

FILED

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

2001 SEP 21 PM 12: 26

IN RE:)
)
Interest Rate in Chapter 13 Cases)
)
_____)

U.S. BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA
AMENDED OPERATING ORDER
01-3

Upon consideration of the report of the committee appointed by this court to recommend the interest rate to be reasonably applied to secured claims in Chapter 13 cases filed in this district on, or after, October 1, 2001,

IT IS ORDERED THAT:

1. An interest rate ("Periodic Interest Rate") of eight and one half (8.5%) percent *per annum* applied to a secured claim in a Chapter 13 case will be presumed — for plan confirmation purposes — to be reasonable.

2. A debtor who, in a Chapter 13 plan, proposes to pay the Periodic Interest Rate on a secured claim (including, but not limited to, an arrearage on a real estate mortgage loan, an automobile loan, a mobile home loan, or a personal property loan) is presumed to be paying the present value of that claim as required by 11 U.S.C. §1325(a)(5)(B)(ii).

3. A party in interest, objecting to the Periodic Interest Rate proposed in a Chapter 13 plan, must within 25 days after filing¹ of the plan on that party: (a) file in the office of the Clerk of Court an Objection and Certification of Interest Rate (in the form attached hereto and designated as Exhibit 1) thereby indicating the objection and stating the interest rate to which the party in interest claims entitlement; and (b) serve the Objection and Certification of Interest Rate on the debtor, the debtor's attorney and the Chapter 13 trustee.

¹ This operating order supersedes and amends Operating Order 01-3 which was filed on September 10, 2001, to specify that objections must be made within 25 days after filing of the plan (versus after service as stated in the original order), to conform to SC LBR 3015-1.

4. If the debtor opposes the interest rate claimed in the Objection and Certification of Interest Rate, the debtor must, within 15 days after service thereof on the debtor, file a response to the objection so that the dispute may be resolved at the hearing on confirmation of the plan. If no response is filed, the court may require the debtor to amend the Chapter 13 plan to reflect the interest rate claimed by the creditor.


WM.. THURMOND BISHOP, JUDGE


JOHN E. WAITES, JUDGE

Columbia, South Carolina

September 21, 2001

EXHIBIT 1

UNITED STATES BANKRUPTCY COURT

DISTRICT OF SOUTH CAROLINA

IN RE:

) Case No. _____

) Chapter 13

)

) **OBJECTION**

) **AND**

) **CERTIFICATION OF INTEREST RATE**

)

Debtor

TO: Chapter 13 Trustee and Debtor

_____, a secured creditor in this case, hereby objects to the interest rate proposed by the debtor in the Chapter 13 plan, dated _____, and claims entitlement to a rate of interest greater than the rate proposed in the Chapter 13 plan; and, in support of its claim of entitlement to the interest rate set out below, certifies:

Contractual rate of interest: (copy of the obligation attached) _____

Market rate of interest for similar loans in creditors lending market: _____

Arrearage amount (if applicable): _____ (as of) _____

Payoff balance, as of date of filing: _____

Hypothetical cost, in dollars, of liquidating collateral: _____

Hypothetical cost, in dollars, of making a new loan: _____

Interest rate to which creditor is entitled under plan: _____

According to the September 21, 2001, Operating Order 01-3 of this court, "If the debtor opposes the interest rate claimed in the Objection and Certification of Interest Rate, the debtor must, within 15 days after service thereof on the debtor, file a response to the objection so that the dispute may be resolved at the hearing on confirmation of the plan. If no response is filed, the court may require the debtor to amend the Chapter 13 plan to reflect the interest rate claimed by the creditor."

Dated: _____

Print or type name: _____

Signed: _____

[If appropriate] By: _____

as: _____

Address: _____

ID Number: _____

EXHIBIT 1