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UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

2017 FEB 28 AM 11:56

U.S. BANKRUPTCY
DISTRICT OF SOUTH CAROLINA

IN RE:

LOCAL RULES

OPERATING ORDER 17-01

The Court amends SC LBR 3015-2 and Exhibits A, B, C-1, and C-2 as attached hereto,
effective March 1, 2017.

AND IT IS SO ORDERED.



David R. Duncan, Chief Judge

Columbia, South Carolina
February 28, 2017

LOCAL RULE 3015-2: CHAPTER 13- MODIFICATIONS TO PLAN

After compliance with SC LBR 3015-1, a debtor's proposed modification to the plan shall be presented to the Court as follows:

- (a) **Before Confirmation.** The debtor must complete, serve, and file with the Court a notice in substantial conformance with Exhibit A with proper proof of service evidencing service on all creditors and parties in interest as required by Fed. R. Bankr. P. 2002(a)(5) and 2002(b).
- (b) **Exception.** If the sole purpose of the modification is to increase payments under the plan (paragraph (III)(A) of Exhibit A to SC LBR 3015-1), or to increase the stated percentage of distribution to general unsecured creditors (paragraph (IV)(E) of Exhibit A to SC LBR 3015-1), the debtor may complete, serve and file a form in substantial conformance with Exhibit C-1, as applicable. Service must be made as required by Fed. R. Bankr. P. 2002(a)(5) and 2002(b).
- (c) **After Confirmation.** The debtor must complete, serve, and file with the Court a notice in substantial conformance with Exhibit B with proper proof of service. Service may be made only on parties who may be, or are, adversely affected by the modification.
- (d) **Exceptions.**
 - (1) If the sole purpose of the modification is to increase payments of the plan (paragraph (III)(A) of Exhibit A to SC LBR 3015-1), or to increase the stated percentage of distribution to general unsecured creditors (paragraph (IV)(E) of Exhibit A to SC LBR 3015-1), the debtor may complete and file a form in substantial conformance with Exhibit C-2, as applicable. The filing of such a modification, which does not adversely affect the plan treatment of any creditor or party in interest, shall be deemed to meet the notice requirements of Fed. R. Bankr. P. 3015(g).
 - (2) Plan payments may be increased pursuant to a Trustee's Notice of Plan Payment Change (Operating Orders 16-02 and 16-03). In conduit cases, an increase in Conduit Mortgage Payments may decrease the dividend, if any, paid to general unsecured creditors. Unless the debtor is required to pay specific dollar amounts to priority and/or general unsecured creditors under 11 U.S.C. § 1325(a) or (b), the Trustee is not required to seek an increase in plan payments in order to achieve or maintain a certain dividend to general unsecured creditors.

Notes:

(2008) Portions of former SC LBR 3015-1 were incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions.

(2009) The objection period in Exhibit B was amended to a multiple of seven as part of time computation amendments.

(2013) Exhibit B was amended to clarify that the deadline to object runs from the date of service and to provide language consistent with Exhibit A to SC LBR 3015-1 regarding additions, modifications, and deletions to the form plan.

(2016) Paragraph (c) was amended to clarify which parties must be served when a proposed plan is filed after confirmation. The provision requiring a coversheet when substantial changes are proposed to Exhibit A to SC LBR 3015-1 was removed as unnecessary because SC LBR 3015-1 already requires a cover sheet.

(2017) The rule and exhibits were substantially revised to bring them in compliance with Federal Rules of Bankruptcy Procedure 2002(a)(5) and (b), which require notice and service on all parties of any pre-confirmation modification to a chapter 13 plan, and Federal Rule of Bankruptcy Procedure 3015(g), which requires at least 21 days' notice and service on all adversely affected parties of any post-confirmation modifications.

EXHIBIT A TO SC LBR 3015-2

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:
CHAPTER:

NOTICE OF PLAN MODIFICATION BEFORE
CONFIRMATION, MOTIONS TO VALUE SECURITY,
AVOID JUDICIAL LIEN, AVOID A NONPURCHASE-
MONEY, NONPOSSESSORY SECURITY INTEREST
AND LIEN, AND/OR TO ASSUME OR REJECT AN
EXECUTORY CONTRACT/UNEXPIRED LEASE

DEBTOR(S)

I. NOTICE TO CREDITORS AND PARTIES IN INTEREST: The above-captioned debtor¹ previously proposed a chapter 13 plan and motions; the debtor now moves, pursuant to 11 U.S.C. § 1323 and Fed. R. Bankr. P. 2002(a)(5) and 2002(b), to modify the proposed plan and motions as detailed below:

Changes Made: _____

Reason(s) for Change: _____

Specific Creditor(s) Directly Affected by Change: _____

This modification to the chapter 13 plan and motions, and the remaining terms of the chapter 13 plan and motions set forth below, may affect your rights. Failure to object may constitute an implied acceptance of and consent to the relief requested.

