

## MEMORANDUM

Date: February 8, 2019

To: All counsel and parties appearing before Judges Arthur I. Harris and  
Jessica E. Price Smith

From: Judges Harris and Price Smith

Re: Modification of confirmation order for chapter 13 cases filed on or after  
December 1, 2017

On January 17, 2018, Judges Harris and Price Smith adopted a new form confirmation order for chapter 13 cases filed on or after December 1, 2017. The form confirmation order is modified to include the finding that "Any and all objections filed by the Trustee have been resolved." A copy of the confirmation order is attached.

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF OHIO

In re: \_\_\_\_\_, ) Case No. \_\_\_\_-\_\_\_\_\_  
Debtor. ) Chapter 13  
) Judge \_\_\_\_\_

**CONFIRMATION ORDER**

The Chapter 13 plan in this case came on for confirmation at a hearing before the Court. A copy of such plan, together with the applicable amendments or modifications (the "Plan"), is attached to this Order. Based upon the papers filed in this case, information presented by the Chapter 13 Trustee ("Trustee") and such other matters, if any, presented by the Debtor or Debtors ("Debtor"), Debtor's counsel, any objector or any other interested party, the Court finds that:

1. Notice of the confirmation hearing was duly given.
2. The Plan complies with applicable requirements of 11 U.S.C. §§ 1322 and 1325.
3. Any and all objections filed by the Trustee have been resolved.

**IT IS THEREFORE ORDERED THAT:**

1. The Plan is confirmed.
2. The Debtor shall, until further order of the Court, make the periodic payments called for in the Plan to the Trustee. Except as otherwise permitted, such payments shall be made pursuant to order of the Court on the Debtor's employer.
3. The Debtor shall not incur additional debt exceeding \$1,000 in the aggregate without notice to the Trustee and the approval of the Court.
4. The Debtor shall not transfer any interest in real property without the approval of the Court.

5. Unless the Plan provides otherwise in Part 2.3 or Part 8, the Debtor shall pay over to the Trustee each year during the pendency of the case any and all federal income tax refunds. The Debtor may retain from any federal income tax refund either \$1,000 from a single tax return (\$2,000 from a joint tax return) or the sum of any earned income tax credit and child tax credits, whichever is greater.
6. Secured creditors shall retain their liens. If this case is either dismissed or converted to a Chapter 7 case, the property vesting in the Debtor by reason of this Confirmation Order shall remain subject to the liens existing at the time of the filing of the case subject to adjustments in respect of amounts paid under the Plan.
7. After confirmation of the Plan, funds available for distribution will be paid monthly by the Trustee in the following order:
  - (i) Trustee's authorized percentage fee and/or administrative expenses;
  - (ii) attorney's fees as allowed under applicable rules and guidelines;
  - (iii) conduit payments as provided for in Part 3.1;
  - (iv) monthly payments on mortgage arrearages as provided for in Part 3.1 and monthly payments on claims as provided for in Parts 3.2, 3.3, 3.4 and, if so specified, Part 6.1 (if no fixed payment on an executory contract arrearage is specified, then the arrearage will be paid on a *pro rata* basis);
  - (v) payments to priority creditors as provided for in Part 4, to be made on a *pro rata* basis; and
  - (vi) general unsecured claims.
8. Any creditor seeking to file an unsecured deficiency claim as a result of collateral surrendered in Part 3.5 must do so no later than 90 days after this Confirmation Order is entered. If the collateral has not been liquidated, the deficiency claim is to be estimated.
9. The attorney for the Debtor is allowed a fee of \_\_\_\_\_, of which \_\_\_\_\_ has been paid. The balance of \_\_\_\_\_ shall be paid by the Trustee from the monies received under the Plan over 12 months, unless a longer period is needed because the plan payment is too small to allow for payment over 12 months.

10. The administrative expenses of the Trustee shall be paid in full pursuant to 11 U.S.C. §§ 503(b) and 1326(b)(2) and 28 U.S.C. § 586(e)(1)(B).
11. If the case is dismissed by the Court or by the Debtor under 11 U.S.C. § 1307, all funds remaining in the hands of the Trustee at the time of dismissal shall be paid to the Chapter 13 creditors pursuant to the terms of the Plan. If the case is converted to Chapter 7 under 11 U.S.C. § 1307, all funds remaining in the hands of the Trustee at the time of conversion shall be returned to the Debtor after deducting the Trustee's authorized percentage fee.
12. A debtor may request entry of an order declaring that a secured claim has been satisfied and that the lien has been released under the terms of the confirmed plan by filing and serving a motion under Bankruptcy Rule 5009(d), generally at the time the case is being closed. See 2017 Committee Note to Bankruptcy Rule 5009(d).

By submitting this form, the Trustee certifies that the wording of this form is identical in all respects to the form confirmation order adopted by Judge Harris and Judge Price Smith in a Memorandum dated January 17, 2018, and as modified in the Memorandum dated February 8, 2019.

Submitted by:

/S/ Lauren A. Helbling

LAUREN A. HELBLING (#0038934)

Chapter 13 Trustee

200 Public Square, Suite 3860

Cleveland, OH 44114-2321

Phone (216) 621-4268

Fax (216) 621-4806

Ch13trustee@ch13cleve.com