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U.S. BANKRUPTCY COURT
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NORTHERN DISTRICT OF OHIO
YOUNGSTOWN

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

IN RE:	*	HONORABLE KAY WOODS
FEES FOR DEBTOR'S COUNSEL IN CHAPTER 13 CASES	*	AMENDED ADMINISTRATIVE ORDER NO. 14-02

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Dated at Youngstown, Ohio this 6th day of July, 2015.

This Administrative Order supersedes and replaces Administrative Order No. 14-02. The Court will authorize and allow compensation for an attorney for the debtor ("Attorney"), as follows:

1. The Attorney shall represent the debtor until the case is closed or the Court authorizes the Attorney to withdraw as counsel for the debtor, pursuant to Local Bankruptcy Rule 2091-1.

2. The Court may authorize and allow compensation for the Attorney in the order confirming the debtor's chapter 13 plan if:

(a) The Attorney files an executed copy of the Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys ("Rights and Responsibilities") in the form attached hereto and incorporated herein as Exhibit A. The Rights and Responsibilities document is currently posted on the Court's website – www.ohnb.uscourts.gov – under Forms, Local Forms: Youngstown, as a PDF fillable form;

(b) The Attorney's total compensation (including expenses other than filing fees), as disclosed in the Disclosure of Compensation of Attorney for Debtor(s), is **four**

thousand dollars ($4,000.00) or less ("Compensation"); and

(c) No party in interest has objected to the requested fees.

If all of the above conditions are met, the Attorney is not required to file a formal fee application, pursuant to Federal Rule of Bankruptcy Procedure 2016.

3. The Attorney's services shall include and the Compensation shall constitute full payment to the Attorney for all of the following:

(a) Personally meeting with the debtor to review and analyze the debtor's financial situation;

(b) Reviewing the debtor's eligibility for a bankruptcy discharge and counseling the debtor regarding chapter 7 and chapter 13;

(c) Assisting the debtor in understanding the debtor's rights and obligations throughout the bankruptcy case;

(d) Assessing potential issues in the debtor's bankruptcy case and discussing such issues with the debtor, including, but not limited to, exemptions, dischargeability and avoidance matters;

(e) Counseling the debtor regarding the obligation to obtain (i) pre-petition credit counseling, as set forth in 11 U.S.C. § 109(h); and (ii) post-petition credit counseling, as set forth in 11 U.S.C. § 1328(g);

(f) Representing the debtor at the meeting of creditors held pursuant to 11 U.S.C. § 341 and any adjourned meetings;

(g) Negotiating and communicating with priority and secured creditors, including the Internal Revenue Service, and representing the debtor at hearings in connection therewith;

(h) Responding to inquiries and requests for information from the Chapter 13 Trustee in furtherance of confirmation and administration of the chapter 13 plan;

(i) Representing the debtor at any confirmation hearing; and

(j) Providing such other legal services as are necessary for the administration of the case, including, but not limited to, continuing to assist the debtor by returning phone calls, answering questions and reviewing and sending correspondence.

The Compensation shall constitute full payment to the Attorney for preparing, filing and representing the debtor regarding:

(a) The petition, schedules, statement of financial affairs, chapter 13 plan, Official Form 22C and all other documents required to be filed under 11 U.S.C. § 521;

(b) Documents and notices (*e.g.*, submissions based upon recommendations by the Chapter 13 Trustee, suggestions of bankruptcy, amendments to schedules and case-related correspondence);

(c) Responses to objections to plan confirmation;

(d) One amended plan not requiring a hearing;

(e) Objections to claims;

(f) One motion under 11 U.S.C. § 362(c)(3) or (c)(4);

(g) Two additional motions under 11 U.S.C. § 362;

(h) One motion under 11 U.S.C. § 522(f) to avoid liens on exempt property;

(i) One motion for the sale/lease of real or personal property;

(j) One motion for authority to settle insurance claims and use or distribute insurance proceeds;

(k) One motion to reinstate stay;

(l) One motion to reinstate case;
(m) One motion for suspension of payments;

(n) One motion to dismiss/convert the case;

(o) One motion for the removal of wage garnishments; and

(p) Motions, pursuant to FED. R. BANKR. P. 3002.1(h), in opposition to a creditor's response to the Chapter 13 Trustee's final cure notice.

All hearings referenced in this paragraph are non-evidentiary hearings.

4. **The Attorney is required to file a fee application, pursuant to Federal Rules of Bankruptcy Procedure 2002 and 2016 and Local Bankruptcy Rule 2016-1, regardless of the amount of compensation, IF** (i) all of the services set forth in paragraph 3, above, are not included in the agreement to represent the debtor; (ii) supplemental fees are sought for services not included within the terms of this Administrative Order; or (iii) in extraordinary circumstances, additional fees are sought for services included within the terms of this Administrative Order.

