## UNITED STATES BANKRUPTCY COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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In re:

WILLIAM RIMBERG BUCH, : Case No. 02-24254T

*Debtor(s)* 

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## **ORDER**

AND NOW, this 6<sup>th</sup> day of April, 2005, it is ORDERED that Debtor's motion to modify his chapter 13 plan post-confirmation is GRANTED on the condition that the Chapter 13 Trustee, after paying all creditors and the Chapter 13 Trustee's statutory fee, remit all remaining funds to the Court of Common Pleas of Monroe County for further distribution by that Court, <sup>1</sup> as

1. Debtor's chapter 13 plan was confirmed on April 17, 2003. On September 16, 2004, Rimberg filed a divorce complaint, which requests equitable distribution, with the Court of Common Pleas of Monroe County. On October 1, 2004, Debtor filed a motion to sell his residence. No objection was filed to Debtor's motion to sell, and the motion was thereafter granted by this Court by Order entered on November 2, 2004. The residence was sold on November 17, 2004 and Debtor now seeks to modify his confirmed plan to permit the chapter 13 Trustee to disburse the sale proceeds.

The Debtor's wife, Maria Rimberg ("Rimberg"), filed the only objection to Debtor's motion to modify his confirmed plan. Rimberg's objection is based on her argument that, as an untitled owner of the residence which was acquired by the parties during their marriage, she is entitled to a portion of the proceeds from the sale of the residence, see Scholl v. Scholl (In re Scholl), 234 B.R. 636, 645 (Bankr. E.D. Pa. 1999)("[a non-debtor spouse's] right to equitable distribution of marital property not yet determined by an order of the state court is unaffected by her estranged spouse's bankruptcy. ... Should the ultimate equitable distribution award create an obligation that Debtor pay Plaintiff a defined sum of money ... such an obligation would be a postpetition obligation not subject to potential discharge in this bankruptcy case."); Bennett v. Bennett (In re Bennett), 175 B.R. 181 (Bankr. E.D. Pa. 1994). While we agree with Rimberg that her potential equitable distribution rights merit protection, we find that Debtor has established entitlement to modify his confirmed plan and that such modification will not prejudice Rimberg because we have required that the Chapter 13 Trustee pay any money remaining after disbursement to creditors and payment of the Chapter 13 Trustee's statutory fee to the Court of Common Pleas of Monroe County for further disbursement by that Court in accordance with any equitable distribution order that Court might enter. Accordingly, we grant Debtor's motion to modify his confirmed chapter 13 plan.

we find that the proposed modifications satisfy the requirements of sections 1322(a), (b) and (c) and 1325(a) of the Bankruptcy Code, see 11 U.S.C. §§1322(a),(b),(c); 1325(a), and Debtor is therefore entitled to modify his confirmed plan, see 11 U.S.C. §1329; Collier on Bankruptcy, 15<sup>th</sup> Ed. Rev., ¶1329.02 at 1329-3 - 5("Section 1329 does not require the debtor to show cause to modify the plan. (Because chapter 13 is completely voluntary, the debtor may propose any modified plan that satisfies the requirements of chapter 13.")

Reading, PA
THOMAS M. TWARDOWSKI

United States Bankruptcy Judge