

SO YOU WANT A FILE A 12

I. Evolution of the Law

- A. Enacted by Congress in 1986 to “keep the farmer on the farm.”**
- B. Originally set to expire in 1993.**
- C. Made permanent in 2005.**
- D. 18,212 cases filed through June 30, 1996. Numbers fallen off dramatically.**

II. Initial Interview with Debtor

- A. Ask for tax returns for three prior years.**
- B. Qualification of Debtor**
- C. See requirements of Sec. 101(18)**
- D. Rules different for entities – see Sec. 101(18)(B)**
- E. Sec. 101(19) – regular annual income – sufficiently stable and regular to make plan payments.

[See Sec. 101(19A) & (19B) for fishermen.]**
- F. Sec. 109(f) repeats requirement for family farmer with regular annual income.**

III. Debtor Pre-Planning

- A. Opportunities rare as debtor usually exhausted means.**
- B. Possible options:
 - 1. Examine the affairs of the debtor carefully to ascertain financial standing and determine whether there is any “wiggle room.”****

2. Consider sale or other disposition of real estate or equipment.
3. All transfers must be for value and avoid preferential payments with proceeds.
4. Can I donate my place to my son?
5. Placement of bogus liens?
6. Use of exempt funds.

IV. File the case

- A. Preparation of Schedules and Statement of Financial Affairs as in any other case.
- B. What happens after filing?
 1. Appointment of Trustee – standing or case basis.
 2. Note that UST can serve (see Chapter 11).
 3. Note that under Sec. 1202(b)(3), Trustee must appear and be heard on:
 - a. Valuation
 - b. Confirmation of Plan
 - c. Modification of Plan post-confirmation; and
 - d. Sale of property of the estate.

[See Sec. 1206 – sales free of interests]
 4. Trustee may sell or lease in the ordinary course of business without notice or a hearing if the business is being operated under Sec. 1203.
 5. Sec. 1203 – rights and powers of the debtor – gives the debtor-in-possession virtually all of the rights of a Trustee.

V. Following filing of the case

A. Sec. 362(a) – automatic stay.

1. Sec. 362(a)(1) – cites eight specific acts or actions that are stayed.
2. Stay remains in place until lifted or modified, or the case is closed.

B. Sec. 1201 – codebtor stay.

1. Copied from Sec. 1301.
2. Operates only as to consumer debts.

C. Creditor remedies.

1. Motion to lift stay (or abandon property).
 - a. Frequently utilized by creditors whose debts consist of monthly notes, such as car notes and house notes.
 - b. Frequently best to counter with an agreed adequate protection order for continued payment of monthly notes.
2. Stay lift motion by creditor secured by land or equipment.
 - a. Look for equity cushion, but be careful not to overvalue collateral to provide.
 - b. Offer adequate protection by proposing to pay the creditor's allowed secured claim over time with interest and to incorporate into Plan. [Using Sec. 1225(a)(5)(B)(ii) treatment.]
 - c. Argue to the court that Sec. 361 does not apply in Chapter 12 (for good reason) and that customary adequate protection treatments are inconsistent with the Congressional purpose of keeping the farmer on the farm.

VI. Borrowing money (the yellow brick road).

A. Debtor must have a source of financing to continue farm operations.

B. The debtor-in-possession has the authority to operate the debtor's business (Sec. 1203) but cannot incur debt, or sell, use or mortgage without court authority.

C. Possible sources of financing.

- 1. Conventional lenders (such as banks).**
- 2. Banks who participate in 90/10 lending.**
- 3. Combination loans – supplies on credit from a provider and cash from a bank or other lender.**
- 4. Cash flow problems – be aware that unsecured debt has a separate treatment under a Chapter 12 plan and is removed from current debt on financial statements.**

D. Application to borrow.

- 1. Bring on early in the case.**
- 2. Determine the upper limits of borrowing needs and add a cushion.**
- 3. Requires notice and a hearing.**
- 4. Note BRFP 4001(c) – requires considerable documentation with an application to borrow, including a copy of the proposed credit agreement.**

