed below shall be made in addition to the Plan payments made by Debtor to the Chapter 13 Trustee as herein set forth. Secured creditors who are paid directly shall retain their liens, and the Debtor(s) shall maintain insurance on the collateral, in accordance with the terms of the documents creating the lien on the collateral.

Creditor/Collateral, if any (including the name of each DSO creditor)	Remarks	Debt Amount	Payment Amount/Interval
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**B.** Debtor surrenders the following collateral. Confirmation of the Plan shall operate to lift the automatic stay provided by 11 U.S.C. § 362(a) with respect to the collateral listed, and any unsecured deficiency claim may be filed in accordance with the procedures set forth in the Standing Order Relating to Chapter 13 Case Administration for this Division.

Creditor/Collateral	Collateral to Be Surrendered
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**2. PAYMENTS TO BE MADE BY TRUSTEE TO CREDITORS**

**A. Administrative Expenses**

Administrative Expenses shall include the Trustee’s commission and debtor’s attorney’s fees. The Trustee shall receive up to 10% of all sums disbursed, except on any funds returned to the Debtor. No fees or expenses of counsel for the debtor(s) may be paid until the filing fee is paid in full, and any fees and expenses that are allowed in addition to the fees and expenses originally agreed to be paid, may be paid only after all prior allowed fees and expenses have been paid.

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 Claims, Including Domestic Support Obligation Arrearage Claims**

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**

Secured creditors shall retain their liens on the collateral that is security for their claims until the earlier of the date the underlying debt, as determined under non-bankruptcy law, has been paid in full, or the date of discharge under 11 U.S.C. § 1328. Therefore, if the debtor's case is dismissed or converted without completion of all Plan payments, the liens shall be retained by the creditors to the extent recognized by applicable non-bankruptcy law.

Creditor/Collateral	Estimated Claim	Value of Collateral	Monthly Payment or Method of Disbursement	Interest Rate	Anticipated Total to Pay	Other Treatment/ Remarks (specifically note if claim amount to be paid although greater than value of collateral)
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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 \_\_\_\_\_

**VII. Supplemental Plan Provisions**

The following are the Supplemental Plan Provisions:

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

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Address, Phone & Fax Numbers

\_\_\_\_\_  
Debtor

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

**Certificate of Service**

**ATTACH PROPOSED PAYMENT SCHEDULE, IF AVAILABLE**



Exhibit # 3

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
EL PASO AND WACO DIVISIONS

IN RE:

§  
§  
§  
§  
§

CASE NO.

Debtor(s)

Chapter 13 Proceeding

**DECLARATION OF THE DEBTOR(S)**  
**CONCERNING CONFIRMATION REQUIREMENTS**

The Debtor(s) in the above captioned case, \_\_\_\_\_  
\_\_\_\_\_, being duly sworn upon oath, state as follows (check all applicable statements):

1.  Since the filing of this bankruptcy case, I/we have not been required by a judicial or administrative order or by statute to pay any domestic support obligation as defined in 11 U.S.C. § 101(14A).

**OR**

- I/We have paid all amounts that first became due and payable under a domestic support obligation (as defined in 11 U.S.C. § 101(14A)) after the filing of this bankruptcy case that I/we am/are required by a judicial or administrative order or by statute to pay.

2.  I/We have filed all federal, state and local tax returns required by law to be filed for all taxable periods ending during the four year period prior to the filing of this bankruptcy case.

**OR**

- I/We have signed a Supplement to the Confirmation Order certifying that all required tax returns will be filed no later than \_\_\_\_\_.

**By signing this Affidavit, I/we acknowledge that all statements contained herein are true and accurate and that the Court may rely on the truth of each of these statements in determining whether to confirm my/our Chapter 13 Plan. The Court may revoke confirmation of the Chapter 13 Plan if the statements herein are not accurate. Debtor(s) understand that, should any of the above declarations change prior to entry of a confirmation order, Debtor(s) will have to present an updated Declaration to the Chapter 13 Trustee.**

*I/We declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on \_\_\_\_\_, 200\_\_.*

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Debtor

**Exhibit # 4**

**DEBTOR QUESTIONNAIRE UPON COMPLETION  
OF PLAN PAYMENTS IN BANKRUPTCY CASE NO. \_\_\_\_\_**

**CIRCLE THE CORRECT ANSWERS:**

1. YES / NO I/We have completed an instructional course concerning personal financial management, as described in 11 U.S.C. § 111, provided by the following entity:  
  
[ Insert Name & Address \_\_\_\_\_  
of Chapter 13 Trustee ] \_\_\_\_\_  
\_\_\_\_\_
  
2. YES / NO I/We have not received a discharge in a Chapter 7, 11 or 12 bankruptcy case within four years of the date I/we filed this bankruptcy case.
  
3. YES / NO I/We have not received a discharge in another Chapter 13 bankruptcy case within two years of the date I/we filed this bankruptcy case.
  
4. YES / NO Did you elect to use State exemptions? If yes, then the following two questions must be answered.
  - a. YES / NO I/We did not have, either at the time of the filing of this bankruptcy case, or at the present time, equity in excess of \$125,000 (\$250,000 if married and filing this case jointly) in the type of property described in 11 U.S.C. § 522(p)(1). [*generally, your homestead*]
  
  - b. YES / NO There is not currently pending any proceeding in which I [in an individual case] or either of us [in a joint case] may be found guilty of a felony [a felony is an offense punishable by a minimum term of imprisonment of more than one year] of the kind described in 11 U.S.C. § 522(q)(1)(A) [one where the circumstances of the felony demonstrated that the filing of this case was an abuse of the Bankruptcy Code] or liable for a debt of the kind described in 11 U.S.C. § 522(q)(1)(B) [violation of federal or state securities laws or regulations or orders issued thereunder; fraud, deceit or manipulation in a position of trust in connection with the purchase or sale of certain registered securities; civil remedies under the racketeering statute; or criminal acts, intentional civil injuries, or willful or reckless misconduct causing serious physical injury or death to another in the preceding five years].

5. a. YES / NO I/We have been required by a judicial or administrative order or by statute to pay any domestic support obligation, as defined in 11 U.S.C. § 101(14A) [a debt owed to or recoverable by a spouse, former spouse, or child or the child's parent or legal guardian, or a government unit, for alimony, maintenance or support of those persons, that was established by a separation agreement, divorce decree, property settlement, or order of the court or, where applicable, a determination of a governmental unit] either before this bankruptcy case was filed, or at any time after the filing of this bankruptcy case.

**IF THE ANSWER TO QUESTION 5a IS "YES," THEN ALL OF THE FOLLOWING QUESTIONS MUST BE COMPLETED/ANSWERED:**

- b. YES / NO I/We certify that, prior to the date of this Questionnaire, I/we have paid all amounts due under any domestic support obligation [as defined in 11 U.S.C. § 101(14A)] required by a judicial or administrative order or by statute, including amounts due before this bankruptcy case was filed, to the extent provided for by my/our Plan. The name and address of each holder of a domestic support obligation is as follows:

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- c. My/Our most recent address is:

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- d. The name and address of my/our most recent employer(s) is:

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- e. The following creditors hold a claim that is not discharged under 11 U.S.C. § 523(a)(2) or

(a)(4), or a claim that was reaffirmed under 11 U.S.C. § 524(c):

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**I/we acknowledge that all statements contained herein are true and accurate. The Court may rely on the truth of each of these statements in determining whether to grant me/us a discharge in this Chapter 13 bankruptcy case. The Court may revoke my discharge if the statements herein are not accurate.**

***I/We declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on \_\_\_\_\_, 200\_\_.***

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Debtor

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Debtor