

IN THE UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF LOUISIANA

FILED

APR 17 2000

HARRY DUNFORD, CLERK  
UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF LOUISIANA

REVISED GENERAL ORDER

A General Order was adopted effective March 2, 1987, signed by Judge Stephen V. Callaway and Judge W. Donald Boe, Jr., concerning limited no equity sales. The General Order reads as follows:

By Court Memorandum of May 19, 1986, (affecting the Shreveport, Monroe and Alexandria Divisions), General Order of August 26, 1986, and General Order of September 8, 1986, Panel Trustees were precluded from selling property of the estate under Section 363(f) absent a reasonable expectation of equity in the property.

Section 363(f) provides:

- (f) The trustee may sell property under subsection (b) or (c) of this section free and clear of any interest in such property of an entity other than the estate, only if
- (1) applicable nonbankruptcy law permits sale of such property free and clear of such interest;
  - (2) such entity consents;
  - (3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;
  - (4) such interest is in bona fide dispute; or
  - (5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

The rationale behind the above stated Memorandum and General Orders was to preclude a procedure where fee computation was improper under Section 506 and to preclude the Bankruptcy Court from being needlessly entangled in proceedings where there was no expectation of any benefit to the estate.

After review of applicable law and taking into consideration the necessity of continuing limited no equity sales:

IT IS ORDERED:

1. That only consensual sales under Section 363(f)(2) will be allowed and only in accordance with the terms of this General Order. The Memorandum of May 19, 1986, and in the General Orders of August 26, 1986, and September 8, 1986, are rescinded insofar as they prohibit consensual sales under 363(f)(2).

2. Applications for consensual sales under 363(f)(2) shall be commenced by the filing of a "Joint Application to Sell Property Free and Clear of Liens" which shall contain written consent to the sale by the debtor(s) in Chapter 11 cases and Chapter 13 cases, all persons having a lien or interest in the property, and the Trustee if any.

3. That said Joint Application shall disclose the 506(c) costs and expenses requested by the Trustee, and shall state that the party purchasing the property shall pay those costs upon the Court approving the sale and 506(c) costs and expenses. The request for payment of 506(c) costs and expenses shall be supported by an affidavit of the Trustee setting forth the services rendered, time expended and expenses incurred pursuant to the requirements of Rule 2016.

4. Notice of the proposed sale and the Trustee's request for approval and payment of costs and expenses shall be sent to all parties in interest entitled to such notice pursuant to Bankruptcy Rules 2002 and 6004.[\*] Notice of sale and Trustee's Expenses may be combined.

5. A hearing on the Trustee's costs and expense shall be conducted where the request exceeds \$250.00 for a transaction involving movables and \$350.00 for a

transaction involving immovables.

6. A hearing shall not be held for reimbursement of costs and expenses for requests at \$250.00 or less for movables or \$350.00 or less for immovables unless an objection is filed to the request.

7. Pursuant to Bankruptcy Rule 2002(a)(2) and (a)(7)[\*] a twenty (20) day notice shall be given concerning the proposed sale of the property and request for costs and expenses. Section 363(b) of the Code permits the Trustee to sell property, other than in the ordinary course, by joint application, only after notice and hearing. However, under Section 102(1)(B)(i) if no objection is filed there need not be an actual hearing. Thus:

(1) where there is no objection to the consensual sale and requested 506(c) costs and expenses; and

(2) the Trustee's requests for expenses and costs do not exceed those amounts set forth in Paragraph 5 above,

then no hearing shall be required, and an Order approving the sale and 506(c) expenses and costs may be signed in Chambers after notice has been properly given and the time period for an objection has passed.

8. This General Order shall not in any way affect the creditor's right to request a non-cost abandonment of property as an alternative to a consensual sale. The Joint Application shall state that the creditor has been advised of this right but nevertheless prefers the consensual sale.

9. This General Order respecting consensual sales and herein described becomes effective March 2, 1987."

*[\*Now the Federal Rules of Bankruptcy Procedure]*

The undersigned Bankruptcy Judges having reviewed the procedures as set forth in said orders, and, having found that:

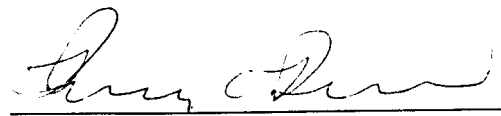
- (A) There is a continuing need for limited no equity sales;
- (B) The actual costs and expenses in connection with the Consensual Sales have increased since March 2, 1987, without any adjustment or modification in the amounts previously fixed as the amounts that may be approved by the Court in the absence of an objection without an actual hearing;
- (C) The amounts should be adjusted to \$350.00 for movables and \$500.00 for immovables;

**IT IS ORDERED:**

- I. That the General Order effective March 2, 1987, concerning limited no equity sales be and is hereby modified to increase the amounts in ¶5 and ¶6 thereof to \$350.00 for movables and \$500.00 for immovables effective with any Consensual Sale negotiated on or after April 1, 2000; and,
- II. That the General Order, as amended, be and is hereby ratified and confirmed in its entirety.

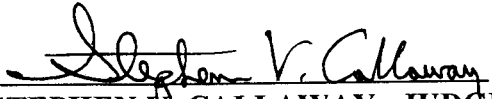
THUS DONE AND SIGNED AT ALEXANDRIA, LOUISIANA this 7<sup>th</sup> day of

April, 2000.

  
HENLEY A. HUNTER, CHIEF JUDGE  
U.S. BANKRUPTCY COURT

**COPY SENT**  
Date: 4/17/00  
By: \_\_\_\_\_  
To: Chief Judge Hunter  
Judge Callaway  
Judge Schitt  
Wilbaker  
Ziegler  
Dupre  
Oster  
Asst. U.S. Trustee  
All Trustees

THUS DONE AND SIGNED AT SHREVEPORT, LOUISIANA, this 17 day of  
April, 2000.

  
STEPHEN V. CALLAWAY, JUDGE  
U.S. BANKRUPTCY COURT

THUS DONE AND SIGNED AT OPELOUSAS, LOUISIANA this 10<sup>th</sup> day of  
April, 2000.

  
GERALD H. SCHIFF, JUDGE  
U.S. BANKRUPTCY COURT