

**FILED**

**JAN 20 1999** ✓

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA

PEGGY B. DENNIS, CLERK  
U.S. BANKRUPTCY COURT  
EASTERN DISTRICT OF N.C.

In re: )  
)  
PROCEDURES IN AID OF )  
THE ADMINISTRATION OF )  
CHAPTER 13 CASES )  
)  
)  
)

ADMINISTRATIVE ORDER  
AUTHORIZING ADMINISTRATIVE  
CLAIM BY TRUSTEES IN CASES  
DISMISSED PRIOR TO  
CONFIRMATION

THIS MATTER comes before the undersigned United States Bankruptcy Judges for the Eastern District of North Carolina, *ex parte*, upon the Motion for entry of an Administrative Order Allowing Standing Chapter 13 Trustees in this District (herein collectively the "trustees") an administrative claim of up to \$125.00 under 11 U.S.C. § 503(b)(1)(A) in each Chapter 13 case dismissed prior to confirmation, to be paid in accordance with 11 U.S.C § 1326(a)(2). After reviewing the motion, the Court finds the following facts:

1. The trustees incur costs of administration and operating expenses in association with every chapter 13 case assigned to them by the Court for administration, and generally a larger proportion of these costs and expenses are incurred between the date of assignment of each case and the date of confirmation than during any other time in the life of a chapter 13 case.

2. The costs and expenses of administering Chapter 13 cases should be borne fairly and proportionately between all cases (and thence between all debtors and creditors) during the time of the pendency of these cases in this Court, irrespective of whether a case is dismissed before or after plan confirmation or whether a debtor receives a discharge.

3. Prior to the entry of this order, all funds held by a trustee, debtor's attorney or any other party in a case dismissed prior to confirmation are returned to the debtor or debtors with no deduction for payment of any portion of the actual, necessary costs and expenses incurred by the trustee in having administered the case prior to dismissal.

4. It is inequitable for debtors and creditors in successful cases to bear the trustees' entire administrative cost and expense burden in all cases, including those that are unsuccessful in chapter 13, especially since all debtors voluntarily choose to enter chapter 13 and when funds are often available from which to pay a portion of such costs and expenses prior to remittance of such funds to debtors whose cases are dismissed prior to confirmation.

5. The actual cost and expense of administering a case prior to confirmation averages more than \$125.00 per case, and it would be fair and equitable that the trustees each be allowed a claim of \$125.00 in each case dismissed prior to confirmation, payable in accordance with 11 U.S.C. § 1326(a)(2).

6. Allowance of an administrative claim to a trustee in any case does not prevent a trustee from seeking allowance and payment of additional costs and expenses by application under 11 U.S.C. § 503(a) in any case, as deemed appropriate by the trustee.

7. This administrative order should be effective in all cases pending on or after the date of entry of this order.

BASED UPON THE FOREGOING FINDINGS OF FACT, this court concludes as a matter of law that the trustees are, and should be, entitled to a claim of up to \$125.00 under 11 U.S.C § 503(b)(1)(A) in each Chapter 13 case assigned to them which is dismissed prior to confirmation, recoverable from plan payments made by the debtor(s) prior to confirmation to the trustee, debtor's attorney, or other party under 11 U.S.C. §1326(a)(2). Accordingly, based upon the foregoing findings of fact and conclusions of law,

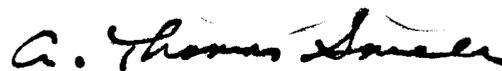
IT IS HEREBY ORDERED, ADJUDGED, AND, DECREED that:

1. Each Standing Chapter 13 Trustee in this district should be, and hereby is, allowed an administrative claim under 11 U.S.C. §503(b)(1)(A) in the amount of up to \$125.00 in each case assigned to such trustee which is dismissed on or after the date of entry of this order and prior to confirmation, representing actual costs and expenses incurred by the trustee in administering each case between the date of assignment and dismissal; and

2. The claim may be recovered by the trustee under 11 U.S.C. § 1326(a)(2) from any plan payments made by a debtor and held by the trustee, debtor's attorney, or any other party, prior to the return of funds to the debtor(s); and

3. Nothing in this order shall be construed to prevent a trustee who has incurred actual costs and expenses in excess of the presumptively reasonable amount of \$125.00 from applying under 11 U.S.C. § 503(a) for reimbursement of these additional costs and expenses from funds paid by a debtor to the trustee, debtor's counsel, or other party.

DATED: JAN 20 1998



Judge, U.S. Bankruptcy Court



Judge, U.S. Bankruptcy Court