

UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN

In re:

Administrative Order  
No. 2013-2

DEFERRAL OF MOTION FEES FOR  
SECTION 363(f) SALES

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On December 1, 2013 a new motion fee of \$176.00 will be assessed upon the filing of a motion to sell property of the estate free and clear of liens and other interests under 11 U.S.C. § 363(f). The court recognizes that some estates may not have funds available at the time of the filing such a motion to pay the new fee, and that there is currently little procedural guidance addressing the deferral or waiver of the fee.

The court anticipates that the Judicial Conference of the United States (the "Conference") or the Administrative Office of the United States Courts (the "Administrative Office") may soon issue guidance regarding the collection, deferral, or waiver of the new motion fee but, until then, interim guidance to the Clerk and the bar is necessary and appropriate under LBR 9029(b). Therefore, in connection with the new motion fee the court will borrow the procedures governing the collection, deferral, and waiver of fees imposed for commencing adversary proceedings as described in Part G of the Bankruptcy Fee Compendium III, May 1, 2013 Edition (the "Fee Compendium"). The court further finds that the interim approach memorialized in this General Order is not inconsistent with the policies of the Conference. *Cf.* 28 U.S.C. § 1930(f)(3).

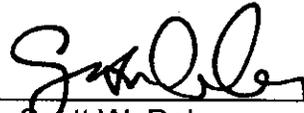
NOW, THEREFORE, IT IS ORDERED that trustees and debtors in possession without adequate estate funds may file motions to sell "free and clear" under § 363(f) and request to defer the fee until a time in which the estate realizes sufficient funds to pay the fee, in accordance with the procedures described in the Fee Compendium (Part G – Fees for Filing Adversary Proceedings).

IT IS FURTHER ORDERED that the court will treat the electronic checking of "defer" in the CM/ECF event codes as the registered filer's affirmative representation, subject to Fed. R. Bankr. P. 9011, that there are no funds available in the estate to pay the motion fee at the time of filing.

IT IS FURTHER ORDERED that upon the estate's realization of sufficient funds, the fee shall be paid as soon as practicable, and in other cases the fee shall be collected, or not, in accordance with the Conference or Administrative Office policy described in Part G of the Fee Compendium.

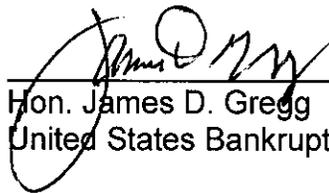
IT IS FURTHER ORDERED that this General Order shall govern the collection, deferral or waiver of the new motion fee until the earlier of (1) the issuance of formal guidance from the Conference or the Administrative Office, (2) the effective date of a local rule of this court addressing the issues, or (3) further order of the court.

Dated: November 27, 2013



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Hon. Scott W. Dales  
Chief United States Bankruptcy Judge



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Hon. James D. Gregg  
United States Bankruptcy Judge