VII. Filing the Plan.

A. Sec. 1221 requires that the plan must be filed no later than 90 days following the order for relief.

B. Section 1222 – contents of plan.

1. Debtor must submit future earnings or income to the supervision or control of the Trustee. [NOTE: Includes earnings or income – does this mean income earned from off-farm employment? Custom farming operations?]
 2. Plan must provide for Sec. 507 priority claims.
 3. Must treat each holder of claims within a class the same way.
 4. Can pay Sec. 507(a)(1)(B) (domestic) claims less than in full if all disposable income is subjected to the plan for a five year period
 5. Permits different treatment for codebtor claims.
 6. May not provide for payments over more than three years unless the court approves up to five (maximum).
- C. Sec. 1225 - Confirmation standards.
1. Sec. 1225(a)(1-4) – the must provisions.
 2. Secured claims.
 - a. Holder must accept (no voting requirement).
 - b. Holder retains its lien and debtor must make payments equivalent to the allowed secured claim.
 - c. Or the debtor may surrender the property.
- D. Disposable income.
1. See Sec. 1225(b)(2) – necessary for
 - a. Maintenance and support of the debtor or a dependent of the debtor and domestic support obligations.

- b. Continuation, preservation and operation of the debtor's business.
- 2. Can argue that there is no disposable income in a farm case.

VIII. Beware the tax man.

- A. *In re Dawes*, 652 F.3d 1236 (10th Cir. 2011) – held that post-petition taxes from the sale of assets were not dischargeable.
- B. *United States v. Hall*, 617 F.3d 1161 (9th Cir. 2010), affirmed at *Hall v. United States*, 132 S.Ct. 1882 (2012) – held that the Chapter 12 estate was not a taxable entity and cannot receive the benefit of Sec. 1222(a)(2)(A).
- C. Never allow the debtor to make any significant disposition of property pre- or post-petition without consulting a tax professional.

IX. Post-confirmation modification – Sec. 1229.

- A. Sec. 1229(a) – may be filed by the debtor, the trustee or the holder of an allowed unsecured claim.
- B. Becomes the plan unless the modification is disapproved.

DEBTOR: IMA FARMER

DATE: 4/1/16

ASSET	VALUE	LIENHOLDER	AMOUNT
REAL ESTATE			
400 ac. cropland	3500/ac 1,400,000	FLB USDA-FSA	870,000 956,000
120 ac. pasture	2,200/ac 264,000	FSA	956,000
House & 2.5 ac	180,000	Home M+g. Corp. FSA	212,000 956,000
FARM EQUIPMENT			
Farm Eqpt.	330,000	Deere Credit CNH Capital	83,000 113,000
JD 9960	85,000	PCA	67,000
VEHICLES			
2015 Chev. Suburban	43,000	Chase	38,500
2012 Ford F250	27,000	Ford Motor Credit	33,000
2014 Corvette	52,000	Wells Fargo	55,000
2004 Peterbilt	22,000	None	
2002 Willson Tr.	8,500	None	
BOATS, ATV'S, TRAILERS, ETC.			
OTHER ENCUMBERED ASSETS			

MAJOR UNSECURED DEBT

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION**

RE: IMA FARMER

CASE NO: 16-12345

Debtor

CHAPTER 12

**APPLICATION FOR AUTHORITY TO INCUR DEBT AND
GRANT SECURITY INTEREST AND ADMINISTRATIVE PRIORITY**

NOW COME Ima Farmer, debtor, who moves the Court as follows:

1.

Debtor show the Court that to continue the debtor's farming operations, it is necessary that the debtor be authorized to borrow funds for the purpose of making the 2016 crop in an amount up to \$376,000.00 bearing customary terms and interest rates, from any lender willing to extend funds for that purpose.

2.

Debtor further shows that the above described indebtedness should be recognized as an administrative expense priority to the estate pursuant to 11 U.S.C. §503(b)(1).

3.

Debtor additionally shows the Court that to secure the requisite extension of credit, debtor must be authorized to issue to the lender a pledge and crop lien on the debtor's 2016 crops, as well as a pledge or assignment of all proceeds from government price support programs and proceeds from crop insurance.

4.

Debtor shows that the lender may require as an additional consideration for the extension of credit security interest on the debtor's immovable or movable property, inferior to any security interests on such property as may presently exist.

5.

Debtor further shows that he should be authorized and directed to execute any and all required documentation incidental to the implementation of the order sought herein.

WHEREFORE DEBTOR PRAYS that, following notice and a hearing, debtor be authorized to incur the debt herein sought, subject to the conditions set out herein.

