

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF LOUISIANA  
SHREVEPORT DIVISION

**STANDING ORDER REGARDING INSURANCE PROCEEDS  
CONSTITUTING CASH COLLATERAL IN CHAPTER 13 CASES**

On September 28, 2016, the United States District Court for the Western District of Louisiana entered memorandum opinions affirming in part, and reversing in part, the holding of this Court that the Chapter 13 Trustee should not receive a trustee fee on insurance proceeds and that insurance proceeds in all Chapter 13 cases should be paid to the Chapter 13 Trustee. In *Sikes v. James*, 2016 U.S. Dist. LEXIS 133756 (W.D. La. 2016), and *Sikes v. Samuel*, 2016 U.S. Dist. LEXIS 133758 (W.D. La. 2016), the District Court held the following:

[T]he Court finds that the Bankruptcy Court's finding/requirement that the trustee must receive insurance proceeds before paying them to creditors, which was based on the policy that required payment of the secured creditor's portion of the insurance proceeds to Sikes, should be reversed. This matter is remanded such that a written policy consistent with the instant opinion shall be implemented by the Bankruptcy Court.

**ACCORDINGLY, IT IS ORDERED** that any insurance proceeds in Chapter 13 cases that constitute cash collateral as defined by 11 U.S.C. 363(a) may be paid as follows:

1. Where the insurance proceeds are less than the payoff amount due to the secured creditor, insurance proceeds on movable or personal property may be paid directly to the secured creditor without motion or order, or the lifting the automatic stay. Upon notice of proof of payment to the Chapter 13 Trustee of the insurance proceeds to the secured creditor, the Chapter 13 Trustee is authorized to stop payment on the secured creditor's proof of claim.

2. Where the insurance proceeds are more than the payoff amount owed to the secured creditor, insurance proceeds on movable or personal property may be paid directly to the Chapter 13 Trustee. Without motion and order, the Chapter 13 Trustee may accept the insurance proceeds. The Trustee may then fully pay the secured creditor's claim, and pay any excess exempt sum to the debtor(s). Any proceeds that exceed the sum of the secured creditor's claim and exempt sums due to the debtor(s) shall be the subject of an appropriate motion filed by the Chapter 13 Trustee or the debtors.

3. Insurance proceeds on movable or personal property which are subject to 11 U.S.C. § 506 and § 348(f)(1)(C)(i) may be paid to the Chapter 13 Trustee. Without motion and order, the Chapter 13 Trustee may fully pay the secured portion of the creditor's bifurcated claim and reserve the remaining proceeds sufficient to pay the unsecured portion of the claim pursuant to 11 U.S.C. § 348(f)(1)(C)(i). Any funds that exceed the sum of the creditor's bifurcated claim and are exempt may be paid to the debtor(s). Any sums exceeding the bifurcated claim and which are not exempt shall be the subject of an appropriate motion filed by the Chapter 13 Trustee or debtors. Should

the debtor(s)' Chapter 13 case convert or dismiss, the Chapter 13 Trustee shall pay the reserved funds to the creditor with the bifurcated claim. Should the debtor(s) receive a discharge, then the Chapter 13 Trustee shall pay the reserved funds to the debtor(s).

4. The disposition of insurance proceeds on immovable or real property shall be the subject of an appropriate motion filed by either the debtor or the Chapter 13 Trustee.

5. As an alternative to this Standing Order, the debtor(s) maintain the right to file a Motion for Substitution of Collateral or to seek other relief.

6. The Chapter 13 Trustee may seek an Ex-Parte Order regarding distributions to any secured creditor affected by this Standing Order at any time.

7. Payoff amounts shall presumed to be the amounts shown on the Chapter 13 Trustee's 13 Network website.

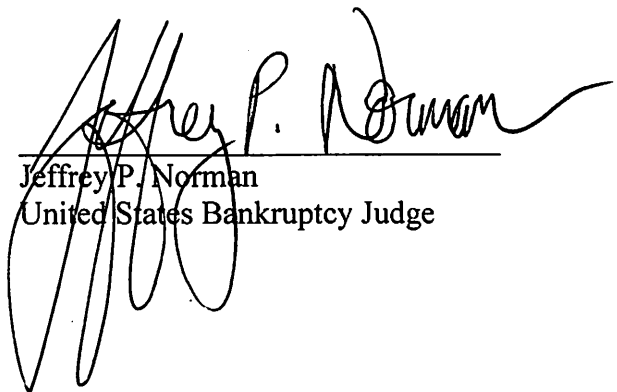
8. Nothing herein authorizes the debtor(s)' use of cash collateral, except that debtor(s) are authorized to use any exempt funds distributed to them by the Chapter 13 Trustee pursuant to this Standing Order.

9. Nothing herein requires the Chapter 13 Trustee to administer insurance proceeds, and the Chapter 13 Trustee may deviate from this standing order by agreement or appropriate motion. The Court will consider consent orders between the debtor, secured creditor, and Chapter 13 Trustee by Ex-Parte Motion for Entry of an Agreed Order.<sup>1</sup>

**IT IS FURTHER ORDERED** that any insurance proceeds in Chapter 13 cases that *do not* constitute cash collateral as defined by 11 U.S.C. 363(a) and that are otherwise exempt to the debtor or represent the proceeds of an exempt asset may be used by the debtor without motion and order upon **notice**<sup>2</sup> to the Chapter 13 Trustee.

**SO ORDERED.**<sup>3</sup>

Dated: 11/28/2016

  
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Jeffrey P. Norman  
United States Bankruptcy Judge

<sup>1</sup> All agreements or motions should conform to Court's Standing Order Regarding Ex Parte Motions or Applications: Response Deadlines and Certificates of Service or be joined with a Motion to Expedite Hearing.

<sup>2</sup> Notice shall be effective by filing same on the Court's CM/ECF system.

<sup>3</sup> The Chapter 13 Trustee may circulate this Standing Order to debtors and creditors who receive insurance proceeds in Chapter 13 cases.