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2017 Rocky Mountain Bankruptcy Conference

Consumer Workshop II

Escrow Issues and Chapter 13 Cases, Including Home Mortgage Issues and the Conduit System

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**ROCKY MOUNTAIN ABI – CONSUMER SECTION
MORTGAGE UPDATES**

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LIST OF ATTACHMENTS

To assist in our discussion, we have attached Local Rules, Procedures and Forms from several districts, including proposed rules at the end of the presentation. We have also attached official statements from the United States Trustee and Consumer Financial Protection Bureau.

- Colorado Proposed Bankruptcy Rule 4002-3 and Proposed Form
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- Excerpted Rules, Forms and Procedures– Southern District of Texas
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A. TO CONDUIT OR NOT TO CONDUIT - THAT IS THE QUESTION

1. A Colorado Perspective

Chapter 13 has been a main stay for foreclosure prevention since its inception. This has never been truer than in the recent past from approximately 2009 until approximately 2013 when the nationwide mortgage crisis sent literally millions to foreclosure. But for Chapter 13, many individuals would now be homeless.

Chapter 13 is designed for individuals with a regular and stable source of income who are temporarily unable to pay their debts but who desire to use their best efforts and good faith to pay them in installments over a period of time subject to the protections afforded by the Chapter 13 rules. You are only eligible for Chapter 13 if your debts do not exceed certain dollar amounts set forth in the Bankruptcy Code.

Under Chapter 13 you must file a plan with the Court to repay your creditors all or part of the money that you owe them, using your future earnings or by the disposition and/or abandonment of certain collateral such as land and motor vehicles. You are protected from your creditors in most cases upon the filing of your case but your plan must be approved by the Court before it can take effect.

Under Chapter 13, unlike Chapter 7, you may keep all of your property, both exempt and non-exempt, as long as you continue to make payments under the plan.

After completion of payments under the plan, your debts are discharged except for any domestic support obligations, student loans, and certain taxes, among others.

Issues arise in the course of every Chapter 13, with a common issue being Motions for Relief from Stay (MFRS) from the mortgage company or servicer. Of course if stay is granted,

and the focus of the case was foreclosure prevention, the case is lost. If relief enters, the Chapter 13 Trustee's office uniformly moves to amend the Chapter 13 plan to delete the mortgage cure in Class II, with those funds following instead to the Class IV unsecureds.

Many districts nationwide have adopted the use of the Chapter 13 Trustee to pay the current monthly mortgage payment. In Colorado, the Chapter 13 Trustee collects and pays the pre-petition (and in some cases post-petition) mortgage arrears through the Plan and files a Motion for deeming the mortgage current at the conclusion of the Plan. While this works more often than not, many debtors have issues due to non-payment of the mortgage for a variety of reasons.

If the mortgages are paid through the Chapter 13 Plan, there are obvious benefits, as well as some negatives. Below is a consideration of what is considered to be the pros of conduit of payment of the current mortgage through the Chapter 13 Trustee:

Pros/benefits

The current mortgage is paid or the case is dismissed. This avoids the situation which can arise wherein the debtor has successfully completed all Plan payments, and yet is not current on the mortgage, and thus can risk losing the discharge.

Since the mortgage is being paid through the Plan, it can be expected that there will be no Motions for Relief from Stay regarding residential mortgages. In a typical caseload, some percentage of the cases will have Motions for Relief from Stay with respect to the residential mortgage. Of these, some will result in a total loss of the protection of the Bankruptcy Court once the Stay is granted. This puts the debtor back in the unfavorable position of being in a

foreclosure which will proceed.

Greater Transparency and Proof of Payment. One of the most frustrating issues for debtors and counsel is attempting to determine when a mortgage is current or not current. It is also quite difficult to determine how payments are being applied. If paid through the Chapter 13 Trustee's Office, one individual would gain greater clarity with the post-petition treatment of payments and could act effectively as a witness.

Below are a List of the Cons for Conduit Payments

The Current Monthly Mortgage Will Become Part of the Overall Fee. Currently the Trustee fee in Colorado is ten percent (10%). If the current mortgage is paid through the Plan, this is going to be ten percent (10%) premium on all payments. In Colorado, the average mortgage is \$174,000 (approximately).¹ Since that's a state-wide average it is easy to note that some areas -such as Denver and the mountains - will have higher mortgages.

This would effectively increase the debtor's Chapter 13 Plan payment by an additional ten percent of the mortgage payment. This increases the Chapter 13 payment by \$175 per month in the average case. This increase alone would make it vastly unaffordable for many individuals who wish to keep their home.

The Payment of Conduit Mortgages Would Vastly Increase the Work for Chapter 13 Trustees. It is anticipated that a Trustee's office would need as many as two additional staff in order to process the current monthly mortgage payments. It would be time consuming and costly to do this.

¹ <http://www.businessinsider.com/mortgage-balance-state-map-2014-10>

Conduit Mortgage Payment May Hamper Loan Modifications. It is quite common for a debtor to seek a loan modification both before and after a confirmed Chapter 13 Plan. In those instances where the debtor gets the loan modification, the entire loan is completely reamortized such that the arrears no longer exist and a Plan can either be modified or the debtor can convert, or dismiss. Payment to the Chapter 13 Trustee's office would be based upon the most recent statement filed by the mortgage company in the proof of claim initially, and thereafter in the notice of post-petition changes. In many instances, a trial loan modification requires the debtors to pay a lower payment, however, there will not be an amended proof of claim. Further, there may be notices of post-petition fees and payments which are at odds with the trial loan modification. In those instances, the Chapter 13 Trustee would have to have policies and procedures which facilitate loan modifications and do not discourage them.

EXCEPTIONS

In the event Colorado were to become a conduit state, what exceptions should be considered? The first obvious one may be if the mortgage is current and not in arrears. There would be little benefit to paying the mortgage through the plan, especially given that the conduit payments will take a month or more to begin.

Next it would seem appropriate to not insist on conduit mortgage payment if there is a nonfiling codebtor, most likely a spouse. The potential harm to the nonfiling spouse was noted by the Court in *In re Calder*, Case No. 14-31181 (Bankr. W.D. N.C., March 4, 2015). In that case, the Chapter 13 debtor established "extraordinary circumstances" that warranted the court's granting of the debtor's motion to be excepted from the court's conduit mortgage program, under a local rule allowing a debtor to be excused from the program "only upon the showing

of good cause and extraordinary circumstances sufficient to warrant such an exception,” where the debtor and his non-filing wife were jointly liable on the mortgage and had been current on their mortgage payments for more than 10 years; the wife intentionally did not join in the debtor's bankruptcy filing in order to protect her 779 credit score; and the three-month delay in commencing monthly payments under the program would necessarily damage the wife's credit score. A bankruptcy filing should not result in such an unintended consequence for a non-filing spouse, especially when the non-filing spouse chose not to file bankruptcy specifically to avoid a negative effect on her credit.

2. A Texas Perspective

1. Pros

a. Transparent accounting

- i. The trustee, debtor, and mortgage servicer are each aware of what payments have been made throughout the case.
- ii. It is clear to all parties at the end of a case whether the mortgage arrearage has been cured and whether the mortgage should be deemed current. This expedites the Notice of Final Cure and Motion to Deem Current process since there are few contested matters on these motions.

b. Quicker response to delinquency

- i. If the debtor falls behind on post-petition mortgage payments the trustee files a Motion to Dismiss before the delinquency becomes unmanageable.
- ii. In some non-conduit cases the post-petition payments may go unpaid for months or even years before a Motion for Relief is filed or before the plan is coming to a close at which point the post-petition arrearage is too large to

cure and the debtor may be in jeopardy of not receiving his discharge because the direct plan payments were not paid according to the confirmed plan.

- c. Fewer Motions for Relief from Stay
 - i. The trustee files the Motion to Dismiss, in most instances, before a mortgage creditor files a Motion for Relief from Stay.
- d. Debtors tend to make more informed decisions
 - i. In the initial consultation, debtors confronted with a higher plan payment that includes their ongoing mortgage obligation tend to better understand the feasibility of the potential bankruptcy plan. For example, in a non-conduit plan the payment could be something like \$300.00, but that same plan with a \$1,500.00 mortgage payment now becomes \$1,800.00 per month. A debtor making \$3,000.00/mo. may look at the \$300.00 payment and think they can make that, but when confronted with the reality of the \$1,800.00 payment may determine that the \$1,200.00 they are left with doesn't provide enough for their monthly living expense. This allows more debtors to make the decision to surrender an unaffordable home or under secured home earlier in the case.
- e. Wage orders allow for pro-rated mortgage payments and better budgeting
 - i. Mortgages tend to be the largest expense in a debtor's monthly budget and therefore require disciplined budgeting throughout the month to ensure that there are enough funds available to pay the mortgage when it comes dues. Having a wage order automates this disciplined budgeting by pro-

rating your monthly payments based on the number of pay periods in a year.

- ii. Automating the payment results in more cases with current plan payments which ultimately results in more bankruptcy plans that are successfully completed.

2. Cons

a. Increased costs

- i. The trustee commission is based on a percentage of the total plan payment. While the percentage usually decreases in conduit districts, the overall cost is greater.
- ii. In SDTX the trustee percentage is 5.95%. On a mortgage payment of \$1,500.00 that is an additional \$89.25 per month and an additional \$5,355.00 over a 60-month plan.
- iii. For debtors already struggling with their finances adding that additional amount could cause feasibility issues. If there are no feasibility issues that could have been money saved for an emergency fund or money paid to unsecured creditors instead.

b. Proof of Claim issues

- i. Ongoing mortgage payments will come due prior to the bar date to file a proof of claim. Since the post-petition mortgage payment may be adjusted after the escrow account is adjusted for pre-petition deficiencies and shortages, it is difficult to determine what payment the plan should start

paying and it is only until later that it is determined if the plan is properly funded or not.