FURTHER PRAYS for such relief as may be just and equitable in the premises.

/s/ James W. Berry
JAMES W. BERRY
1030 HARISON ST., STE A
P. O. BOX 900
RAYVILLE, LA 71269
TEL: 318/728-0457
EMAIL: jimb@bayou.com
ATTORNEY FOR DEBTOR*

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

RE: IMA FARMER

CASE NO: 16-12345

Debtor

CHAPTER 12

NOTICE TO CREDITORS AND PARTIES IN INTEREST

NOTICE IS HEREBY GIVEN that an Application To Incur Debt has been filed by debtor.

NOTICE IS FURTHER GIVEN that a hearing will be held on the said motion on 5th day of May, 2016 at 9:30 o'clock A.M. m. in the Bankruptcy Courtroom, 201 Jackson St., 3rd Floor, Rm. 310, Monroe, Louisiana.

NOTICE IS FURTHER GIVEN that any creditor or party in interest who has an objection to the said amended plan must file a written objection in triplicate with the Clerk of the Bankruptcy Court, and serve the same on the attorney for the debtor and on the Trustee no later than 7 business days prior to the date set for the hearing.

RAYVILLE, LOUISIANA, this 4th day of April, 2016

BY ORDER OF THE COURT:

/s/James W. Berry

JAMES W. BERRY

1030 HARRISON STR., STE A.

P. O. BOX 900

RAYVILLE, LA 71269

TEL: 318/728-0457

ATTORNEY FOR DEBTOR*

UNITED STATES BANKRUPTCY
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

IN RE: IMA FARMER
Debtor

CHAPTER 12

CASE NO.: 16-12345

ORDER

THE COURT having considered the motion of the debtor to incur a secured debt; the Court having considered the motion, the representations of counsel and of the Chapter 12 Trustee and it appearing that the Debtor is entitled to the relief which he seeks, it is therefore:

ORDERED THAT the debtor herein be and he is hereby authorized to borrow funds for making 2016 crops in an amount up to \$376,000.00.00, bearing customary terms and interest rates.

FURTHER ORDERED that the above described indebtedness is recognized as an administrative priority pursuant to 11 U.S.C. §503(b)(1).

FURTHER ORDERED that the debtor is authorized to issue to the lender a pledge and crop lien on the debtor's 2016 crops as well as pledge or assignment of all proceeds from government price support programs and proceeds from crop insurance, together with a security interest on the debtor's immovable or movable property inferior to any security interests on such property as may presently exist.

###

ORDER WAS PREPARED AND SUBMITTED BY:
JAMES W. BERRY
ATTORNEY AT LAW
BAR NO.: 3045
P. O. BOX 900
RAYVILLE, LA. 71269
(318) 728-0457
COUNSEL OF RECORD FOR DEBTOR

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

IN RE:
IMA FARMER
Debtor(s)

CHAPTER 12 PROCEEDING

CASE NO.: 16-12345April

CHAPTER 12 PLAN OF ADJUSTMENT

DATED: April 17, 2016

FILED BY: DEBTOR(S)

The above named debtor(s) hereby present and propose this Chapter 12 plan pursuant to 11 U. S. C. Sections 1221 et seq.

ARTICLE I.
GENERAL PREMISES OF THE PLAN

The debtors herein are family farmers as defined in 11 U.S.C. sec 101 (17) and are family farmers with regular annual income as defined in 11 U.S.C. sec 101 (18). The basic premises of the plan is that the debtors herein shall retain a portion of their assets and continue farm operations, divesting themselves of such property which is abandoned or transferred under this plan prior to or after confirmation, with liabilities restructured so as to allow payment of debts from future earnings of the debtors.

ARTICLE II.
CLASSIFICATION OF CLAIMS AND SPECIFIC TREATMENT OF CLAIMS

A. Classification and Treatment of Claims

1. Class 1. The only claims in this class are administrative costs. Those administrative costs allowed by the Bankruptcy Court prior to or at confirmation will be paid in cash and in full prior to or shortly after confirmation from the earnings and assets of the debtors, unless agreements are reached for extended payouts with the individual priority creditors. Administrative costs incurred after confirmation allowable under 11 U.S.C. sec 503 (b) shall be treated and paid as priorities during the administration of the plan and shall be paid from the earnings and assets of the debtors. After these claims are paid in full, any earnings and assets of the debtors will be distributed to creditors as described in Classes 2 through 11 below.

