

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

IN RE:)
)
) Case No.
)
 Debtor(s).) Chapter 13

**JOINT STIPULATION AND ORDER AUTHORIZING THE DEBTOR TO INCUR
POST-PETITION DEBT IN A CHAPTER 13 CASE**

The above captioned non-business¹ Debtor(s) (hereinafter, the “Debtor”), and the Office of the Chapter 13 Trustee (the “Trustee”) jointly stipulate as to the authority of the Debtor to incur debt while having a pending case under Chapter 13 of the Bankruptcy Code. Once this Joint Stipulation and Order is signed by the presiding bankruptcy judge and entered by the clerk, it has the force and effect of a court order authorizing the Debtor to incur debt consistent with the terms and conditions listed below.

The Debtor states, and the Trustee agrees, as follows:

1. The Debtor filed a Chapter 13 petition in this court on:
Regarding confirmation of the Debtor’s Chapter 13 plan, the court:
has not confirmed the Debtor’s proposed Chapter 13
confirmed the Debtor’s Chapter 13 plan on:
2. The terms of the Debtor’s proposed Chapter 13 plan or confirmation order requires monthly payments, and there are approximately _____ months remaining until the Debtor’s plan is completed. The Debtor’s current plan payments are \$ _____ per _____.
3. The Debtor needs to incur post-petition debt to purchase: (make, model, year, or other description).

¹ Business debtors in Chapter 13 cases are defined as individuals that are self-employed and who incur trade credit in the production of income from such employment. 11 U.S.C. § 1304. Chapter 13 business debtors are required to file a motion to obtain credit with the court under the provisions of 11 U.S.C. § 364 and Fed. R. Bankr. P. 4001(c). By filing this Joint Stipulation and Order, the Debtor stipulates that the Debtor is not a business debtor as defined by 11 U.S.C. § 1304.

The general terms of the proposed purchase include, as applicable:

- A. An initial payment (or equity in a trade-in, insurance proceeds, etc) having an approximate value of \$.
- B. The total indebtedness contemplated to be incurred is approximately \$ payable over months at % interest for anticipated monthly payments (including fees, escrow, or other financed items related to the purchase) not to exceed \$ per month.

4. If allowed to incur this post-petition debt, the execution of the post-petition financing will affect the following entities and/or their interests in collateral, as applicable:

- a. Identify and describe the creditor's secured interests / debts that will be satisfied or partially satisfied, and any collateral to be surrendered or traded-in:

- b. Identify and describe the creditor's security interests / debts that will be created as a result of the post-petition financing:

- c. Identify and describe any ownership interest (other than the Debtor's) in the item to be purchased:

5. Incurring post-petition financing is necessary because:

6. The Debtor is able to make the proposed payments under the general terms listed above because:

7. If approved, payments on the newly incurred debt will be made:

Directly to the new Lender by the Debtor

To the new Lender by the Trustee through the Debtor's monthly plan payments.

Other:

8. If approved by the presiding judge, this joint stipulation does not amend a proposed Chapter 13 plan, or modify a confirmed Chapter 13 plan, except as follows:

a. The Trustee is authorized to cease further payments to creditors whose obligations are being satisfied through the incursion of the new debt;

b. The Trustee is authorized to begin payments, as applicable, to the new Lender.

9. The Debtor will:

not file an amended proposed plan, or motion to modify a confirmation order, based on the terms of this Joint Stipulation and Order because the terms stated above do not negatively affect creditors subject to the existing proposed plan or confirmation order; or

following court approval, file an amended proposed plan, or a motion to modify a confirmation order, based on the terms of this Joint Stipulation and Order because terms stated above negatively affect the distribution to creditors subject to the existing proposed plan or confirmation order. The Debtor acknowledges that payments are due pursuant to the existing

proposed plan or confirmation order until the proposed plan is amended or the confirmation order is modified.

10. The Debtor and the Trustee agree that: (1) the post-petition indebtedness is necessary for the Debtor's performance under the proposed plan or confirmation order; (2) the creditor has obtained the Trustee's approval to extend credit before the debt was incurred by the Debtor, and (3) upon the filing of a proof of claim, the creditor is allowed treatment pursuant to 11 U.S.C. § 1305.

11. This authorization is valid for 120 days after it is signed by the presiding bankruptcy judge.

12. For cause shown, the Court directs that notice of this Joint Stipulation and Order is limited to the Debtor, the Debtor's attorney (if any), and the Trustee.

Debtor or Attorney for the Debtor

Name:

Bar Number:

Address:

Tele.

Helen M. Morris or Susan Cannon-Ryan
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