- ii. The trustee will need information for the ongoing payment prior to a proof of claim being filed and that burden usually falls on the debtor which requires more attorney time and document collection at the beginning of a case.
 - iii. There is a greater importance for creditors to file a proof of claim and for debtors' counsel to file claims on behalf of creditors that fail to do so. In a non-conduit district failure to do this still harms the debtor but not to the same extent since it is just the pre-petition arrears that may go unpaid, instead of pre-petition arrears and post-petition payments.
- c. Less flexibility with step payments
- i. The ongoing mortgage payment must always be made each month, so even if the debtor is expecting an increase of income that could provide for the plan base over time, if he is unable to at least provide for the ongoing payment in month one with the administrative costs then the plan will not be sufficient or feasible.
- d. Mortgage modification issues
- i. If a debtor is working with his mortgage servicer's loss mitigation department prior to filing the case, once the case is filed mortgage payments will immediately resume in a conduit plan. Some debtors want to see the modification process through before deciding to surrender their

home, and the conduit plans tend to be binary in the sense of you either surrender or pay for the home immediately.

- ii. If a debtor is approved to start making trial payments for a potential loan modification his income is being dedicated to the plan, so the trial payments need to be made by the trustee and if the amounts or disbursement dates are off it could affect the approval of the loan modification.
- e. Attorneys' fees can be affected
 - i. Debtors' attorneys' fees are usually given top priority (unless there is a child support obligation), but in a conduit district the ongoing mortgage payment is paid out first. If the debtor is slow on payments but not behind enough to have a Motion to Dismiss filed there may only be enough on hand each month to catch up the prior month's mortgage payment and then the amount left over is set aside for the current month's payment so the attorney fees are not getting paid out.
 - ii. Creditor attorneys receive less Motion for Relief work since the need is reduced.
- f. Learning lost
 - i. Requiring the mortgage to be paid through the trustee by way of a wage order doesn't always teach or prepare the debtor for life after the bankruptcy. Some debtors will continue to receive their post-garnished check and spend the money until it is gone without sufficient financial planning and when the garnishment stops the check may be bigger but the

financial discipline was never developed so it still gets spent and then by the time the next mortgage comes due there isn't enough money left to make the mortgage payment.

- g. There can be issues with the transition to post-plan mortgage payments
 - i. In the Chapter 13 a Debtor may be considered current on his plan payment as long as the payment is made during the month in which it is due. However, once the plan ends the mortgage payment will likely come due on the first of the month and be late after the 15th of the month. If the debtor is making his final payment through a wage garnishment in the end of final month there may not be enough money left from the paycheck to then dedicate towards the next mortgage payment that they will be responsible for. The debtor then becomes late on the post-plan payments and is playing catch up after having just successfully completed a chapter 13 plan.
 - ii. If the wage garnishment doesn't stop immediately after the plan is completed because of delay on the side of the stop order or the debtor's employer, that overpayment to the trustee may not be refunded right away and that money is needed for the post-plan mortgage payments.
 - iii. NDTX has a system to try and address this issue, in which the first two post-petition mortgage payments are essentially paid like pre-petition arrears, meaning they are paid out over the life-time of the plan instead of in the month they are due. That way the debtor ends up paying 2 extra

mortgage payments during the plan so that he is 2 months ahead once he completes the plan.

B. Consumer and Financial Protection Bureau

In August 2016, the CFPB (Consumer and Financial Protection Bureau) issued proposed rules regarding mortgage servicing, including the issuance of mortgage statements to debtors in bankruptcy. The proposed rules also address loss mitigation efforts by servicers which may assist borrowers in some circumstances and communication with successors in interest to mortgagors. The Executive Summary from the CFPB regarding proposed mortgage servicing changes is attached.

The proposed rules include allowing the mortgage servicer to communicate with a successor in interest to the debtor on the mortgage note in certain circumstances. This would alleviate some of the communication problems in circumstances in which the debtor on the note is deceased and the heir is attempting to assume the mortgage note or become informed as to the amounts owing.

The most important proposal from a bankruptcy perspective, is the requirement that monthly mortgage statements be sent during a bankruptcy, unless one of the exceptions apply. The proposal would require the statement to show the amount owing to reinstate the debt as well as the monthly amount due. Monthly mortgage statements cause mortgage servicers a variety of issues during bankruptcy because the calculation of the reinstatement amount includes payments made by the trustee on both pre-and post-petition amounts as well as post-petition amounts paid by the debtors. Payments made by the debtors to the trustee but not yet disbursed to the mortgage servicer would likely not be reflected in the reinstatement amount. This raises questions as to the correctness of the statements and whether an incorrect amount is being sought

to be paid by the debtors in violation of the automatic stay or the Fair Debt Collection Practices Act.

The 2016 Mortgage Servicing Rule was published (in final version) on October 19, 2016. The Rule (as it relates to periodic mortgage statements) would become effective 18 months approximately April 19, 2018. The CFPB is expected to experience changes in 2017 under the new administration, which may alter such proposed dates.

C. The New Proof of Claim Forms: Making Escrow Easier?

In the creation of the new Proof of Claim form and attachment 410A, many trustees, especially those in conduit states, were requesting changes that would make the debtors' pre and post-petition obligations clear.

Attachment 410A requires a breakdown of the total debt, arrearage and current mortgage payment. Attachment 410A must be completed if the debt is secured by the debtor's primary residence.

An important element of the calculations is the escrow statement. An escrow statement must be run as of the date of the Petition. The escrow deficiency is included in both the total debt and the arrearage (Part 3 and Part 4). A separate amount is included in the arrearage to bring the escrow to zero as of the petition date. The new monthly payment in Part 4 does not include any past due amounts. It is based on the amounts necessary to pay taxes and insurance for the upcoming year.

Mortgage Proof of Claim Attachment

(12/15)

If you file a claim secured by a security interest in the debtor's principal residence, you must use this form as an attachment to your proof of claim. See separate instructions.

Part 1: Mortgage and Case Information	Part 2: Total Debt Calculation	Part 3: Arrearage as of Date of the Petition	Part 4: Monthly Mortgage Payment
Case number: _____	Principal balance: _____	Principal & interest due: _____	Principal & interest: _____
Debtor 1: _____	Interest due: _____	Prepetition fees due: _____	Monthly escrow: _____
Debtor 2: _____	Fees, costs due: _____	Escrow deficiency for funds advanced: _____	Private mortgage insurance: _____
Last 4 digits to identify: _____	Escrow deficiency for funds advanced: _____	Projected escrow shortage: _____	Total monthly payment: _____
Creditor: _____	Less total funds on hand: - _____	Less funds on hand: - _____	
Servicer: _____	Total debt: _____	Total prepetition arrearage: _____	
Fixed (accrual/daily simple interest/other): _____			

The information in Parts 1-4 of the Attachment 410A provide the conduit trustee sufficient information to pay both arrears and ongoing payments. In a non-conduit state, the arrearage amount is paid by the trustee and the debtors focus on the ongoing payment amounts. Both must be spelled out in the plan.

Debtors often raise concerns regarding the escrow amounts. Some debtors ask to pay the escrow shortage outside the plan, especially when the escrow shortage is the only element in arrears. Debtors also are confused that the monthly payment may still change according to the loan documents, regardless of the amount set forth in Attachment 410A. Attachment 410A only addresses the figures as of the petition date. Payment Change Notices can be filed to change the payments based on escrow changes, interest changes, or other charges allowed by the loan documents. Fed. R. Bankr. P. 3002.1.

Proof of Claim attachment 410A requires a summary of the defaulted payment history in a designated format, similar to the one required by Judge Isgur in Texas. This summary is

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intended to simplify review of the payment histories kept on various computer systems in innumerable formats by mortgage servicers.

Part 5 : Loan Payment History from First Date of Default																		
Account Activity						How Funds Were Applied/Amount Incurred						Balance After Amount Received or Incurred						
A.	B.	C.	D.	E.	F.	G.	H.	I.	J.	K.	L.	M.	N.	O.	P.	Q.		
Date	Contractual payment amount	Funds received	Amount incurred	Description	Contractual due date	Prin, int & esc past due balance	Amount to principal	Amount to interest	Amount to escrow	Amount to fees or charges	Unapplied funds	Principal balance	Accrued interest balance	Escrow balance	Fees / Charges balance	Unapplied funds balance		

Although burdensome to mortgage servicers, Attachment 410A’s intent is to make the reconciliation of amounts owing on Debtors’ primary residence easier to understand.

ATTACHMENTS:

Colorado Proposed Bankruptcy Rule 4002-3 and Proposed Form
Attachment Page 1

Excerpted Rules, Forms and Procedures– Southern District of Texas
Attachment Page 5

Excerpted Rules, Forms and Procedures– Northern District of Texas
Attachment Page 33

Excerpted Rules, Forms and Procedures– Kansas
Attachment Page 50

Memo Regarding Conduit Mortgages by the Executive Office of the U.S. Trustee
Attachment Page 66

CFPB Executive Summary of the 2016 Mortgage Servicing Rule
Attachment Page 70

Form 410A
Attachment Page 80

**PROPOSED LOCAL BANKRUPTCY RULE 4002-3
REPORTING DUTY OF MORTGAGE CREDITOR
IN A CHAPTER 13 CASE**

- a. **Mortgage Creditor, Defined:** For the purposes of this rule, a Mortgage Creditor is defined as follows: an entity, or the servicer for such entity, asserting a claim secured by a consensual lien through a deed of trust or mortgage on real property that is the principal residence of the Debtor(s) and with respect to which the Debtor(s) propose(s) to make continuing post-petition payments based upon a Mortgage Loan.
- b. **Mortgage Creditor's Annual Report, Defined:** A 12-month summary of the post-petition payments received with respect to the loan securing Mortgage Creditor's interest in the principal residence of the Debtor(s). The 12-month summary described in this Rule shall be referred to as the Mortgage Creditor's Annual Report.
- c. **Reporting Duty of Mortgage Creditor:**
 - i. On an annual basis, during the pendency of the Chapter 13 case, the Mortgage Creditor shall file with the Court and serve on the Chapter 13 Trustee, Debtor(s), and Counsel for Debtor(s), the Mortgage Creditor's Annual Report.
 - ii. The initial Mortgage Creditor's Annual Report as described herein shall be filed within 14 days of the first anniversary of the filing date of the bankruptcy case or date of conversion to Chapter 13, and shall provide the accounting as described herein for the 12 calendar month period preceding the date of the report. Each subsequent Mortgage Creditor's Annual Report shall be filed within 14 days of the anniversary of the filing of the preceding year's Mortgage Creditor's Annual Report.
- d. **Contents of Mortgage Creditor's Annual Report:** Mortgage Creditor's Annual Report shall be provided in a clear and concise format, stating, at a minimum, the following: monthly payment due date, monthly payment amount, date of payment received from debtor, amount of payment received from debtor, and a running tally of any partial payments received.
- e. **Response to Mortgage Creditor's Annual Report:** The Debtor may, within 21 days of the date of filing of the Mortgage Creditor's Annual Report, file a Response, indicating whether the Debtor agrees or disagrees with the Mortgage Creditor's Annual Report. The Debtor's Response should itemize postpetition amounts, if any, that the Debtor contends are paid or not paid as of the date of the Response.
- f. **Mortgage Creditor's Annual Report Not Filed:** In the event that the Mortgage Creditor's Annual Report is not timely filed, a party in interest may request that the Mortgage Creditor's Annual Report be filed.