1 (a). The attorney for the debtor(s) currently holds in his client trust account a retainer fee in the amount of 7,500.00, which sums are being held subject to administrative claims and further orders of this Court.

2. Class 2. The only claims in this class are allowed unsecured claims entitled to priority pursuant to 11 U.S.C. sec 507, other than those in Class 1, above and except for tax claims in Class 3, below. Priority claims allowed by the bankruptcy Court in Class 2 will be paid in cash and in full prior to or shortly after confirmation from the earnings and assets of the debtors, unless agreements are reached with individual priority creditors for extended payouts. Priority claims arising during administration of the plan and allowable as such under 11 U.S.C. sec 507 shall be paid out of the earnings and assets of the debtors.

3. Class 3. The only claims in this class are general unsecured claims of taxing entities which are entitled to priority under 11 U.S.C. sec 507. These priority tax claims shall be paid by the Chapter 12 Trustee out of the funds of the debtors remaining after payments to creditors in the classes which hereinafter follow in this plan. Priority tax claims in this class shall be paid by the Chapter 12 Trustee out of the such funds following the first series of payments under this plan, provided enough funds remain in the hands of the Trustee after such payments to pay these claims in full. Should the claims in this class exceed the amount of the funds remaining in the hands of the Chapter 12 Trustee after the first series of payments, then claims in this class shall be paid by the Trustee in three (3) equal annual installments, without interest, as required by 11 U.S.C. sec 1222 (a) (2). Tax claims arising during the administration of this plan, including ad valorem taxes on real property shall be paid out of the earnings and assets of the debtors as the same become due and payable.

4. Class 4. The only creditor in this class is the Federal Land Bank, which claim shall be satisfied as follows:

- (a) The debtors shall retain the agricultural real estate on which this creditor holds securities, and the creditor shall retain its liens and securities until paid in full. The claim secured thereby shall be fixed at \$870,000.00 as of filing. This allowed secured claim be repaid in thirty (30) annual amortized installments of principal and interest, bearing interest at the rate of 2.5% per annum until paid, with the first such payment due on the 15th day of December, 2016 and annually thereafter on the same date until paid in full.

5. Class 5. The only creditor in this class is USDA-FSA which claim shall be satisfied as follows:

- (a) The debtors shall retain the 400 acres of agricultural real estate on which this creditor holds securities, and the creditor shall retain its liens and securities until paid in full. The claim secured thereby shall be fixed at \$530,000.00 as of filing. This allowed secured claim shall be repaid in thirty (30) annual amortized installments of principal and interest, bearing interest at the rate of 2.5% per annum from confirmation until paid, with the first such payment due on the 15th day of December, 2016 and annually thereafter on the same date until paid in full.

- (b) (b) The debtors shall retain the 120 acres of agricultural real estate on which this creditor holds securities, and the creditor shall retain its liens and securities until paid in full. The claim secured thereby shall be fixed at \$264,000.00 as of filing. This allowed secured claim shall be repaid in thirty (30) annual amortized installments of principal and interest, bearing interest at the rate of 2.5% per annum from confirmation until paid, with the first such payment due on the 15th day of December, 2016 and annually thereafter on the same date until paid in full.
- (c) There being no equity in the family home and 2.5 acres on which this creditor holds securities, these liens and securities shall be erased and cancelled from the public records.
- (d) Any balance of this creditor's claim remaining unsatisfied shall be considered as unsecured and shall be relegated to Class 11, *supra*, for treatment.

6. Class 6. The only creditor in this class is Deere Credit, which claim shall be satisfied as follows:

- (a) The debtor shall retain the farm equipment on which this creditor holds securities and the creditor shall retain its liens and securities until paid in full. This allowed secured claim shall be fixed at the sum of \$83,000.00 as of filing and shall be repaid in four (4) annual amortized installments of principal and interest, bearing interest at the rate of 6.5% from confirmation, with the first such payment due on the 15th day of December 2016 and annually thereafter on the same date until paid in full.

