

OFFICE OF THE STANDING CHAPTER 13 TRUSTEE  
6951 N.E. LOOP 820, SUITE 300  
NORTH RICHLAND HILLS, TEXAS 76180-6608  
(817) 770-8500  
(817) 498-1362 (FAX)

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

IN RE: HOWARD L. MCCARTHY, JR.	§	CASE: 06-40127-DML
	§	
	§	
	§	
DEBTOR	§	PREHEARING DATE: JANUARY 05, 2007

---

**FIRST AMENDED STIPULATIONS**

---

To The Honorable Dennis Michael Lynn, United States Bankruptcy Judge:

Now Come Tim Truman, Standing Chapter 13 Trustee, and Howard L. McCarthy, Jr., Debtor, and file these their "Stipulations" regarding the Debtor's Certification And Motion For Chapter 13 Discharge and the Response By Trustee thereto, heretofore filed herein:

1. Debtor, Howard L. McCarthy, Jr. filed his voluntary petition under Chapter 13 of the Bankruptcy Code on January 12, 2006.
2. Debtor's annualized Current Monthly Income according to his form B22C was \$86,470.20.
3. Debtor's household size on the petition date was 2.
4. Debtor was a resident of Texas on the petition date.
5. The median income on the petition date for a Texas household of 2 was \$46,454.
6. Debtor's annualized Current Monthly Income on the petition date was "above" the median income for his household size for his state of residence.
7. Debtor's Plan filed 1-13-06 provided for variable payments over 60 months totaling \$49,260.00.
8. 60 months from the first payment due date of February 11, 2006, would be February 10, 2011.
9. The Plan also provided for an estimated Unsecured Creditors' Pool of \$29,194.20, calculated as \$486.57 (Disposable Income per section 1325(b)(2)) X 60 months (Commitment period per section 1325(b)(4)), but not less than \$41,857.00 pursuant to section 1325(a)(4).
10. The Order Confirming the Plan was entered on 4-13-06, and provided that the debtor "... shall pay a total of \$49,260.00 in 60 months."

11. The Confirmation Order further provided “that allowed non-priority unsecured claims will be paid pro rata from the greater of an unsecured creditors’ pool of \$29,194.20 or non exempt property of \$41,857.00.”

7. The Plan estimated total unsecured creditors to be \$69,798.00.

8. \$41,857.00 is 60% of \$69,798.00.

9. Allowed non-priority unsecured claims per the TRCC totaled \$58,435.19.

10. The TRCC was approved by order entered January 9, 2007.

11. \$41,857.00 is 72% of \$58,435.19.

12. The Debtor completed total payments of \$49,260 on July 6, 2007.

13. The Trustee has paid non-priority unsecured claims a total of \$41,898.05, and has a balance now on hand of \$2,353.08.

14. On September 10, 2007, the Trustee filed his “Notice of Chapter 13 Plan Completion.”

15. On November 28, 2007, Debtor filed his “Debtor(s) Certification And Motion For Entry of Chapter 13 Discharge Pursuant To 11 U.S.C. section 1328(a).”

16. On November 29, 2007, the Trustee filed his “Response By Trustee To Debtor(s) Certification And Motion For Chapter 13 Discharge.”

17. Hearing was noticed for December 20, 2007, at 9:30 a.m.

18. As of December 20, 2007, the debtor’s 60 month Applicable Commitment Period had not ended.

19. The Plan was never Modified to reduce the term below 60 months.

20. As of December 20, 2007, allowed unsecured claims have not been paid in full.

21. The plan base was paid off by the sale of non-exempt property and the best interests of creditors test has been met.

Respectfully Submitted,

/s/ Tim Truman

Tim Truman, Chapter 13 Trustee  
State Bar # 20258000

/s/ Craig Davis

Craig Davis, State Bar # 00793588  
Attorney for Howard L. McCarthy, Jr.