

## Adequate Protection Payments *How are they going to work?*

### The Issues



- Accounting Problems for Debtors, Creditors and the Chapter 13 Trustee;

- Trustee cannot reduce Creditor's claim by amounts paid directly - the claim becomes inaccurate;



- Trustee cannot "credit" payments that do not go through the Trust Account;

- Difficult to Verify Direct Payments and Proper Crediting.

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### The Chapter 13 Trustee's Position



- The Debtor should NOT reduce the amount of the plan payments to the Trustee;
- The Trustee will disburse all adequate protection payments to creditors;
- The Trustee may assess an administrative fee for disbursing the adequate protection payments.

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### PROPOSED REVISIONS TO LBR 3015-1(k)

#### "PLAN PAYMENTS TO TRUSTEE:

- (a) Adequate Protection Payments. The Debtor shall NOT reduce the amount of the plan payments to the Trustee under 11 U.S.C. §§1326(a), (b) or (c) without an order from the court.
- (b) Upon receipt and posting of the plan payment, the Trustee shall promptly disburse on the next available disbursement or as soon as practicable, that portion of the plan payment that the debtor proposes to pay as adequate protection to the creditor holding an allowed claim secured by personal property where such security interest is attributable to the purchase of such property.
- (c) The Trustee may assess an administrative fee for effecting the payments required in paragraph (a) above and shall collect such fee at the time of disbursing the adequate protection payment. The fee shall be equal to the percentage fee established by the Attorney General pursuant to 28 U.S.C. §586(e)(1) (B) in effect at the time of the disbursement.