7. Class 7. The only creditor in this class is CNH Capital, which claim shall be as follows:

- (b) The debtor shall retain the farm equipment on which this creditor holds securities and the creditor shall retain its liens and securities until paid in full. This allowed secured claim shall be fixed at the sum of \$113,000.00 as of filing and shall be repaid in five (5) annual amortized installments of principal and interest, bearing interest at the rate of 6.0% from confirmation, with the first such payment due on the 15th day of December 2016 and annually thereafter on the same date until paid in full.

8. Class 8. The only creditor in this class is PCA, which claim shall be satisfied as follows:

- (a) The debtor shall retain the farm equipment on which this creditor holds securities and the creditor shall retain its liens and securities until paid in full. This allowed secured claim shall be fixed at the sum of \$67,000.00 as of filing and shall be repaid in four (4) annual amortized installments of principal and interest, bearing interest at the rate of 4.5% from confirmation, with the first such payment due on the 15th day of December 2016 and annually thereafter on the same date until paid in full.

8. Class 8. The only creditor in this class is Chase, which claim shall be satisfied as follows:

- (a) The debtor shall retain the 2015 Chevrolet Suburban on which this creditor holds securities and the creditor shall retain its liens and securities until paid in full. This allowed secured claim shall be fixed at the sum of \$38,500.00 as of filing, which said claim shall be repaid in accordance with the tenor of the documents creating this obligation in monthly installments of \$793.55, with the first such installment due on the 5th day of the month following confirmation and on the same day of each succeeding month thereafter until paid in full.

9. Class 9. The only creditor in this class is Ford Motor Credit Company, which claim shall be satisfied as follows:

- (a) The debtor shall retain the 2012 Ford F250 on which this creditor holds securities and the creditor shall retain its liens and securities until paid in full. This allowed secured claim shall be fixed at the sum of \$27,000.00 as of filing, which said claim shall be repaid in in monthly installments of \$350.00, with the first such installment due on the 5th day of the month following confirmation and on the same day of each succeeding month thereafter until paid in full.
- (b) Any balance of this creditor's claim remaining unsatisfied shall be considered as unsecured and shall be relegated to Class 11, *supra*, for treatment.

9. Class 10. The only creditor in this class is Wells Fargo, which claim shall be satisfied as follows:

- (a) The debtor shall surrender to this creditor the 2014 Chevrolet Corvette on which this creditor holds securities in full satisfaction of the claims of this creditor pursuant to 11 U.S.C. Sec. 1225(a)(5)(B)(ii).

10. Class 11. The only creditors in this class are allowed unsecured claims

without priority and allowed claims of creditors not included or satisfied pursuant to the provisions above. Creditors in this class shall be satisfied pursuant to the provisions of Article II (B). All claims not satisfied from disposable income payments shall be extinguished in full.

B. Satisfaction of Unsecured Claims.

1. The debtor estimates that he retains equity over and above all liens, claims and non-exempt assets the sum of \$3,000.00. The debtor shall pay to creditors in Class 11 who file timely proofs of claim herein annual payments in the amount of \$1,000.00 on a pro-rata basis, during the life of this plan, or in such additional amounts as the Trustee may direct from the debtor's disposable income. The total of these payments exceeds the amounts which unsecured creditors would receive if the estate were liquidated, thus complying with and satisfying the requirements of 11 U.S.C. sec 1225 (a) (4) Such payments shall be made through the Trustee as provided herein.

C. Payments to Trustee

1. The debtor shall submit to the supervision of the Trustee all disposable income during the life of this plan. Final distribution of the funds remaining in the Trustee's possession at the time of plan completion shall be determined upon the Trustee's possession application to this Court for approval of a Final Accounting, same to be upon notice and hearing to creditors and other parties in interest.
2. The debtors shall continue to render monthly reports of operations to the Trustee in the same fashion as those made prior to confirmation. If requested by the Trustee, the debtors shall render an annual accounting of the operation of debtors' business on such forms and under such terms and conditions as the Trustee may require.
3. Monthly payments to creditors on vehicles and residential mortgages may be made directly to the creditors by the debtors, with the consent of the Trustee, with the consent of the Trustee, with evidence of payment to be provided to the Trustee. The Trustee shall reserve the right to demand and receive the the fees of the Trustee from these payments as provided by law.
4. Payments from crop proceeds shall be made to the Trustee as soon as crops are harvested and sold, except such sums as the debtors may be entitled to withhold therefrom for payment of the expenses of the crop, crop loan repayments, taxes, rents, anticipated living expenses, and other items so authorized by this plan or by the Trustee.
5. Unless otherwise ordered by the Court, the debtors must satisfactorily make

Three years of complete payments under this plan, to be disbursed under the Supervision of the Chapter 12 Trustee before the debtors shall be entitled to Any discharge or order closing the case herein.

