

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF RHODE ISLAND

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In re: :

KIMBERLY A. TEOLIS : BK No. 08-12131
Chapter 12

Debtor

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**INTERIM ORDER FOR PAYMENTS IN LIEU OF ADEQUATE PROTECTION,
PENDING A DETERMINATION ON THE MERITS OF
DISPUTED ADEQUATE PROTECTION PAYMENTS**

Heard on March 5, 2009, on the motion of U.S. Bank National Association ("U.S. Bank"), seeking relief from stay and for leave to foreclose on the Debtor's real estate located at 55 Falcon Lane, Cranston, Rhode Island. The Debtor filed a Chapter 13 case on July 11, 2008, and on January 15, 2009 the case was converted to a case under Chapter 12. Prior to conversion, the Chapter 13 Trustee and Meshanticut Valley Real Estate, Inc., a secured creditor ("Meshanticut"), each filed motions to dismiss the Chapter 13 case. Notwithstanding the conversion to Chapter 12, both motions to dismiss are still pending, and are scheduled for hearing on April 23, 2009. In the meantime, at a hearing on U.S. Bank's Motion for Relief from Stay, counsel for U.S. Bank represented that the Debtor was in default of post-petition mortgage payments, that she owed a large post-petition arrearage, and requested, pending the outcome of the motions to dismiss, that the Debtor be required to make adequate protection payments in the full contract amount of


\$3,370.15 per month. The Debtor does not dispute that U.S. Bank is entitled to adequate protection but argues, arbitrarily and without support, that monthly payments should be in the amount of \$1,770.83.

Having made the elementary mistake of taking the matter under advisement without expressly requiring any support from the parties for their respective positions, I belatedly feel the need to do so now. Therefore, it is **ORDERED**:

1. The parties shall file legal memoranda by Monday, March 30, 2009, in support of their respective positions as to the correct amount of adequate protection payments; and

2. In the meantime, pending our determination of the amount of adequate protection payments, we will cut the baby exactly in half, and the Debtor shall pay U.S. Bank *interim* monthly payments of \$2,570.49, retroactive to March 5, 2009, until a decision on the merits of this dispute. This ruling is made without prejudice to the rights of either side.

Dated at Providence, Rhode Island, this 19th day of March, 2009.



Arthur N. Votolato
U.S. Bankruptcy Judge

Entered on docket: 3/19/2009