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- g. Relief from Stay:** If Mortgage Creditor obtains relief from stay with respect to the principal residence of the Debtor(s) during the pendency of the case, Mortgage Creditor shall be exempt from further compliance with this rule.
- h. Local Bankruptcy Form _____ :** Mortgage Creditor's Annual Report may be submitted on L.B. Form _____ or in a format substantially similar thereto.

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Fill in this information to identify the case: Debtor 1 Debtor 2 (Spouse, if filing) United States Bankruptcy Court for the: (State) Case number

Mortgage Creditor's Annual Report

According to Local Bankruptcy Rule #####, Mortgage Creditor provides the following 12-month summary of the post-petition payments received with respect to the loan securing the Mortgage Creditor's interest in the principal residence of the Debtor(s):

Part 1: Mortgage Information Name of creditor: Court claim no. (if known): Last 4 digits of any number you use to identify the debtor's account: Property Address: Number Street City State ZIP Code Part 2: Summary of Post-Petition Payments (enter dates covered): through

Table with 5 columns: Date Due, Amount Due, Date Received, Amount Received, Partial Payment (Suspense Balance). The table contains 12 empty rows for data entry.

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Debtor 1 _____
First Name Middle Name Last Name

Case number (if known) _____

art 3: Sign Here

The person completing this Notice must sign it. Sign and print your name and your title, if any, and state your address and telephone number.

Check the appropriate box.

- I am the creditor.
- I am the creditor's authorized agent.

I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.

X _____
Signature

Date _____

Print: _____
First Name Middle Name Last Name

Title _____

Company _____

Address _____
Number Street

City State ZIP Code

Contact phone _____

Email _____

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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re: §
Chapter 13 Trustee Procedures for §
Administration of Home Mortgage §
Payments §

**Chapter 13 Trustee Procedures for
Administration of Home Mortgage Payments
Adopted by the Court on September 29, 2005
(Last Amended Effective March 1, 2012)**

1. If there is a default as of (i) the petition date, (ii) the date of plan confirmation, or (iii) the date of the filing of a plan modification on a claim secured by a security interest in real property that is the debtor's principal residence pursuant to the terms of 11 U.S.C. § 1322(b)(5) (the "Ongoing Mortgage"), then the chapter 13 plan must provide for regular monthly payments of the Ongoing Mortgage, including applicable escrow amounts, through the chapter 13 trustee. This paragraph does not preclude the use of paragraph 4(B) of the Uniform Plan and Motion for Valuation of Collateral adopted by this Court if a default on the Ongoing Mortgage has been cured by a consensual loan modification.

2. If there is no default as of (i) the petition date, (ii) the date of plan confirmation, or (iii) the date of the filing of a plan modification on an Ongoing Mortgage, then the chapter 13 plan shall provide for either (a) regular monthly payments of the Ongoing Mortgage, including applicable escrow amounts, to be made through the chapter 13 trustee, or (b) direct payments by the Debtor of the regular monthly mortgage payment due under the Ongoing Mortgage, including applicable escrow amounts.

3. In all cases in which the chapter 13 plan provides for payment of the Ongoing Mortgage through the chapter 13 trustee:

A. Not later than 3 business days following the date a case is filed, the Debtor shall provide the chapter 13 trustee with the following information in writing concerning all claims to which these procedures apply:

- i. The complete name and payment address of the creditor.
- ii. The account number assigned to the claim.
- iii. The exact amount of the contractual installment payment and the date each payment is due.
- iv. A telephone number for the creditor.

v. A copy of the current payment coupon.

B. The chapter 13 trustee is not required to disburse funds hereunder to a claimant unless the chapter 13 trustee is satisfied that good funds have been received from the Debtor.

C. Subject to these procedures, the chapter 13 trustee is authorized to disburse funds in payment of all regular contractual installment payments due under the Ongoing Mortgage and all post-petition charges, each in the amounts as provided by FED. R. BANKR. P. 3002.1 and these procedures. Disbursements should commence as soon as is practicable. If the chapter 13 trustee has available funds, the initial disbursement should precede the hearing on plan confirmation.

4. Changes to payments on an Ongoing Mortgage are governed by FED. R. BANKR. P. 3002.1, which rule is incorporated into these procedures.

A. A **Notice of Payment Change** filed in accordance with FED. R. BANKR. P. 3002.1 shall be served on the Debtor and Debtor's counsel not later than the first business day after the **Notice of Payment Change** is filed. The claimant must file a certificate of service with the Clerk, with a copy of the **Notice of Payment Change** attached, within 5 days of service.

B. Subject to paragraph 4C hereof, if a **Notice of Payment Change** is filed in accordance with FED. R. BANKR. P. 3002.1 and if there has been compliance with paragraph 4A hereof, the chapter 13 trustee shall commence payments on the Ongoing Mortgagee in the changed amount beginning with the next payment due under the Ongoing Mortgage at least 21 days after the filing of the notice.

C. The chapter 13 trustee shall not make payments on the Ongoing Mortgage at the changed amount if:

- i. A timely objection to the **Notice of Payment Change** is filed, and the chapter 13 trustee has filed a motion seeking a stay of the **Notice of Payment Change**; or
- ii. The Debtor has sought and obtained a stay of the **Notice of Payment Change**.

D. If a **Notice of Payment Change** is stayed, but later determined to have been correct, then the Debtor shall be required to make all additional payments that accrued during the period of the stay within 30 days of the date the stay is terminated with interest on such amounts at the non-default contract rate under the Ongoing Mortgage.

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E. If a **Notice of Payment Change** is implemented, but later determined to have been incorrect, then the Debtor shall be allowed to recoup any excess payment that was made plus interest on such amounts at the contract rate under the Ongoing Mortgage.

5. If a chapter 13 plan is made deficient or not feasible as a result of a payment change or an expense reimbursement requirement, then the chapter 13 trustee or the Debtor may seek a modification of the plan pursuant to 11 U.S.C. § 1329, or file a motion to dismiss or convert the case.

6. In each case in which the chapter 13 trustee alleges that all payments required to be made to the chapter 13 trustee under the plan have been received:

A. For claims secured by a mortgage on a debtor's principal residence that were paid through the chapter 13 trustee pursuant to the confirmed plan, the chapter 13 trustee shall file a Notice of Final Cure Payment and Motion to Deem Mortgage Current pursuant to FED. R. BANKR. P. 3002.1(f) which motion and proposed form of order shall be in the form of **Exhibit 1**.

B. A response to a Notice of Final Cure Payment that is filed in accordance with FED. R. BANKR. P. 3002.1(g) must:

- i. Attach a mortgage loan history form, current through the date of the chapter 13 trustee's notice, in the form required on the Court's website by Bankruptcy Local Rule 3001-1.
- ii. Be served on the Debtor and Debtor's counsel with a notice stating that the amount set forth in the response will be allowed unless an objection is filed within 21 days.
- iii. Be set for hearing on the last hearing date allowed for motions filed under § 362 that is within 21 days after the filing of the response.

C. If an entity filing a response to a Notice of Final Cure Payment fails to attach the required mortgage loan history form or fails to set the hearing required by paragraph 6B(iii) hereof, then the entity shall have irrevocably waived the 21-day limit for the filing of a motion under FED. R. BANKR. P. 3002.1(h).

7. In a case where a claim secured by a mortgage on a debtor's principal residence is paid direct by the Debtor under the confirmed plan and in which the Debtor alleges that all payments required to be made to such claimant have been made, the Debtor may file a Motion to Deem Mortgage Current which motion and proposed form of order shall be in the form of **Exhibit 2**.

8. The recovery of fees and expenses by the holder of a claim secured solely by a security interest in the Debtor's principal residence is governed by FED. R. BANKR. P. 3002.1. If the payments on such a claim are paid through the chapter 13 trustee, then the chapter 13 trustee

shall pay the fees, expenses or other charges that are governed by FED. R. BANKR. P. 3002.1 in compliance with this paragraph 8. If the payments on such a claim are paid directly by the Debtor, then the Debtor shall directly pay the fees, expenses or other charges that are governed by FED. R. BANKR. P. 3002.1 in compliance with this paragraph 8.

A. If an objection challenging a fee, expense or other charge is filed within 30 days of a notice filed pursuant to FED. R. BANKR. P. 3002.1(c), then the fee, expense or other charge shall be paid only after the entry of an order allowing such fee, expense or other charge. Any allowed amounts shall be paid commencing with the chapter 13 trustee's next scheduled distribution, with equal monthly installments paid over the shorter of (i) twelve months; or (ii) the remainder of the plan term.

B. If no objection is filed pursuant to paragraph 8(A) hereof, then the fee, expense or other charge shall be paid beginning on the date of the chapter 13 trustee's next scheduled distribution, with equal monthly installments paid over the shorter of (i) twelve months; or (ii) the remainder of the plan term.

C. If payments are made under Paragraph 8(B), but the fees, expenses or charges are later not allowed, then the Debtor shall be allowed to recoup any excess payment that was made plus interest on such amounts at the contract rate under the Ongoing Mortgage.