6. The debtors shall execute a form UCC-1F granting a security interest in and to all crops produced by debtors to secure Trustee's obligation as a disbursing agent of such funds. In the case of any crops sold by debtors, any checks representing crops sale proceeds received from any buyer of such crops shall, in all cases, be made payable jointly to the order of debtors, Trustee and any other creditor with a lien bearing against such crops. If any crops which are produced by the debtors are not sold at harvest but are placed into a storage and have receipts given by the storing agency, commonly known as warehouse receipts, in all cases those warehouse receipts shall be issued jointly in the names of the debtors and the Chapter 12 Trustee.

D. Objection to Claim

1. To the extent that this Plan proposes to reduce in amount any claim filed herein by any creditor or party in interest claiming any mortgage, privilege or other security interest in property of the bankruptcy estate which claim has been properly filed pursuant to Bankruptcy Rules 3001 and 3002, the Plan shall constitute an objection to that claim pursuant to Bankruptcy Rule 3007.
2. The hearing on the objection to claim shall be held at the same date and time as that fixed for hearing on the confirmation of the Plan.
3. Creditors or parties in interest desiring to object to the Plan insofar as it modifies the secured claim as evidenced by the properly filed proof of claim herein, or to respond thereto, should do so within the same delays and in the same mode as is specified for filing objections to the Plan.
4. Only claims properly filed and documented pursuant to Bankruptcy Rules 3001 and 3003 shall be considered as having been filed in this case.

ARTICLE III.
MISCELLANEOUS PROVISIONS

1. The debtors will accept any executory contracts pertaining to the family home and to the farm operations of the debtors and will assume any executory contracts entered into by the debtors after the filing of the petition in this case. Any and all other executory contracts are rejected. The debtors shall retain the right to enter

into all leases and executory contracts necessary for the operation of the debtors' business.

2. All claims and causes of action in favor of the debtors as debtors in possession are Hereby reserved to be prosecuted after confirmation.
3. After confirmation, title to the debtors' property shall be revert to the debtors as provided in 11 U.S.C. sec 1228 (b), and the jurisdiction of the Court will cease except as herein provided. However, the revesting of title shall not extinguish the rights and powers of the debtors, as debtors in possession, but shall include the assignment of such rights and powers to the debtors so that they may prosecute claims after confirmation. Further, as provided in 11 U.S.C. sec 1228 (c), property vesting in the debtor under 11U.S.C. sec (b) shall be free and clear of any claim or interest of any creditor not provided for by the plan.
4. Notwithstanding anything contained above, the debtors reserve the right to object to and/or defend against any and all claims filed in this case.
5. The debtors may pre-pay any payments or installments under this plan without penalty.
6. The debtors shall retain the right to sell property of the estate free and clear of any interest in such property of an entity of a property other than the estate as may be necessary for the operation of the debtors' business to the fullest extent permitted by 11 U.S.C. sec 1206, provided, however, that such sale shall be by the Trustee, after notice, as provided in sec 1206, and claims of any parties holding or claiming liens on the property this sold shall be referred to the proceeds.
7. The debtors shall retain the right, after notice and a hearing, to seek post confirmation credit and may secure such credit with assets which are revested in the debtor by virtue of confirmation herein, or which may be subsequently acquired by the debtors. Should debtors seek credit from USDA-FSA, then, in addition to the foregoing, the following may apply: a) As crops are sold, the proceeds will be applied on the FSA crop lien ahead of any other debts, including administrative expenses; b) As crop proceeds are received, FSA will have the authority to release funds for cash rent and/or essential harvest expenses; and, c) essential real estate and chattels shall not be distributed during the crop year.
8. The debtors shall make no capital improvements and shall hold no funds in reserve (except where specifically authorized) without permission of the Court and concurrence of the Trustee.
9. Upon confirmation the debtor shall provide the trustee with a lien on the debtors' crops and an assignment of subsidy and deficiency payments, and any Federal Crop Insurance proceeds, which the debtor grows or receives during the life of this Plan. A typed copy of the UCC-1F (crop Lien) shall be submitted, annually, on or before the 1st day of January of each year, to the Trustee, together with a

money order in the amount of \$20.00 made payable to the Tensas Parish Clerk of Court. This lien and assignment shall be subordinated to any reasonable and necessary crop lender or supplier of goods and services to the debtors' farm operation; and/or disbursements made by the debtors to creditors in Classes 1, 2, and 3, above; and/or to monthly payments made by the debtors on vehicles and residential mortgages as provided for in the plan.