A. (Beginning with paragraph (I)(A) repeat text of Exhibit A to SC LBR 3015-1 hereafter)

¹ When used herein, the term "debtor" shall apply as applicable either in the singular or in the plural, if there are joint debtors in the case.

EXHIBIT B TO SC LBR 3015-2

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:
CHAPTER:

NOTICE OF PLAN MODIFICATION AFTER
CONFIRMATION, [If applicable, include: MOTIONS
TO VALUE SECURITY, AVOID JUDICIAL LIEN,
AVOID A NONPURCHASE- MONEY,
NONPOSSESSORY SECURITY INTEREST AND
LIEN, AND/OR TO ASSUME OR REJECT AN
EXECUTORY CONTRACT/UNEXPIRED LEASE]

DEBTOR(S)

I. NOTICE TO AFFECTED CREDITORS AND PARTIES IN INTEREST: The above-captioned debtor¹ proposed a chapter 13 plan and motions that were previously confirmed by this Court; the debtor now moves, pursuant to 11 U.S.C. § 1329(a), and Fed. R. Bankr. P. 3015(g), to **modify the plan as follows**:

Changes Made: _____

Reason(s) for Change: _____

Specific Creditor(s) Directly Affected by Change: _____

This modification to the chapter 13 plan and motions may affect your rights. Failure to object may constitute an implied acceptance of and consent to the relief requested.

A. ADDITIONS, MODIFICATIONS, OR DELETIONS: All additions or modifications to the Court's form plan (See exhibits to SC LBR 3015-1 and 3015-2, "SC LBR" refers to the SC Local Bankruptcy Rules, available at www.scb.uscourts.gov) are highlighted by italics. Deletions are noted as "Not Applicable" or by striking through the deleted provisions. If changes to this form or if an alternative plan is proposed, a cover sheet that summarizes and identifies the changes shall be filed and served herewith.

B. DEADLINE FOR FILING OBJECTIONS, OPPORTUNITY FOR NOTICE AND HEARING ON CONFIRMATION OF MODIFIED CHAPTER 13 PLAN AND MOTIONS: Objections to the motions and any provision of the plan must be made in accordance with SC LBR 9014-1, properly served, and filed with the United States Bankruptcy Court, 1100 Laurel Street, Columbia, SC 29201, within twenty-one (21) days from the date this document is served. Timely objections will be scheduled for hearing and separate notice of such a hearing will be given. If no timely objection is filed, the Court, upon recommendation of the chapter 13 trustee and without further hearing or notice, may enter an order confirming the modified plan and granting the motions.

II. (If applicable, repeat text of Exhibit A to SC LBR 3015-1 hereafter. In all other cases begin with Section III).

¹ When used herein, the term "debtor" shall apply as applicable either in the singular or in the plural, if there are joint debtors in the case.

EXHIBIT C-1 TO SC LBR 3015-2

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:
CHAPTER:

PRE-CONFIRMATION MODIFICATION TO PLAN
FOR THE SOLE PURPOSE OF INCREASING
PAYMENTS AND/OR DISTRIBUTION

DEBTOR(S)

The debtor¹ in this case has filed and served a NOTICE, CHAPTER 13 PLAN, MOTIONS TO VALUE SECURITY, AVOID JUDICIAL LIEN, AVOID A NONPURCHASE-MONEY, NONPOSSESSORY SECURITY INTEREST AND LIEN, AND/OR TO ASSUME OR REJECT AN EXECUTORY CONTRACT/UNEXPIRED LEASE.

[(Include the following paragraph if applicable. (See SC LBR 3015-2(b))]

The debtor moves to modify paragraph III(A) of the plan filed on (date) as follows:

A. Payments from the debtor to the chapter 13 trustee (the trustee): The debtor submits to the supervision and control of the trustee all or such portion of future earnings or other future income as is necessary for the execution of the plan. In addition, the debtor will pay to the trustee any portion of a recovery under a pre-petition claim or cause of action that constitutes disposable income or is not exempt.