D. Nothing in this Paragraph 8 governs the period over which fees, expenses or other charges that are governed by FED. R. BANKR. P. 3002.1 may be paid under a modified plan.

9. Amounts received by the holder of the Ongoing Mortgage prior to confirmation must be applied by the holder to the next payment due without penalty under the terms of the note; or the holder must notify the chapter 13 trustee in writing within 30 days of the date that a plan is confirmed that it waives all late charges that accrue after the order for relief in this case. Amounts received by the holder of the Ongoing Mortgage after confirmation must be applied in accordance with the plan.

10. These procedures may be varied in a particular case only by order of the Court.

EXHIBIT 1

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE: §
§
SOME DEBTOR, § Case No. 11-9999
§ (Chapter ___)
Debtor. § JUDGE [NAME OF JUDGE]

**TRUSTEE’S NOTICE OF FINAL CURE PAYMENT
AND MOTION TO DEEM MORTGAGE CURRENT**

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

To the Honorable United States Bankruptcy Judge:

_____, chapter 13 trustee (the “Trustee”), files this Notice of Final Cure Payment and Motion to Deem Mortgage Current.

NOTICE OF FINAL CURE PAYMENT

1. Based on the Trustee’s records, the Debtor has completed all payments to the Trustee due under the confirmed plan in this case. Pursuant to FED. R. BANKR. P. 3002.1(f), you are hereby notified that the Debtor has paid in full the amounts required to cure any default (both pre- and post-petition) on all claims secured by a security interest in the Debtor’s principal residence. You are further notified pursuant to FED. R. BANKR. P. 3002.1(f), that within twenty-one (21) days after service of this notice, each holder of a claim secured by a security interest in the Debtor’s principal residence is required to file and serve on the Debtor, the Debtor’s counsel, and the trustee a statement indicating (1) whether the holder agrees that the Debtor has paid in full the amount required to cure any default on its claim, and (2) whether the Debtor is otherwise current on all payments consistent with 11 U.S.C. § 1322(b)(5). The statement must itemize the required cure or post-petition amounts, if any, that the holder contends remain unpaid as of the

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date of the statement. The statement shall be filed as a supplement to the holder’s proof of claim and is not subject to FED. R. BANKR. P. 3001(f).

Motion to Deem Mortgage Current and Direct Debtor to Begin Making Direct Payments

2. Based on the Trustee’s records, the Debtor has completed all payments to the Trustee required under the confirmed plan in this case to the following creditors whose claims are secured by a security interest in the Debtor’s principal residence:

[List specific creditor(s)]

3. The Trustee requests an order determining that (i) that the claim(s) of the above-identified creditor(s) are current; (ii) all escrow deficiencies, if any, have been cured; and (iii) all legal fees, inspection fees and other charges imposed by the creditor, if any, have been satisfied in full.

4. The Debtor should begin making direct payments to the following creditors whose claims are secured by a security interest in the Debtor’s principal residence:

<u>Creditor Name & Address</u>	<u>Amount</u>	<u>Next Payment Due Date</u>
------------------------------------	---------------	------------------------------

Accordingly, the Trustee requests that the Court grant relief consistent with the foregoing and such other relief as is just.

Dated: _____.

Respectfully submitted,

/s/ [Trustee]
 [Name], Trustee
 [Address 1]
 [City, State Zip]
 [Telephone Number] Telephone
 [Facsimile Number] Facsimile

CERTIFICATE OF SERVICE

I hereby certify that this instrument was served by United States first class mail, with proper postage affixed, addressed to the parties set forth on the attached Service List on this ____ day of _____, 20__.

 [Name of Trustee]
 Chapter 13 Trustee

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE: §
§
SOME DEBTOR, § Case No. 11-9999
§ (Chapter __)
Debtor. § JUDGE [NAME OF JUDGE]

**ORDER DEEMING MORTGAGE CURRENT
AND DIRECTING DEBTOR TO RESUME PAYMENTS**
(Docket No. __)

The Court has considered the Trustee’s Notice of Final Cure Payment and Motion to Deem Mortgage Current. The Court finds that notice is proper and that the requested relief is proper. Accordingly, it is

ORDERED THAT:

1. Based on the Trustee’s records, the Debtor has completed all payments to the Trustee required under the confirmed plan in this case to the following creditors whose claims are secured by a security interest in the Debtor’s principal residence:

[List specific creditor(s)]

2. The claims of the above-listed creditor(s) are deemed current as of the entry date of this Order. All escrow deficiencies, if any, are deemed cured. All legal fees, inspection fees and other charges imposed by the creditor, if any, are deemed satisfied in full. The creditor shall be solely responsible for any shortfall or failure to respond to the Trustee’s notice and motion.

3. The Debtor should begin making direct payments to the following creditors whose claims are secured by a security interest in the Debtor’s principal residence:

Creditor Name & Address Amount Next Payment Due Date

SIGNED this ____ day of _____, 20__.

THE HONORABLE [NAME OF JUDGE],
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 2

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE: §
§
SOME DEBTOR, § Case No. 11-99999
§ (Chapter ___)
Debtor. § JUDGE [NAME OF JUDGE]

DEBTOR’S MOTION TO DEEM MORTGAGE CURRENT

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

To the Honorable United States Bankruptcy Judge:

_____ (the “Debtor”), files this Motion to Deem Mortgage Current.

Motion to Deem Mortgage Current

1. As set forth in the attached certification, the Debtor has completed all payments required under the confirmed plan to be paid directly to the following creditors whose claims are secured by a security interest in the Debtor’s principal residence:

[List specific creditor(s)]

2. The Debtor requests an order determining that (i) that the claim(s) of the above-identified creditor(s) are current; (ii) all escrow deficiencies, if any, have been cured; and (iii) all legal fees, inspection fees and other charges imposed by the creditor, if any, have been satisfied in full.

Accordingly, the Debtor requests that the Court grant relief consistent with the foregoing and such other relief as is just.

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Dated: _____.

Respectfully submitted,

[Name]
[Address 1]
[City, State Zip]
[Telephone Number] Telephone
[Facsimile Number] Facsimile

CERTIFICATE OF SERVICE

I hereby certify that this instrument was served by United States first class mail, with proper postage affixed, addressed to the parties set forth on the attached Service List on this ____ day of _____, 20__.

[Name]

DEBTOR'S CERTIFICATION

[to be completed by each debtor]

Pursuant to 28 U.S.C. § 1746, I hereby declare, certify, verify and state under penalty of perjury under the laws of the United States of America that the foregoing statements are true and correct. I further certify that I have completed all payments required under the confirmed plan in this case to be paid directly to the creditors identified above whose claims are secured by a security interest in my principal residence, that all escrow deficiencies have been cured and all legal fees, inspection fees and other charges have been paid.

Signed this _____ day of _____, 20__.

[Name]

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE: §
§
SOME DEBTOR, § Case No. 11-99999
§ (Chapter ___)
Debtor. § JUDGE [NAME OF JUDGE]

ORDER DEEMING MORTGAGE CURRENT
(Docket No. ___)

The Court has considered the Debtor’s Motion to Deem Mortgage Current. The Court finds that notice is proper and that the requested relief is proper. Accordingly, it is

ORDERED THAT:

1. Based on the Debtor’s certification, the Debtor has completed all payments to be made directly under the confirmed plan in this case to the following creditors whose claims are secured by a security interest in the Debtor’s principal residence:

[List specific creditor(s)]

2. The claims of the above-listed creditor(s) are deemed current as of the entry date of this Order. All escrow deficiencies, if any, are deemed cured. All legal fees, inspection fees and other charges imposed by the creditor, if any, are deemed satisfied in full. The creditor shall be solely responsible for any shortfall or failure to respond to the Debtor’s motion.

SIGNED this ____ day of _____, 20__.

THE HONORABLE [NAME OF JUDGE],
UNITED STATES BANKRUPTCY JUDGE

**Uniform Plan
and
Motion for Valuation of Collateral**

CHAPTER 13 PLAN

Date of Plan: _____
(Date Must be Date that This Plan is Signed by Debtors)

The Debtor(s) propose the following plan pursuant to § 1321¹.

In conjunction with the plan, the Debtor(s) move for the valuation of secured claims in the amount set forth in paragraph 8. **The Debtor(s) propose to pay the holder of the Secured Claim only the amounts set forth in the Debtor(s)' Plan. The Court will conduct a scheduling conference on this contested matter on the date set for the hearing on confirmation of the Debtor(s)' plan. You must file a response in writing not less than 5 days (including weekends and holidays) before the hearing on confirmation of the plan or the valuation set forth in the plan may be adopted by the Court. If no response is filed, the Debtor(s)' sworn declaration at the conclusion of this plan may be submitted as summary evidence at the hearing pursuant to Rule 7056 and 28 U.S.C. § 1746. If no timely answer is filed, the Court may conduct a final hearing on the objection at the hearing on confirmation of the plan.**

1. Payments. The Debtor(s) submit all or such portion of their future earnings and other future income to the supervision and control of the chapter 13 Trustee ("Trustee") as is necessary for the execution of the plan. The amount, frequency, and duration of the payments, are as follows:

Beginning Month ²	Ending Month	Amount of Monthly Payment	Total
Pre-modification payments to Trustee			
			Grand Total:

The first monthly payment is due not later than 30 days after the date this case was filed. If the payments to be made by the chapter 13 trustee pursuant to paragraph 4 are adjusted in accordance with the Home Mortgage Payment Procedures adopted pursuant to Bankruptcy Local Rule 3015(b) (whether on account of a change in any escrow requirement, a change in the applicable interest rate under an adjustable rate mortgage, or otherwise), the Debtor(s)' payments

¹ All § references are to the Bankruptcy Code and Bankruptcy Rules unless otherwise cited.

² When subsequent tables refer to "Month #", Month #1 is the month in which the first payment is due under 11 U.S.C. § 1326(a)(1).

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required by this paragraph 1 will be automatically increased or decreased by (i) the amount of the increase or decrease in the paragraph 4 payments; and (ii) the amount of the increase or decrease in the Posted Chapter 13 Trustee Fee that is caused by the change. The Posted Chapter 13 Trustee Fee is the percentage fee posted on the Court’s web site from time to time. The chapter 13 trustee is authorized to submit an amended wage withholding order or to amend any automated bank draft procedure to satisfy the automatic increase or decrease.

