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Chapter 13 Trustee

Adequate Protection Payments  
Trustee's Position

The Debtor will NOT reduce the plan payment by the amount of the adequate protection payment as set forth in 11 U.S.C. §§1326(a), (b) and (c) but will tender the plan payment to the Trustee in full.

If the creditor holds an allowed claim, the Trustee will disburse the adequate protection payment to the creditor on the next disbursement or as soon as practicable after the payment is received and posted.

The Trustee may assess an administrative fee for disbursing the adequate protection payment and will collect the fee at the time of disbursing the adequate protection payment. The fee will 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.

This procedure has been formulated by the Trustee in order to resolve the following issues:

Reduction of Claim Amount - The Trustee cannot unilaterally reduce the creditor's allowed claim by amounts paid directly by the debtor. Therefore, unless the creditor files an amended proof of claim deducting the amount paid for adequate protection, the allowed claim will be inaccurate. If the adequate protection payment is paid through the Trust Account, the Trustee can deduct the payment from the claim amount and properly credit the Debtor for the payment.

Verification of Direct Payment and Proper Crediting – the Trustee cannot verify that the adequate protection payment was actually made to the creditor and that the creditor properly credited the payment towards the Debtor's account.