5. If an executed copy of the Rights and Responsibilities is not filed with the Court, the Court shall authorize and allow the Attorney only such fees that are (i) specified and disclosed in a fee agreement executed by the debtor and the Attorney; and (ii) requested in a formal fee application.

6. Any fee application filed pursuant to paragraphs 4 and 5, above, shall set forth, at a minimum, as to each service for which a fee is requested: (i) the identity of the person performing the service; (ii) the billing rate for such person; (iii) the service performed; (iv) the date of the service; and (v) the amount of time expended.

7. The Chapter 13 Trustee shall pay the Compensation to the Attorney in equal installments over the first twelve (12) months of the chapter 13 plan, subject to other restrictions and to the extent of available funds.

8. The Attorney shall inform the debtor in writing if he or she does not maintain professional liability (malpractice) insurance of at least one hundred thousand dollars ($100,000.00) per occurrence and three hundred thousand dollars ($300,000.00) in the aggregate, pursuant to Ohio Rule of Professional Conduct 1.4, which is incorporated by Local Civil Rule 83.7.

9. The "No Look" Compensation, as set forth herein, is a privilege – not a right. The Court may, in its discretion, (i) order the reduction of the Compensation; and (ii) revoke an Attorney's right to utilize the procedure and receive the Compensation set forth in this Administrative Order.

10. This Administrative Order does not limit the right of the debtor, the Chapter 13 Trustee, the United States Trustee or

any other party in interest to object to the Compensation to be paid to the Attorney or any fee application, even if (i) the fee amount sought by the Attorney is less than the Compensation set forth in paragraph 2(b), above; or (ii) the debtor has previously consented to pay the Compensation or the fees requested by the Attorney. Specifically, the Court encourages the Chapter 13 Trustee to file an objection or comment regarding fees requested by the Attorney if (i) the Attorney's actions or inaction results in delay, unnecessary work or abuse of process; (ii) the Attorney fails to provide complete, competent or timely representation; or (iii) any other matter should be brought to the Court's attention.

11. Compliance with this Administrative Order does not excuse the debtor and the Attorney from executing a written fee agreement. *See* 11 U.S.C. § 528(a).

IT IS SO ORDERED.

Kay Woods

KAY WOODS
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT A TO AMENDED ADMINISTRATIVE ORDER NO. 14-02

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

IN RE:	*	
	*	CASE NUMBER
	*	CHAPTER 13
Debtor(s).	*	HONORABLE KAY WOODS

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RIGHTS AND RESPONSIBILITIES OF CHAPTER 13 DEBTORS AND THEIR ATTORNEYS

It is important for debtors who file a bankruptcy case under chapter 13 to understand their rights and responsibilities. Debtors have the right to expect certain services to be performed by their attorney. Debtors also have an obligation to fulfill certain duties, as set forth below.

In order to ensure that the undersigned debtor and attorney understand their respective rights and responsibilities in the bankruptcy process, the debtor and attorney hereby agree to the following:

A. Before the case is filed:

The **debtor** agrees to:

1. Provide the attorney with accurate and, to the best of the debtor's ability, complete financial information, including the debtor's federal income tax return for the most recent tax year ending immediately before the commencement of the case.

2. Discuss with the attorney the debtor's objectives in filing the case.

3. Keep all scheduled meetings and/or appointments with the attorney.

4. Respond to all requests from the attorney as soon as possible.

5. Provide the attorney with a working telephone number or other means of communication.

6. Obtain credit counseling from an approved nonprofit budget credit counseling agency during the 180-day period preceding the petition date or provide the attorney with accurate information to prepare a certificate of exigent circumstances, as required by 11 U.S.C. § 109(h).

7. Inform the attorney about any pending lawsuits (including divorce or any other proceeding in domestic relations court) brought by or against the debtor and any claims the debtor may have against third parties.

The **attorney** agrees to:

1. Personally meet with the debtor to review the debtor's assets, liabilities, income and expenses.

2. Counsel the debtor regarding the advisability of filing either a chapter 7 or a chapter 13 case, discuss both kinds of cases with the debtor and answer the debtor's questions.

3. Review the debtor's eligibility for a bankruptcy discharge and advise the debtor with respect thereto.

4. Explain what payments may be made directly by the debtor to a creditor, such as mortgage and vehicle lease payments, and what payments will be made through the chapter 13 plan.

5. Explain to the debtor how, when and where to make the required chapter 13 plan payments.

6. Explain to the debtor how the attorney fees and the Chapter 13 Trustee fees are paid.

7. Explain to the debtor that the first chapter 13 plan payment must be made to the Chapter 13 Trustee within ten (10) days after the petition date.

8. Advise the debtor of the requirement to attend the first meeting of creditors held pursuant to 11 U.S.C. § 341 and bring to the meeting (i) valid, unexpired,

government-issued picture identification; (ii) proof of social security number; and (iii) proof of vehicle insurance.