A notice of any adjustment in the payment amount must be filed by the chapter 13 trustee.

Except as otherwise ordered by the Court, payments to the chapter 13 trustee will be made pursuant to a wage withholding order, an EFT Order or an ACH Order. Local Rule 1007(d) determines the payment form that is required from time-to-time.

2. Priority Claims. From the payments made by the Debtor(s) to the Trustee, the Trustee shall pay in full, all claims entitled to priority under § 507. Payments shall be made in the order of priority set forth in § 507(a) and § 507(b). Payments of equal priority shall be made *pro rata* to holders of such claims. Priority claims arising under § 503(b)(2) shall be paid only after entry of an order by the Bankruptcy Court approving payment of the claim. If this case is dismissed, no priority claim arising under § 503(b)(2) shall be allowed unless an application for allowance is filed on or before 21 days after entry of the order of dismissal.

Name of Holder of Priority Claim	Amount of Priority Claim	Interest Rate Under Plan	First Payment of this Amount in Mo. #	Last Payment of this Amount in Mo. #	Amount of Estimated Periodic Payment	Total
			Total pre-modification payments by Trustee			
			Total pre-modification payments by Trustee			
			Total pre-modification payments by Trustee			

A priority claim of \$100.00 is allowed to Debtor(s)’ counsel if:

- (i) a proposed wage order was filed on the petition date for Debtor(s) earning a wage or salary; or,
- (ii) if the Debtor(s) are retired, self-employed, or unemployed or if the proposed wage order is insufficient to provide the full monthly plan payment, a proposed Electronic Funds Transfer Certification or ACH Certification was filed on the petition date. No application or further order is required. The \$100.00 allowance is in addition to any amounts otherwise awarded by the Court.

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3. Secured Claims for which Collateral is to be Surrendered upon Confirmation.

The Debtor(s) surrender the following collateral:

Name of Creditor	Description of Collateral

Upon confirmation of this Plan, the Debtor(s) immediately surrender and abandon the property and agree to immediately turn over and/or vacate the property, and the lienholder(s) may take any action allowed under applicable law with respect to this property without further order of the Court.

4. Secured Claim for Claim Secured Only by a Security Interest in Real Property that is the Debtor(s)' Principal Residence (Property to be Retained). For each such claim, utilize either A, B, or C, below:

A. The following table sets forth the treatment of certain classes of secured creditors holding a claim secured only by a security interest in real property that is the Debtor(s)' principal residence. The amount listed as the "Principal Amount of Claim for Arrearage" is the amount proposed by the Debtor(s) in this Plan. If the actual allowed claim is in a different amount, the amount paid pursuant to this Plan shall be the amount due on the actual amount of the allowed claim without the need of an amended plan. The amount listed as "Amount of Estimated Periodic Payment" will be adjusted to reflect the actual amount of the allowed claim without the need of an amended plan.

Name of Holder of Secured Claim	Principal Amount of Claim for Arrearage	Interest Rate Under Plan	Security for Claim	First Payment of this Amount in Month #	Last Payment of this Amount in Month #	Amount of Estimated Periodic Payment	Total
				Total pre-modification payments by Trustee			
				Total pre-modification payments by Trustee			
				Total pre-modification payments by Trustee			

Payment of the arrearage amounts shall constitute a cure of all defaults (existing as of the petition date) of the Debtor(s)' obligations to the holder of the secured claim.

The Secured Claims held by secured creditors holding a claim secured only by a security interest in real property that is the Debtor(s)' residence (other than the arrearage claims set forth in the above table) will be paid in accordance with the pre-petition contract held by the holder of the secured claim. The first such payment is due on the first payment due date under the promissory note (after the date this bankruptcy case was filed). During the term of the plan, these payments

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will be made through the chapter 13 trustee in accordance with the Home Mortgage Payment Procedures adopted pursuant to Bankruptcy Local Rule 3015(b). Each holder of a claim that is paid pursuant to this paragraph must elect to either (i) apply the payments received by it to the next payment due without penalty under the terms of the holder’s pre-petition note; or (ii) waive all late charges that accrue after the order for relief in this case. Any holder that fails to file an affirmative election within 30 days of entry of the order confirming this plan has waived all late charges that accrue after the order for relief in this case. Notwithstanding the foregoing, the holder may impose a late charge that accrues following an event of default of a payment due under paragraph 1 of this Plan.

The automatic stay is modified to allow holders of secured claims to send only monthly statements (but not demand letters) to the Debtor(s).

The Debtor(s) must provide the information required by the chapter 13 trustee pursuant to the Home Mortgage Payment Procedures, prior to 7 days after the date this Plan is proposed.

B. The holder of the claim secured only by a security interest in real property that is the Debtor(s)’ principal residence has agreed to refinance the security interest and claim on the terms set forth on the document attached as Exhibit “A”. The refinancing brings the loan current in all respects. The terms of the loan that is being refinanced and the new loan are described below:

	Old Loan	New Loan
Current amount owed on old loan and total amount borrowed on new loan		
Interest rate is fixed or variable?		
Interest rate (in %)		
Monthly principal and interest payment		
Closing costs paid by debtors		
Monthly required escrow deposit		

Payments made to the above referenced holder will be paid (check one, **only** if Debtor(s) have checked option **B**, above):

- Through the chapter 13 trustee.**
- Directly to the holder of the claim, by the Debtor(s).** If there has been a default in payments following the refinancing, future payments will be through the chapter 13 trustee. If payments are to be made directly to the holder of the claim by the Debtor(s), then the holder of the claim may not impose any attorneys fees, inspection costs, appraisal costs or any other charges (other than principal, interest and escrow) if such charges arose (in whole or in part) during the period (i) when the case is open; (ii) after the closing of the refinanced loan; and (iii) prior to a modification of this plan

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(i.e., following a default by the Debtor(s) in payments to the holder of the claim) pursuant to which the Debtor(s) commence payments through the chapter 13 trustee to the holder of the claim secured solely by a security interest in the Debtor(s)' principal residence.

C. The following table sets forth the treatment of certain classes of secured creditors holding a claim secured only by a security interest in real property that is the Debtor(s)' principal residence. The Debtor(s) allege that the total amount of debt secured by liens that are senior in priority to the lien held by _____ exceeds the total value of the principal residence. Accordingly, the claim will receive (i) no distributions as a secured claim; and (ii) distributions as an unsecured claim only in accordance with applicable law.

Upon the Debtor(s)' completion of all payments set forth in this plan, the holder of the lien is required to execute and record a full and unequivocal release of its liens, encumbrances and security interests secured by the principal residence and to provide a copy of the release to the Debtor(s) and their counsel. Notwithstanding the foregoing, the holder of a lien that secures post-petition homeowners' association fees and assessments will be allowed to retain its lien, but only to secure (i) post-petition assessments; and (ii) other post-petition amounts, such as legal fees, if such other post-petition amounts are (x) incurred with respect to post-petition fees and assessments; and (y) approved by the Court, if incurred during the pendency of the bankruptcy case.

Name of Holder of Lien to which this provision applies		
Address of Principal Residence		
Debtor(s)' Stated Value of Principal Residence	\$ _____	
Description of all Liens Senior in Priority (List Holder and Priority)	Estimated Amount Owed on This Lien	
Total Owed—All Senior Liens		

This paragraph 4C will only be effective if the Debtor(s) do each of the following:

- Mail a "Lien Stripping Notice", in the form set forth on the Court's website, to the holder of the lien that is governed by this paragraph 4C. The Lien Stripping Notice must be mailed in a separate envelope from any other document.
- File a certificate of service reflecting that the Lien Stripping Notice was mailed by both certified mail, return receipt requested and by regular US mail to the holder of the lien at

all of the following addresses, with the mailings occurring not later than 30 days prior to the hearing on this plan:

- The address for notices shown on any proof of claim filed by the holder.
- Any attorney representing the holder who has filed a request for notice in this bankruptcy case.
- If no address for notices is given on a proof of claim filed by the holder, on the last known address of the holder.
- If the holder did not file a proof of claim, service must be in accordance with FED. R. BANKR. P. 7004.

5. Debt Incurred within 910 Days Preceding Petition Date and Secured by a Lien on a Motor Vehicle or Debt Incurred within 1 Year Preceding Petition Date and Secured by Other Collateral for Which Full Payment, with Interest, is Provided. The following table sets forth each class of secured creditors holding a claim for a debt incurred within 910 days preceding the petition date and secured by a lien on a motor vehicle or for a debt incurred within 1 year preceding the petition date and secured by other collateral for which full payment is proposed. The amount listed as “Principal Amount of Claim” is an estimate of the actual allowed claim.

If the Court allows a claim in a different amount than is shown below under “Principal Amount of Claim”, the Plan shall be deemed amended to pay the principal amount as allowed without the requirement of the filing of an amended plan. The amount listed as “Estimated Periodic Payment” will be adjusted to reflect the actual amount of the allowed claim.

Payment of the amounts required in this section constitutes a cure of all defaults (existing as of the date this plan is confirmed) of the Debtor(s)’ obligations to the holder of the secured claim. If the monthly payment in the proposed plan is less than the amount of the adequate protection payment ordered in this case, the actual payment will be the amount of the monthly adequate protection payment.

The automatic stay is modified to allow holders of secured claims to send only monthly statements (but not demand letters) to the Debtor(s).

Each secured claimant is hereby designated to be in a class by itself. Subject to disposition of a timely filed motion to avoid a lien under § 522, or a complaint to determine the extent or validity of a lien filed under FED. R. BANKR. P. 7001, each secured creditor shall retain the lien securing its claim. The lien shall be enforceable to secure payment of the claim the lien secures, as that claim may be modified by the plan. The holder of a claim secured by a valid lien may enforce its lien only pursuant to § 362.