The debtor shall pay to the trustee the sum of \$ _____ per month for a period of _____ months, unless all allowed claims (other than long-term claims) are fully paid pursuant to the plan.]

[(Include the following paragraph if applicable. (See SC LBR 3015-2(b))]

The debtor moves to modify paragraph IV(E) of the plan filed on (date) as follows:

E. General Unsecured Creditors. General Unsecured Creditors shall be paid allowed claims pro rata by the trustee to the extent that funds are available after payment of all other allowed claims. The debtor DOES propose to pay 100% of general unsecured claims along with _____% interest."

This modification to the chapter 13 plan and motions may affect your rights. Objections to this pre-confirmation modification of the debtor's chapter 13 plan must be made in accordance with SC LBR 9014-1, properly served, and filed with the United States Bankruptcy Court, 1100 Laurel Street, Columbia, SC 29201, within twenty-eight (28) days from the date this document is served. Timely objections may be heard at the confirmation hearing scheduled on the debtor's plan, or a separate hearing on the objection may be scheduled. If a separate hearing on the objection is scheduled, notice of such a hearing will be given.

Failure to object may constitute an implied acceptance of and consent to the relief requested.

¹ When used herein, the term "debtor" shall apply as applicable either in the singular or in the plural, if there are joint debtors in the case.

If no timely objections to the plan, motions, and this modification are filed, the Court, upon recommendation of the chapter 13 trustee and without further hearing or notice, may enter an order confirming the plan, including this modification, and granting the motions.]

Date: _____

Signature of Attorney/*Pro Se* Debtor

Typed Printed Name

Address/Telephone/Facsimile/E-mail

District Court I.D. Number

EXHIBIT C-2 TO SC LBR 3015-2

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:
CHAPTER:

POST-CONFIRMATION MODIFICATION TO PLAN
FOR THE SOLE PURPOSE OF INCREASING
PAYMENTS AND/OR DISTRIBUTION

DEBTOR(S)

The debtor¹ in this case previously filed and served a NOTICE, CHAPTER 13 PLAN, MOTIONS TO VALUE SECURITY, AVOID JUDICIAL LIEN, AVOID A NONPURCHASE-MONEY, NONPOSSESSORY SECURITY INTEREST AND LIEN, AND/OR TO ASSUME OR REJECT AN EXECUTORY CONTRACT/UNEXPIRED LEASE, which was confirmed by this Court on (date).

[(Include the following paragraph if applicable. (See SC LBR 3015-2(d)(1))

The debtor moves, pursuant to Federal Rule of Bankruptcy Procedure 3015(g) and SC LBR 3015-2(c), to modify paragraph III(A) of the plan filed on (date) and confirmed on (date) as follows:

A. Payments from the debtor to the chapter 13 trustee (the trustee): The debtor submits to the supervision and control of the trustee all or such portion of future earnings or other future income as is necessary for the execution of the plan. In addition, the debtor will pay to the trustee any portion of a recovery under a pre-petition claim or cause of action that constitutes disposable income or is not exempt.

The debtor shall pay to the trustee the sum of \$ _____ per month for a period of _____ months, unless all allowed claims (other than long-term claims) are fully paid pursuant to the plan.]

[(Include the following paragraph if applicable. (See SC LBR 3015-2(d)(1))

The debtor moves, pursuant to Federal Rule of Bankruptcy Procedure 3015(g) and SC LBR 3015-2(c), to modify paragraph IV(E) of the plan filed on (date) and confirmed on (date) as follows:

E. General Unsecured Creditors. General Unsecured Creditors shall be paid allowed claims pro rata by the trustee to the extent that funds are available after payment of all other allowed claims. The debtor DOES propose to pay 100% of general unsecured claims along with _____% interest."

The undersigned certifies that this change does not adversely affect the plan treatment of any creditor or party in interest in this matter and requests that this modification be approved upon recommendation of the chapter 13 trustee without further notice or hearing.]

Date: _____

Signature of Attorney/*Pro Se* Debtor

Typed Printed Name

Address/Telephone/Facsimile/E-mail

District Court I.D. Number

¹ When used herein, the term "debtor" shall apply as applicable either in the singular or in the plural, if there are joint debtors in the case.