

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

FILED

MAY 5 2014

In re:

GENERAL ORDER

}

No. 2014-1

CLERK, U.S. BANKRUPTCY COURT  
WESTERN DISTRICT OF OKLAHOMA  
BY: Qualla DEPUTY

PAYMENT OF FILING FEE BY CHAPTER 7 TRUSTEE  
PURSUANT TO 11 U.S.C. § 363(f)

On December 1, 2013, a filing fee promulgated by the United States Judicial Conference in the amount of \$176.00 became effective for 11 U.S.C. § 363(f) Motions to Sell Property Free and Clear of Liens filed by the Chapter 7 trustee, hereinafter referred to as § 363(f) Fee. Unlike other filing fees, neither the Fee Compendium nor 28 U.S.C. §1930 directs when the §363(f) Fee shall be paid. Because no payment date is specified, this Court concludes that it has the discretion to establish a reasonable due date for payment of the filing fee.

Ordinarily, a filing fee is due when the underlying motion is filed. However, the Fee Compendium reflects a policy that Chapter 7 case trustees should not be required to pay a filing fee from their personal assets when a bankruptcy estate does not have sufficient funds to pay the fee. Therefore, upon a trustee's certification in the Motion to Sell that the estate has insufficient assets to pay the § 363(f) Fee, the Court concludes that the fee should not be due until the conclusion of the proposed sale.


If an estate has sufficient funds to pay the filing fee, the estate funds must be used. If an estate has insufficient funds to pay the filing fee, the Chapter 7 trustee shall include certification in a § 363(f) Motion to Sell. Payment of the filing fee will be deferred until the Report of Sale has been filed or the Order


Confirming Sale has been entered, whichever occurs first. Payment of the §363(f) Fee must be the first priority payment from sale proceeds, unless insufficient funds to pay the filing fee were recovered from the sale. Failure to pay the §363(f) Fee when due without further order from the Court will result in deactivation of a trustee's CM/ECF login and password.

IT IS ORDERED that the Chapter 7 trustee shall pay the § 363(f) Fee after the proposed § 363(f) sale in accordance with this order; and,

IT IS FURTHER ORDERED that an order approving a Motion to Sell pursuant to §363(f) shall provide for the payment of the § 363(f) Fee from the sale proceeds.

DATED this 5<sup>th</sup> day of <sup>May</sup> ~~March~~, 2014.

  
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Chief Judge Sarah A. Hall

  
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Judge Niles L. Jackson