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Name of Holder of Secured Claim	Principal Amount of Claim	Interest Rate Under Plan	Security for Claim	First Payment of this Amount in Mo. #	Last Payment of this Amount in Mo. #	Amount of Estimated Periodic Payment	Total
				Total pre-modification payments by Trustee			
				Total pre-modification payments by Trustee			
				Total pre-modification payments by Trustee			

6. Debt Incurred within 910 Days Preceding Petition Date and Secured by a Lien on a Motor Vehicle or Debt Incurred within 1 Year Preceding Petition Date and Secured by Other Collateral for Which *Less Than* Full Payment, with Interest, is Provided. The following table sets forth each class of secured creditors holding a claim for a debt incurred within 910 days preceding the petition date and secured by a lien on a motor vehicle or for a debt incurred within 1 year preceding the petition date and secured by other collateral for which less than full payment is proposed. The amount listed as “Principal Amount of Claim” is an estimate of the actual allowed claim. The amount that will be paid under the plan is the amount, with interest, that pays the lesser of (i) the amount listed in the holder’s proof of claim; or (ii) the amount listed as “Amount of Claim to be Paid Under Plan” (the Amount of Claim to be Paid Under Plan will NOT be adjusted to reflect the actual Allowed Amount of the Claim).

The automatic stay is modified to allow holders of secured claims to send only monthly statements (but not demand letters) to the Debtor(s).

Each secured claimant is hereby designated to be in a class by itself. Subject to disposition of a timely filed motion to avoid a lien under § 522, or a complaint to determine the extent or validity of a lien filed under FED. R. BANKR. P. 7001, each secured creditor shall retain the lien securing its claim. The lien shall be enforceable to secure payment of the claim the lien secures, as that claim may be modified by the plan. The holder of a claim secured by a valid lien may enforce its lien only pursuant to § 362.

Name of Holder of Secured Claim	Principal Amount of Claim	Amount of Claim to be Paid under Plan	Interest Rate Under Plan	Security for Claim	First Payment of this Amount in Mo. #	Last Payment of this Amount in Mo. #	Amount of Estimated Periodic Payment	Total
					Total pre-modification payments by Trustee			
					Total pre-modification payments by Trustee			

7. Secured Debts Paid in Accordance with Pre-Petition Contract (Use Only for Contracts on Which There is No Default). The Debtor(s) represent that there are no payment

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defaults on the contracts listed in this paragraph. The secured claims held by the following secured creditors will be paid in accordance with the pre-petition contracts between the Debtor(s) and the holder of the secured claim:

Name of Holder	Collateral for Claim	Total Claim	Collateral Value	Contract Interest Rate

8. All Other Secured Claims (Property to be Retained). Each secured claimant is hereby designated to be in a class by itself. Subject to disposition of a timely filed motion to avoid a lien under § 522, or a complaint to determine the extent or validity of a lien filed under FED. R. BANKR. P. 7001, each secured creditor shall retain the lien securing its claim. The lien shall be enforceable to secure payment of the claim the lien secures, as that claim may be modified by the plan. The holder of a claim secured by a valid lien may enforce its lien only pursuant to § 362.

The following table sets forth the treatment of each class of secured creditors whose claims are modified by the Plan. The amount of secured claim to be paid under this plan is the lesser of the amount listed below as the “Collateral Value” and the allowed amount of the holder’s claim. If the Court allows a different amount than is shown below, the Plan shall be deemed amended without the requirement of the filing of an amended plan. The amount listed as “Estimated Amount Periodic Payment” will be adjusted to reflect the actual amount of the allowed claim.

Name of Holder of Secured Claim	Security for Claim	Principal Amount of Claim (without regard to Value of Collateral)	Collateral Value	Int. Rate per Plan	First Pmt. of this Amt. in Mo. #	Last Pmt. of this Amt. in Mo. #	Amount of Estimated Periodic Payment	Total
					Total pre-modification payments by Trustee			
					Total pre-modification payments by Trustee			
					Total pre-modification payments by Trustee			

Payment of the amounts required in this section constitutes a cure of all defaults (existing as of the date this plan is confirmed) of the Debtor(s)’ obligations to the holder of the secured claim. If the monthly payment in the proposed plan is less than the amount of the adequate protection payment ordered in this case, the actual payment will be the amount of the monthly adequate protection payment.

The automatic stay is modified to allow holders of secured claims to send only monthly statements (but not demand letters) to the Debtor(s).

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9. Specially Classified Unsecured Claims. The following unsecured claims will be treated as described below:

Name of Unsecured Creditor	Treatment

10. Unsecured Claims. Unsecured creditors not entitled to priority and not specially classified in Paragraph 9 above shall comprise a single class of creditors. Allowed claims under this paragraph shall be paid a pro rata share of the amount remaining after payment of all secured, priority, and specially classified unsecured claims. The Debtor(s) estimate that these unsecured creditors will receive a _____% dividend.

11. Executory Contracts. Except as set forth elsewhere in this Plan or in the following sentence, all executory contracts are rejected. The following contracts are assumed:

_____.

12. Asset Sales. The Debtor(s) are authorized—without the need for further Court order—to sell their exempt property in accordance with the following sentence. Any such sale shall provide for the full payment, at closing, of all liens on the property that is sold. If the Debtor(s) request and the Court so determines, an order confirming this authority may be granted by the Court, *ex parte*.

13. Surrender of Collateral during the Plan Period. The Debtor(s) may surrender collateral to a secured creditor after confirmation of the Plan by filing a motion pursuant to FED. R. BANKR. P. 4001 for an agreed order providing for surrender of collateral and termination of the automatic stay. The motion will be submitted on 14 days notice. Upon the entry of an order approving the surrender, the Debtor(s) will immediately turn over and/or vacate the property, and the lienholder(s) may take any action allowed under applicable law with respect to this property without further order of the Court.

14. Emergency Savings Fund. Line 21 of Schedule J (the Debtor(s)' expense budget) includes a provision for an emergency savings fund by the Debtor(s). Deposits into the emergency savings fund will be made to the Trustee. Withdrawals from the emergency savings fund may be made by application to the Court, utilizing the form application from the Court's website. Withdrawals should be requested only in an emergency. The form application need only be served electronically, and only to persons subscribing to the Court's CM/ECF electronic noticing system. An application will be deemed granted on the 15th day after filing unless (i) an objection has been filed; or (ii) the Court has set a hearing on the motion. The Debtor(s) may request emergency consideration of any application filed under this paragraph. The balance in the emergency savings fund will be paid to the Debtor(s) following (i) the granting of the discharge in this case; (ii) the dismissal of this case; or (iii) the conversion of this case to a case under chapter 7, except on those circumstances set forth in 11 U.S.C. § 348(f)(2).

The deposits into the emergency savings fund will be:

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Month of First Deposit of this Amount	Month of Last Deposit of this Amount	Amount	Total
Pre-modification savings deposits			
		TOTAL	

15. Discharge and Vesting of Property. The Debtor(s) will be granted a discharge in accordance with § 1328. Property of the estate shall vest in the Debtor(s) upon entry of the discharge order.

16. Plan Not Altered from Official Form. By filing this plan, Debtor(s) and their counsel represent that the plan is in the official form authorized by the Court. There are no addenda or other changes made to the official form.

17. Additional Provisions. [If an additional provision is requested, the Debtor(s) must simultaneously file a motion seeking approval for the inclusion of the additional provision].

Debtor’s Declaration Pursuant to 28 U.S.C. § 1746

I declare under penalty of perjury that the foregoing statements of value contained in this document are true and correct.

Dated:

Signature of Debtor

Signature of Debtor

Name, Address, and Signature of Debtor(s)’ Attorney

CAPTION

NOTICE OF DEBTOR(S)’ INTENTION TO STRIP YOUR LIEN

Notice to: [INSERT NAME OF HOLDER OF LIEN]

Regarding: Your lien that is alleged to be secured by the following real property:

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[Street Address of Property]

Priority of the
Lien that Will
be Stripped: _____

[DEBTOR(S) NAMES] propose a chapter 13 plan that terminates your lien secured by the property located at [ADDRESS]. The proposed plan alleges that the value of the property is less than the amount owed on all liens that are senior in priority to your lien.

You must file any objection to the termination of your lien within 28 days of the date of this notice. If you fail to do so, the Bankruptcy Court may approve the plan without further notice. If you do object, you must appear at the hearing on confirmation of the proposed plan. The hearing is scheduled for [INSERT DATE AND TIME] at the United States Courthouse, _____.

You are urged to review the entire plan. The provision of the plan that would terminate your lien is set forth below:

[INSERT ALL OF PARAGRAPH 4C VERBATIM]

CERTIFICATE OF SERVICE

On _____, a copy of this notice was sent by certified mail, return receipt requested, and by regular US mail to each of the following:

[List Name and Address of Each Recipient, as required by paragraph 4C of the plan]

[SIGNATURE BLOCK]

12. **THE TRUSTEE’S PRE-HEARING CONFERENCE.** The Trustee may assign matters to a pre-hearing conference docket (see www.13network.com for pre-hearing conference dates/times) including, but not limited to –

- (a) Motions to dismiss or convert filed by a party in interest other than the Debtor;
- (b) Motions for use of cash collateral or for financing authority;
- (c) Objections to claims;
- (d) Motions to assume, or to assume and assign, executory contracts or unexpired leases;
- (e) Motions for substantive consolidation;
- (f) Confirmation of a Plan;
- (g) Any Plan Modification;
- (h) Motions to Sell pursuant to 11 U.S.C. § 363;
- (i) Motions to Incur Debt/Obtain Credit;
- (j) Motions to Modify Home Mortgage Loans; and
- (k) Any Motion for which the Bankruptcy Rules, the Local Bankruptcy Rules for the Northern District of Texas and/or this General Order require a hearing, except as otherwise provided herein.

13. **TRUSTEE’S REVIEW AND APPROVAL OF ALL AGREED ORDERS.** In the event the Debtor and creditor reach an agreement with respect to a motion to modify stay or objection to confirmation, or any other contested matter between a Debtor and a creditor, the Trustee shall be permitted, if required by the Trustee, 7 days to review the agreed Order prior to its presentation to the Court, without prejudice to the Trustee’s right to object to the agreed Order prior to it becoming a final order.

