OFFICE OF THE CHAPTER 13 TRUSTEE

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Update to Trustee's Policy Regarding Third Party Checks
Effective April 1, 2012

Recently, issues have arisen regarding checks made payable to the debtor that have been indorsed[1] by the debtor and then presented as plan payments to Bradford W. Caraway, Chapter 13 Trustee ("Trustee"). Such checks are known as "Third Party Checks" and include examples such as:

- A cashier's check or money order payable to the debtor that has been indorsed to the Trustee.
- An insurance check payable to the debtor that has been indorsed to the Trustee.
- A tax refund check payable to the debtor that has been indorsed to the Trustee.

The Trustee has reviewed this issue based upon State and Federal law as well as the banking practices of his bank, Renasant Bank. Accordingly, the Trustee is updating his policy and will no longer accept Third Party Checks unless, in the Trustee's business judgment, there is a compelling reason for doing so and no reasonable alternative is available to the debtor for the presentment of funds to the Trustee. Reasonable alternatives include:

- The debtor may deposit the check into his or her checking or savings account until the funds clear, and then issue a check payable to the Trustee for the appropriate amount.
- The debtor may indorse the check and tender it to his or her attorney to be deposited and held in trust until the funds clear, and then the attorney may issue a check payable to the Trustee for the appropriate amount.
- The debtor may request the party who issued the check (the Drawer) to replace the check with one made payable to the Trustee.
- Such other reasonable alternatives that result in the debtor's presentment of good funds to the Trustee consistent with the Trustee's policies and the banking procedures of the Trustee's bank.

If you believe the debtor has no reasonable alternative and an accommodation is appropriate, please contact the Trustee or one of his attorneys in writing to determine his position. The Trustee intends to respond within 21 days. If an accommodation is granted, any Third Party Checks accepted will be deposited and held for at least 30 business days before distribution. If you have any questions regarding this policy update, please contact Mary Frances Fallaw or Enslen Lamberth Crowe.

[1] See "Indorsement" in Ala. Code 1975 § 7-3-204 and "Endorsement" in Merriam-Webster Unabridged Dictionary.