9. Advise the debtor of the necessity of maintaining (i) liability, collision and comprehensive insurance on all vehicles owned or leased by the debtor; and (ii) insurance on any real property owned by the debtor.

10. Prepare, file and counsel the debtor regarding the petition, schedules, statement of financial affairs, chapter 13 plan, Official Form 22C and all other documents required to be filed under 11 U.S.C. § 521.

11. Explain to the debtor what an adversary proceeding is, advise the debtor whether and on what basis the attorney will represent the debtor in any adversary proceeding and inform the debtor of the attorney fees associated with representing the debtor if an adversary proceeding needs to be pursued or defended.

12. Explain to the debtor what an evidentiary hearing is and inform the debtor of the attorney fees associated with representing the debtor at an evidentiary hearing.

13. Advise the debtor in writing if the attorney does not maintain professional liability (malpractice) insurance of at least one hundred thousand dollars ($100,000.00) per occurrence and three hundred thousand dollars ($300,000.00) in the aggregate, pursuant to Ohio Rule of Professional Conduct 1.4 and Local Civil Rule 83.7.

B. During the case:

The **debtor** agrees to:

1. Advise the Chapter 13 Trustee and the attorney if the debtor has a change of address or a change in telephone number.

2. Keep all scheduled meetings and/or appointments with the attorney and/or with other parties to the case.

3. Respond to all requests from the attorney as soon as possible.

4. Timely make all chapter 13 plan payments to the Chapter 13 Trustee.

5. Timely make all post-petition payments to any creditor that the debtor has agreed to pay directly and, if appropriate, maintain proper insurance coverage and pay post-petition tax obligations concerning the same in a timely fashion.

6. Cooperate with the attorney in preparing all pleadings and attending all hearings as required.

7. Prepare, file and provide to the attorney all delinquent federal, state and local tax returns.

8. Prepare, file and provide to the attorney all required tax returns in a timely manner. Promptly inform the attorney when the debtor receives or is entitled to receive a federal or state income tax refund and the amount thereof.

9. Promptly inform the attorney of any wage garnishments or attachments of assets that occur or continue to occur after the petition date.

10. Promptly inform the attorney if the debtor is sued at any time during the case or threatened with legal action.

11. Promptly inform the attorney if a creditor attempts to collect on a debt.

12. Promptly inform the attorney regarding any changes in employment, increases or decreases in income or any other financial problems or changes.

13. Cooperate with the Chapter 13 Trustee and the attorney in producing any financial or supporting documents in a timely manner.

14. Contact the attorney to find out what approvals are required before buying, refinancing or selling real property or before entering any long-term loan or lease agreements.

15. Complete an instructional course concerning personal financial management, as set forth in 11 U.S.C. § 1328(g), prior to the final plan payment deadline.

The **attorney** agrees to:

1. Prepare, file and represent the debtor regarding all pleadings and matters set forth in Amended Administrative Order No. 14-02 (as may be amended hereafter) ("Amended Administrative Order No. 14-02).

2. Continue to represent the debtor until the case is closed or withdrawal is approved by the Court.

3. Inform the debtor regarding the date, time and location of the meeting of creditors held pursuant to 11 U.S.C. § 341.

4. Be available to respond to the debtor's questions throughout the bankruptcy case.

5. File an executed copy of this document with the Court and provide an executed copy of it to the debtor.

6. Provide such other legal services as are necessary to the administration of the case before the Bankruptcy Court, which include, but are not limited to, meeting with the debtor, preparing appropriate legal pleadings and making necessary court appearances.

C. Attorney Fees

This document is not a fee agreement. The debtor and the attorney must execute a written fee agreement and should review Amended Administrative Order No. 14-02 for services that must be provided within certain fixed fees.

Fees shall be paid to the attorney in accordance with Amended Administrative Order No. 14-02. The attorney may not demand or receive any additional fees directly from the debtor, other than the initial retainer, unless the Court orders otherwise.

The Court may, *sua sponte*, or upon motion of an interested party, disallow all or part of requested attorney fees or may order the disgorgement of all or part of the collected fees if the Court finds that the attorney failed to provide the services set forth

in Amended Administrative Order No. 14-02 and this document. If the debtor disputes the legal services provided or the fees charged by the attorney, the debtor may file an objection with the Court.

In addition to the above, the attorney may need to provide legal services to the debtor that are not covered by the initial fees charged or the Compensation set forth in Amended Administrative Order No. 14-02. Such services may include: filing or opposing novel, complex or non-routine motions, representation in evidentiary hearings and representation in adversary proceedings. The attorney may request additional fees for such services by filing a formal fee application, pursuant to Amended Administrative Order No. 14-02, and as may be amended thereafter. The attorney's current hourly rate is $_____.

Dated: _____ _____
Debtor

Dated: _____ _____
Debtor

Dated: _____ _____
Attorney for Debtor(s)