14. **WHO IS REQUIRED TO BE A CONDUIT DEBTOR.** Unless otherwise ordered by the Court following a motion by a party in interest in a specific Case, any Debtor meeting the following criteria is required to participate in the Conduit Program and is designated as a Conduit Debtor:

- (a) Any Debtor that is the monetary equivalent of two full months or more in arrears to a Mortgage Lender as of the Petition Date or Conversion Date;

(b) Any Debtor that defaults on payments to a Mortgage Lender during the pendency of the Case such that the Debtor is the monetary equivalent of two full months or more in arrears on Current Post-Petition Mortgage Payments to the Mortgage Lender, except that in a Case within twelve months of completion, the Trustee may elect not to require the Debtor to participate in the Conduit Program; or

(c) Any Debtor who elects to participate in the Conduit Program by including the Current Post-Petition Mortgage Payment in the Plan Payments and the Base Amount and (1) Section I, D.(2) of the Plan or (2) in a Plan Modification.

Once designated as a Conduit Debtor, the Debtor shall remain a Conduit Debtor until the payment in full of the Base Amount (even if the Mortgage Loan is modified), or until the Case is converted or dismissed, unless otherwise ordered by the Court.

15. **PROVISIONS REGARDING THE CONDUIT PROGRAM.** Unless otherwise ordered by the Court, the following provisions shall apply in the Case of a Conduit Debtor –

(a) Additional Responsibilities of the Conduit Debtor – In addition to all other responsibilities, duties, and obligations of the Debtor required by applicable law and rules, and this General Order –

(1) The Conduit Debtor shall include any Mortgage Arrearage(s), the Current Post-Petition Mortgage Payment(s) and any Mortgage Fees, plus the Trustee's Percentage Fee, in the calculation of the Plan Payment, and such amounts shall be included in the calculation of the Base Amount.

(2) The Conduit Debtor shall file an AAPD authorizing the Trustee to disburse the Current Post-Petition Mortgage Payments to the Mortgage Lender prior to confirmation.

(3) The Conduit Debtor is responsible for responding to and defending all motions for relief from the automatic stay. The Conduit Debtor is responsible for objecting to any proof of claim or any amended proof of claim filed by a Mortgage Lender, as well as any Notice of Payment Change by Mortgage Lender and/or any Notice of Fees, Expenses, and Charges. The Trustee is not obligated to but, within the Trustee's sole discretion, may object to any proof of claim or amended proof of claim filed by or on behalf of a Mortgage Lender and may file a response to any motion for relief from the automatic stay, Notice of Payment Change by Mortgage Lender and/or any Notice of Fees, Expenses, and Charges.

(b) Additional Responsibilities of the Mortgage Lender – In addition to all other responsibilities, duties, and obligations of the Mortgage Lender required by applicable law and rules and this General Order –

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(1) If the Mortgage Lender files a Notice of Fees, Expenses, and Charges and does not attach legible copies of any unpaid invoices to such Notice to substantiate the fees, expenses and charges requested, the Trustee or the Debtor may object to such Notice for that reason. Upon the earlier of (i) the expiration of the period of time for filing an objection to the Notice of Fees, Expenses, and Charges or (ii) the entry of a Final Order allowing such fees, expenses and charges in whole or in part, the Trustee is authorized to pay them in full as a secured claim with no interest.

(2) If the Mortgage Lender files a proof of claim or amended proof of claim which includes pre-petition fees, expenses, or other charges as part of the claim amount and does not attach legible copies of any unpaid invoices substantiating same, the Trustee or the Debtor may object to the proof of claim or amended proof of claim for that reason.

(3) In the event there is a change in the name of the Mortgage Lender and/or the servicer for the Mortgage Lender and/or the address to which disbursements to the Mortgage Lender are to be sent, the Mortgage Lender shall file with the Court and serve on the Trustee, the Conduit Debtor and the Debtor's Counsel a notice substantively conforming with the Notice of Transfer of Servicing or Change of Address attached to this General Order. If the Notice of Transfer of Servicing or Change of Address is not received by the Trustee at least twenty-one (21) days prior to the Trustee's next disbursement date (but not including the disbursement date), the Trustee shall have no obligation or liability for recovering or requesting the refund of any funds disbursed within that twenty-one (21) day period. The Debtor shall receive full credit for any such payment disbursed by the Trustee to or on behalf of the Mortgage Lender. All disbursements made more than twenty-one (21) days after a Notice of Transfer of Servicing or Change of Address is filed shall be made in the name of and to the address set forth in such Notice if it conforms with the Notice of Transfer of Servicing or Change of Address attached to this General Order.

(c) Other Applicable Provisions –

(1) In the event the Current Post-Petition Mortgage Payment changes during the term of the Plan or Plan Modification, the Mortgage Lender shall file a Notice of Payment Change by Mortgage Lender. After receiving same, the Trustee may send a Notice of Plan Payment Adjustment to the Conduit Debtor, Debtor's Counsel and the Mortgage Lender. If the Notice of Payment Change by Mortgage Lender is timely and properly filed by the Mortgage Lender and indicates it was properly served, the Trustee shall disburse the Current Post-Petition Mortgage Payment(s) consistent with the Notice of Payment Change by Mortgage Lender as of the effective date of the change set out therein, assuming there are available funds in the Case to do so.

(2) If the Mortgage Lender files a proof of claim or an amended proof of claim that sets out a Mortgage Arrearage, a Mortgage Fee, or a Current Post-Petition Mortgage Payment in an amount different than the amount used to calculate the Plan Payment, the Trustee may serve a Notice of Plan Payment Adjustment.

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(3) In the event of an adjustment to the monthly Plan Payment or the Base Amount due to the Trustee as a result of (i) the filing of a proof of claim or amended proof of claim by the Mortgage Lender, (ii) the filing of a Notice of Payment Change by Mortgage Lender, (iii) the filing of a Notice of Fees, Expenses, and Charges, (iv) an insufficiency in the Base Amount necessary to disburse a full, final Current Post-Petition Mortgage Payment, and/or (v) the entry of an order of the Court, the monthly Plan Payment and/or the Base Amount may be automatically adjusted by the Trustee by the amount of the required payment adjustment, plus the Trustee's Percentage Fee, without the necessity of filing an amended AAPD, an amended Plan or a Plan Modification to effectuate the adjustment of the Plan Payment. The Trustee will notify the Debtor of any change in the Plan Payment by serving a Notice of Plan Payment Adjustment. Unless otherwise ordered by the Court, the amount set out in the Notice of Plan Payment Adjustment is the Plan Payment as of the effective date contained therein and the amount due to the Mortgage Lender set out in the Notice of Plan Payment Adjustment is the amount the Trustee shall disburse to the Mortgage Lender from available funds in the Case.

(4) Unless otherwise ordered by the Court, if the Conduit Debtor is current on Plan Payments or the payments due pursuant to any wage directive, the Mortgage Loan shall be deemed current post-petition.

(5) Pre-confirmation, the Trustee may make Current Post-Petition Mortgage Payments to the Mortgage Lender, as identified by the Conduit Debtor, at the address provided by the Conduit Debtor, in the amount stated by the Conduit Debtor and utilizing the account number provided by the Conduit Debtor, pursuant to an AAPD authorizing such payments, without the necessity of the Mortgage Lender filing a proof of claim or having a proof of claim filed on its behalf.

(6) Following the entry of an order confirming the Plan, the Trustee shall make Current Post-Petition Mortgage Payments to the Mortgage Lender only if a proof of claim is filed and has not been disallowed. However, the Trustee will reserve the Current Post-Petition Mortgage Payments received until either (a) the date the Mortgage Lender's proof of claim is timely filed as set out in Rule 3002(c) of the Bankruptcy Rules of Procedure or (b) the expiration of the extended Claims Bar Date set out in Rules 3004 and 3005 of the Bankruptcy Rules of Procedure. In the event no proof of claim is filed by or on behalf of the Mortgage Lender within the time periods set out above, the reserve will be removed and the Trustee may disburse any reserved funds to other claimants.

(7) Notice To Reserve Funds –

(A) Any party in interest may file and serve a Notice to Reserve Funds if, and only if, the following is filed: (i) an objection to a Notice of Payment Change by Mortgage Lender; (ii) an objection to a Notice of Fees, Expenses, and Charges; (iii) an objection to a proof of claim or amended proof of claim filed by or on behalf of the Mortgage Lender; and/or (iv) an adversary disputing the validity, priority, and extent of the lien asserted by the Mortgage Lender. The Trustee is not obligated to but may, in the Trustee's sole discretion, file a

Notice to Reserve Funds. A form of this Notice to be used by parties other than the Trustee is attached as an exhibit to this General Order. Such Notice may be filed only as permitted in this General Order and parties other than the Trustee must use the attached form of the Notice to Reserve Funds.

(B) The Notice to Reserve Funds must be filed with the Court in the Case (as opposed to an ancillary proceeding) and served on the Mortgage Lender, the Conduit Debtor, the Debtor's Counsel and the Trustee and, if filed by a party other than the Trustee, must be received by the Trustee no less than five business days prior to the Trustee's scheduled disbursement date. If a Notice to Reserve Funds is filed, the Trustee will reserve funds specified in the Notice which would otherwise be disbursed to the Mortgage Lender until an order of the Court is entered instructing the Trustee how to disburse the funds.

(C) A Notice to Reserve Funds is without prejudice to the rights of any party in interest to request other and further relief from the Court, including, but not limited to, an order of the Court to authorize or compel the Trustee to disburse any reserved funds.

(8) If any party in interest files a proceeding described in Section 15(c)(7)(A) of this General Order, the Conduit Debtor shall continue remitting the Plan Payment to the Trustee and the Trustee shall continue disbursements to the Mortgage Lender, unless a Notice to Reserve Funds is filed or unless otherwise ordered by the Court. In the event a party in interest is successful with regard to such proceeding but no Notice to Reserve Funds is filed, the Trustee may, but is not obligated to, request or obtain a refund of any payments to the Mortgage Lender disbursed by the Trustee prior to the resolution of the filed objection or lien avoidance adversary.

(9) Each Trustee shall develop the internal procedures for the administration of the Conduit Program which will be applicable to all Conduit Cases administered by the Trustee, unless otherwise ordered by the Court.

