

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

In re:

POSTPETITION VEHICLE
FINANCING IN CHAPTER 13
CASES IN THE CANTON AND
CLEVELAND COURT
LOCATIONS

Administrative Order No. 21-1

This Administrative Order is effective for all Chapter 13 cases currently pending or to be filed in the Canton and Cleveland court locations. The purpose of this Administrative Order is to streamline the process debtors use to obtain vehicle financing during the pendency of their Chapter 13 plan.

1. Notwithstanding any restrictions in postpetition borrowing contained in confirmation orders, a debtor wishing to borrow money to finance the purchase of a vehicle may also obtain approval under the procedures set forth in this Administrative Order.

2. Within 30 days from the date of this order, the Chapter 13 trustees in the Canton and Cleveland court locations shall make available on their public websites:

a. the procedures for contacting the Chapter 13 trustee to obtain approval to borrow money to finance the purchase of a vehicle;

b. the specific information needed by that Chapter 13 trustee to evaluate the debtor's request, such as: an explanation why the new or replacement vehicle is needed, the monthly loan/lease payment, and the interest rate; and

c. the parameters for evaluating the debtor's request, such as: fitting within the debtor's current or amended budget, a monthly payment of no more than \$X, and an interest rate of no more than Y%.

3. Each Chapter 13 trustee may periodically update on her website the contact procedures, the specific information requested, and the parameters for evaluating requests to borrow money to finance the purchase of a vehicle as circumstances merit.

4. A debtor or debtors wishing to borrow money to finance the purchase of a vehicle shall contact the Chapter 13 trustee assigned to their case and provide the Chapter 13 trustee with the specific information set forth on the Chapter 13 trustee's website.

5. If the proposed financing is within the parameters posted by the Chapter 13 trustee, and if the Chapter 13 trustee consents to the transaction, then the Chapter 13 trustee shall provide to the debtor a "shopping letter," which states that the Chapter 13 trustee has consented to the financing with payments not to exceed a specified amount. (A sample "shopping letter" is included as

Attachment A.) It is expected that the Chapter 13 trustee shall be reasonable when granting consent and shall not withhold consent for arbitrary or capricious reasons, but the Chapter 13 trustee may withhold consent if there is some defect in the debtor's plan, such as infeasibility or a plan funding deficiency. The debtor may then take this "shopping letter" to a vehicle dealership and get the dealership to commit to financing the purchase of a specific vehicle under the terms contained in the "shopping letter."

6. Once the dealership and the debtor agree on a vehicle purchase that complies with the terms in the "shopping letter," then the debtor provides documentation of the proposed purchase/financing (make/model/VIN, purchase price, loan terms, etc.) to the Chapter 13 trustee. If the terms of the purchase match (or are better than) the terms in the "shopping letter," then the Chapter 13 trustee shall provide to the debtor a "final approval" letter so that the debtor and the vehicle dealership can consummate the transaction. (A sample "final approval" letter is included as Attachment B.) If the terms of the proposed purchase are inconsistent with the terms of the "shopping letter," the Chapter 13 trustee shall notify the debtor and explain why no "final approval" letter is being provided.

7. If the debtor wants to incur a vehicle loan that is outside the parameters posted by the Chapter 13 trustee, or if the Chapter 13 trustee does not consent to the debtor's request, or if the "final approval" letter cannot be obtained,

the debtor may file a motion with the Court to approve the proposed vehicle financing. Such a motion is to be filed, set for hearing, and served pursuant to all relevant statutes and provisions.

8. This Administrative Order is effective immediately. A debtor may seek and obtain the Chapter 13 trustee's approval for proposed vehicle financing as soon as the Chapter 13 trustee has posted on the Chapter 13 trustee's website all the information required under paragraph 2 of this Administrative Order.

IT IS SO ORDERED.



Russ Kendig
United States Bankruptcy Judge



Arthur I. Harris
United States Bankruptcy Judge



Jessica E. Price Smith
United States Bankruptcy Judge

ATTACHMENT A - SAMPLE "SHOPPING LETTER"

(On Trustee Letterhead)

[DATE]

TO: Whom It May Concern

RE: Debtor(s) _____
Chapter 13 Bankruptcy Case No. _____

Upon application of the above-named person(s), [TRUSTEE NAME], the [TRUSTEE TITLE], hereby gives permission for the Debtor(s) to incur indebtedness or make a loan. This is not a recommendation that credit should be extended nor that credit should be denied.

Repayment must be made directly by the Debtor(s) outside of the Chapter 13 Plan.

A final approval for **purchase or lease** of **one** vehicle will be forthcoming when agent or Debtor(s) provides further information concerning make, model, and year of vehicle being leased or purchased, amount of monthly payment, length of loan, interest rate, and total price. Monthly payments should not exceed \$ _____ per month.

******Trustee's final approval of the indebtedness must occur
Prior to the purchase or lease signature - Not After******

Should any further information be required, please advise.

[SIGNATURE BLOCK]

ATTACHMENT B - SAMPLE "FINAL APPROVAL" LETTER

(On Trustee Letterhead)

[DATE]

TO: _____

ATTN: _____

RE: Debtor(s) _____
Chapter 13 Bankruptcy Case No. _____

Upon application of the above-named person(s), the [TRUSTEE TITLE]'s permission is hereby given for [HER/HIM/THEM] to incur indebtedness or make a loan. This is not a recommendation that credit should be extended nor that credit should be denied. **Repayment must be made outside the Chapter 13 Plan.**

This consent is being given on the representation that the debt is to be incurred for the sole purpose of purchasing a _____, VIN _____. The purchase price of \$ _____ will be financed at the rate of _____ % for _____ (NUMBER) months. The payments shall be \$ _____ per month paid outside of this bankruptcy plan.

Should any further information be required, please advise.

[SIGNATURE BLOCK]