10. Certain amortized payments to secured creditors herein may become due in the first series of payments under this plan, such that less than a full year's interest shall have accrued thereon. Upon such occurrence, the Trustee may make a payment equivalent to a complete annual amortized installment if funds are available for same. Should any payments be so made, that payment shall be imputed first to earned interest, with the balance of said payment imputed to principal reduction. This payment shall be considered in the schedule of payments as one annual payment; and, the remaining principal balance shall be reamortized over the payment period thereafter remaining at the rate of interest as provided in the plan.
11. The Trustee shall make payments to all listed creditors herein in Article II during the life of this plan. Any disposable income of the debtors remaining after payments in years one and two of the plan shall be retained by the Trustee. The debtors may, with concurrence of the Trustee and authorization of the Court following notice and a hearing, utilize all or a portion of such funds for repairs, capital improvements, crop production, extraordinary expenses, or for such other purposes as The Court may authorize. Any such accumulated funds remaining at the close of the case shall be distributed by the Trustee to the general unsecured creditors, after deduction of the fee of the Trustee, on a pro-rata basis.
12. Insofar as this plan purports the transfer of property to creditors herein in under the terms of same, confirmation of this plan shall constitute the requisite authority for such transfer without the necessity for further orders of court.
13. The only liens and/or privileges which shall remain extant on property of the estate shall be those specifically provided for in Article II (A) of this plan. All other liens and/or privileges, be they judicial, conventional, or otherwise, shall be cancelled and erased from the public record upon confirmation of this plan. The debtors shall be entitled, following confirmation, to obtain ex-parte an order of this Court directing and ordering the appropriate recorder of liens and/or privileges to erase and cancel such liens and/or privileges.
14. Upon entry of an order confirming this plan, the debtors herein shall be fully authorized and empowered, without the necessity of any further action by or orders of the Court, to do any or all of the following:

- (a) participation fully in government program benefits, such as commodity loans, government support payments, government subsidy payments and assignments of such benefits;
- (b) mortgage any crops produced by them and harvested by them in year of the tenure of this plan and prior to the closing of this case to Commodity Credit Corporation (CCC) under any and all applicable provisions of said Federal Agency, under the terms of which:

(1) CCC be granted priority over any and all other claims against the debtors' crops produced during the tenure of this plan, including administrative and other priority expenses; and,

(2) CCC shall be empowered to take possession of any crops produced by the debtors herein in accordance with the Price Support Loan Regulations without application to this Court for any additional proceedings or authority, and dispose of the crops in accordance with the objectives of the Price Support Loan Program.

15. Following confirmation of a Chapter 12 Plan of Adjustment, the debtor(s) shall be entitled to retain the services of an accountant or other tax professional for the purpose of preparing the debtor(s)' tax returns for any year in which the debtor(s) participate in this Chapter 12 bankruptcy. The fees for the services of such accountant or tax professional shall be considered as expenses incurred in the ordinary course of the debtor(s)' business and may be paid by the debtor(s) or the Chapter 12 Trustee without further order of Court.

16. Confirmation of a Chapter 12 Plan of Adjustment shall by virtue of the entry of the order of confirmation constitute authority of the debtor(s) to utilize funds received by the debtor(s) or the Chapter 12 Trustee from government price support programs, disaster programs, sales of crops or agriculture products or similar funds for plan payments, crop production or reasonable and necessary living expenses for any year in which this case remains open as a Chapter 12 case with concurrence of the Chapter 12 Trustee, and without the necessity of further application or order of Court therefor.

RESPECTFULLY SUBMITTED

/s/ James W. Berry
JAMES W. BERRY
P. O. BOX 900
RAYVILLE, LOUISIANA 71269
PHONE: (318) 728-0457
STATE BAR NO.: 3045
EMAIL: jimb@bayou.com