



IT IS ORDERED as set forth below:

Date: June 16, 2010

Mary Grace Diehl

**Mary Grace Diehl
U.S. Bankruptcy Court Judge**

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

In Re: : Case No. 07-74432-MGD
: :
Ernest Bell, III, : Chapter 13
: :
Debtor. : Judge Mary Grace Diehl
: :
_____ :

ORDER GRANTING TRUSTEE’S MOTION TO MODIFY PLAN

On May 12, 2010, K. Edward Safir, on behalf of Mary Ida Townson, Standing Chapter 13 Trustee,, (“Trustee”) filed a motion (“Motion”) to modify the plan of Ernest Bell, III (“Debtor”). (Docket No. 67). Currently, the Debtor’s plan provides for payments of \$648.00 per month with a zero-percent dividend to unsecured creditors. (Docket No. 28). Debtor’s general unsecured claims total \$8,992.69. Debtor’s original schedules, filed September 4, 2007, listed \$2,500.00 in household goods. (Docket No. 1). On April 20, 2010, Debtor filed an amended Schedule B to reflect the value

of Debtor's personal property as estimated by an independent valuation conducted after a fire destroyed his home. (Docket No. 63). The amended Schedule B listed personal property totaling \$130,000.00. (Docket No. 63). Trustee alleges that the Trustee would have objected to the plan's zero-percent dividend to unsecured creditors had the Debtor's original Schedule B disclosed that Debtor had over \$120,000.00 in non-exempt equity in the previously undervalued household goods. (Motion, ¶ 4). Therefore, the Trustee seeks an Order directing Debtor to modify the plan to provide for a 100% distribution to unsecured creditors; or, in the alternative, Trustee requests the Court to dismiss this case with prejudice. (Motion, ¶ 6).

Trustee has standing to modify a chapter 13 debtor's plan under 11 U.S.C. § 1329(a).¹ Having read and considered the Motion and after a hearing on June 16, 2010, at which the Trustee and the Debtor's attorney were both present, it appears that the Debtor should modify his plan to provide for a 100% distribution to the general unsecured creditors. Accordingly, it is

ORDERED that Trustee's Motion to Amend is hereby **GRANTED**.

It is **FURTHER ORDERED** that Debtor must modify the plan to provide a 100% distribution to general unsecured creditors within 30 days or Debtor's case shall be dismissed with prejudice.

The Clerk shall mail a copy of this Order to counsel for Debtor and the Chapter 13 Trustee.

END OF DOCUMENT

¹“At any time after confirmation of the plan but before the completion of payments under such plan, the plan may be modified, upon request of the debtor, *the trustee*, or the holder of an allowed unsecured claim.” § 1329(a) (emphasis added.)