

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION**

In re:

DAVID B. MCKAY,

Case No. 6:08-bk-11153-ABB

Chapter 13

Debtor.

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**ORDER TO SHOW CAUSE**

This matter came before the Court on the confirmation hearing on the Debtor's Amended Chapter 13 Plan (Doc. No. 31) and the Motion to Pay Living Expenses (Doc. No. 80) ("Motion") filed by the Debtor David B. McKay. The confirmation hearing was duly noticed and held on January 5, 2010 at which counsel for the Debtor and Laurie K. Weatherford, the Chapter 13 Trustee ("Trustee"), appeared.

The Court entered an Order on December 9, 2009 (Doc. No. 76) finding, among other things, the Estate of Patricia A. McKay ("Patricia Estate") does not have a right of setoff and McKay Properties, LLC has a right of setoff, but may only exercise such right in conformity with the parties' allocation protocol established in June 2005. The Court directed McKay Properties to remit the monthly income allocations due the Debtor to the Trustee. No party sought reconsideration or appeal of the December 9, 2009 Order. It constitutes a final non-appealable Order.

The Debtor asserts in his Motion (Doc. No. 80 at ¶¶ 1, 5, 8) the Patricia Estate and McKay Properties are withholding distributions in violation of the December 9, 2009 Order. The Trustee's records do not indicate the receipt of funds from the Patricia Estate or McKay Properties. If funds were remitted to the Trustee, they may have been unidentified and deposited into a general account.

The Debtor's ability to fund his Plan and pay essential living expenses is based upon distributions from the Patricia Estate and McKay Properties. The confirmation hearing was continued to February 2, 2010 at 1:30 p.m. The Patricia Estate and McKay Properties are not required to appear at the continued confirmation hearing, but this matter must be resolved prior to the hearing.

Accordingly, it is

**ORDERED, ADJUDGED and DECREED** that the Patricia Estate and McKay Properties are hereby directed to file with the Court and serve on the Debtor and the Trustee, within fourteen days of the entry of this Order, a detailed accounting of: (i) all funds and assets distributed to the Debtor; (ii) all funds remitted to the Trustee; and (iii) all funds and assets withheld with an explanation setting forth the basis for each withholding; and it is further

**ORDERED, ADJUDGED and DECREED** that the Patricia Estate and McKay Properties are hereby directed to show cause, within fourteen days of the entry of this Order, if any, why they should not be held in contempt of Court for their failure to comply with the December 9, 2009 Order (Doc. No. 76) and why sanctions should not be imposed against them pursuant to 11 U.S.C. Sections 105(a) and 362(k) and the Court's inherent powers; and it is further

**ORDERED, ADJUDGED and DECREED** that the confirmation hearing is continued to February 2, 2010 at 1:30 p.m. in Courtroom A, Fifth Floor, 135 West Central Boulevard, Orlando, Florida.

Dated this 6th day of January, 2010.

/s/ Arthur B. Briskman  
ARTHUR B. BRISKMAN  
United States Bankruptcy Judge