16. TRUSTEE'S RECOMMENDATION CONCERNING CLAIMS AND PLAN MODIFICATION, IF REQUIRED.

(a) As soon as practicable after the governmental Claims Bar Date, the Trustee may prepare and serve on Debtor, Debtor's Counsel, all creditors who were scheduled, all creditors who filed claims, and any party that has filed a Notice of Appearance, a Trustee's Recommendation Concerning Claims, Objection to Claims and Plan Modification (the "TRCC") and a Notice of Hearing and Pre-Hearing Conference thereon. The TRCC may be deemed in part to be an objection to claims pursuant to Bankruptcy Rule 3007(d) and (e). Service of the TRCC on any agency or office of the United States of America will comply with the provisions of Rule 7004 of the Bankruptcy Rules of Procedure.

(b) The TRCC may list and propose disallowance of any claims scheduled but not filed.

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Bar Number:
Phone:

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

Revised 10/1/2016

IN RE: § CASE NO:
 §
Debtor(s) §
 §
 §

AUTHORIZATION FOR ADEQUATE PROTECTION DISBURSEMENTS DATED: _____

The undersigned Debtor(s) hereby request that payments received by the Trustee prior to confirmation be disbursed as indicated below:

Periodic Payment Amount	\$	
Disbursements	First (1)	Second (2) (Other)
Account Balance Reserve	\$	\$
Trustee Percentage Fee	\$	\$
Filing Fee	\$	\$
Noticing Fee	\$	\$
Subtotal Expenses/Fees	\$	\$
Available for payment of Adequate Protection, Attorney Fees and Current Post-Petition Mortgage Payments:	\$	\$

CREDITORS SECURED BY VEHICLES (CAR CREDITORS):

Name	Collateral	Scheduled Amount	Value of Collateral	Adequate Protection Percentage	Adequate Protection Payment Amount
		\$	\$	1.25%	\$

Total Adequate Protection Payments for Creditors Secured by Vehicles: **\$**

CURRENT POST-PETITION MORTGAGE PAYMENTS (CONDUIT):

Name	Collateral	Start Date	Scheduled Amount	Value of Collateral	Payment Amount
			\$	\$	\$

Payments for Current Post-Petition Mortgage Payments (Conduit): **\$**

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Case No:
Debtor(s):

CREDITORS SECURED BY COLLATERAL OTHER THAN A VEHICLE:

Name	Collateral	Scheduled Amount	Value of Collateral	Adequate Protection Percentage	Adequate Protection Payment Amount
------	------------	------------------	---------------------	--------------------------------	------------------------------------

		\$	\$	1.25%	\$
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Total Adequate Protection Payments for Creditors Secured by Collateral other than a vehicle: \$

TOTAL PRE-CONFIRMATION PAYMENTS

First Month Disbursement (after payment of Clerk's Filing Fee, any Noticing Fee, Chapter 13 Trustee Percentage Fee and retention of the Account Balance Reserve):

Current Post-Petition Mortgage Payments (Conduit payments), per mo:	\$
Adequate Protection to Creditors Secured by Vehicles ("Car Creditor"), per mo:	\$
Debtor's Attorney, per mo:	\$
Adequate Protection to Creditors Secured by other than a Vehicle, per mo:	\$

Disbursements starting month 2 (after payment of Clerk's Filing Fee, any Noticing Fee, Chapter 13 Trustee Percentage Fee and retention of the Account Balance Reserve):

Current Post-Petition Mortgage Payments (Conduit payments), per mo:	\$
Adequate Protection to Creditors Secured by Vehicles ("Car Creditor"), per mo:	\$
Debtor's Attorney, per mo:	\$
Adequate Protection to Creditors Secured by other than a Vehicle, per mo:	\$

Order of Payment:

Unless otherwise ordered by the court, all claims and other disbursements made by the Chapter 13 Trustee prior to entry of an order confirming the Chapter 13 Plan will be paid in the order set out above. All disbursements which are in a specified monthly amount are referred to as "per mo". At the time of any disbursement, if there are insufficient funds on hand to pay any per mo payment in full, claimant(s) with a higher level of payment shall be paid any unpaid balance owed on the per mo payment plus the current per mo payment owed to that same claimant, in full, before any disbursement to a claimant with a lower level of payment. Other than the Current Post-Petition Mortgage Payments, the principal balance owing upon confirmation of the Plan on the allowed secured claim shall be reduced by the total of adequate protection payments, less any interest (if applicable), paid to the creditor by the Trustee.

DATED: _____

Attorney for Debtor(s)

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Conduit Debtor 1 name: _____

Case number: _____

Conduit Debtor 2 name: _____

MORTGAGE INFORMATION SHEET

SUBMIT TO THE TRUSTEE ONLY- DO NOT FILE WITH THE COURT

Within three (3) business days following the Petition Date or the date the bankruptcy case is converted to a Chapter 13 proceeding, whichever is later, please provide the Trustee with this information:

_____ Conduit Debtor rents/leases.

_____ The Conduit Debtor(s) is/are current on all home mortgage payments and shall continue to pay the regular monthly payments directly to the creditor listed below.

_____ The Conduit Debtor(s) is/are _____ months in arrears on payments to the Mortgage Lender, pre-petition.

_____ Other (reverse mortgage, paid in full, etc.) _____.

A copy of current mortgage statement or a written explanation of why such statement is not available is attached.

Amount of mortgage payment and date due: \$ _____ Date _____

Amount of pre-petition arrearage, if any: \$ _____

Complete name of mortgage creditor/servicer: _____

Correspondence address: _____

Payment address: _____

Telephone number: () _____

Name of legal representative: _____

Address of legal representative: _____

Telephone number: () _____

Complete account number (not redacted): _____

Are insurance and taxes escrowed? _____ (Yes) _____ (No)

Debtor or Debtor Attorney Signature

Date

2017 ROCKY MOUNTAIN BANKRUPTCY CONFERENCE

BTXN222 10/16

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
_____ DIVISION

In re: _____ * Case No.: _____
_____ * Date: _____
_____ *
Debtor(s) * Chapter 13
* Last 4 # SSN or TIN: _____

DEBTOR'S (S') CHAPTER 13 PLAN
(CONTAINING A MOTION FOR VALUATION)

DISCLOSURES

___ This *Plan* does not contain any nonstandard provision(s).

___ This *Plan* does contain nonstandard provision(s).

___ This *Plan* does not limit the amount of a secured claim based on a valuation of the *Collateral* for the claim.

___ This *Plan* does limit the amount of a secured claim based on a valuation of the *Collateral* for the claim.

This *Plan* does not avoid a security interest or lien.

Language in italicized type in this *Plan* shall be as defined in the "General Order 2016-01, Standing Order Concerning Chapter 13 Cases" and as it may be superseded or amended ("General Order"). All provisions of the General Order shall apply to this *Plan* as if fully set out herein.

Page 1

Plan Payment: _____ Applicable Commitment Period: _____ Estimated Unsecured Creditors Pool: _____
Plan Term: _____ Disposable Income per §1325 (b)(2): _____
Plan Base: _____ Value of Non-exempt property per §1325(a)(4) : _____

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MOTION FOR VALUATION

Pursuant to Bankruptcy Rule 3012, for purposes of 11 U.S.C. § 506(a) and § 1325(a)(5) and for purposes of determination of the amounts to be distributed to holders of secured claims who do not accept the *Plan*, *Debtor(s)* hereby move(s) the Court to value the *Collateral* described in Section I, Part E.(1) and Part F of the *Plan* at the lesser of the value set forth therein or any value claimed on the proof of claim. Any objection to valuation shall be filed at least seven (7) days prior to the date of the *Trustee's* pre-hearing conference regarding Confirmation or shall be deemed waived.

**SECTION I
DEBTOR'S(S) CHAPTER 13 PLAN - SPECIFIC PROVISIONS
FORM REVISED 10/1/16**

A. PLAN PAYMENTS:

Debtor(s) propose(s) to pay to the *Trustee* the sum of:
\$ _____ per month, months _____ to _____.

For a total of \$ _____ (estimated "*Base Amount*").

First payment is due _____.

The applicable commitment period is _____ months.

Disposable Income calculated by *Debtor(s)* per §1325(b)(2) is: \$ _____.

Debtor's(s') equity in non-exempt property, as estimated by *Debtor(s)* per §1325(a)(4) is: \$ _____.

The unsecured creditor's pool, as estimated by the *Debtor(s)*, shall be no less than \$ _____.

B. STATUTORY, ADMINISTRATIVE AND DSO CLAIMS:

1. **CLERK'S FILING FEE:** Total filing fees paid through the *Plan*, if any, are \$ _____ and shall be paid in full prior to disbursements to any other creditor.

2. **STATUTORY TRUSTEE'S PERCENTAGE FEE(S) AND NOTICING FEES:** *Trustee's Percentage Fee(s)* and any noticing fees shall be paid first out of each receipt as provided in General Order 2014-04 (as it may be superseded or amended) and 28 U.S.C. § 586(e)(1) and (2).

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3. DOMESTIC SUPPORT OBLIGATIONS: The *Debtor* is responsible for paying any Post-petition Domestic Support Obligation directly to the DSO claimant. Pre-petition Domestic Support Obligations per Schedule "E/F" shall be paid in the following monthly payments:

<u>DSO CLAIMANTS</u>	<u>SCHED. AMOUNT</u>	<u>%</u>	<u>TERM (APPROXIMATE)</u> (MONTHS _____ TO _____)	<u>TREATMENT</u> \$ _____ PER MO.
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C. ATTORNEY FEES: To _____, total: \$ _____;
\$ _____ Pre-petition; \$ _____ disbursed by the *Trustee*.

D.(1) PRE-PETITION MORTGAGE ARREARAGE:

<u>MORTGAGEE</u>	<u>SCHED. ARR. AMT</u>	<u>DATE ARR. THROUGH</u>	<u>%</u>	<u>TERM (APPROXIMATE)</u> (MONTHS _____ TO _____)	<u>TREATMENT</u>
------------------	------------------------	--------------------------	----------	--	------------------

D.(2) CURRENT POST-PETITION MORTGAGE PAYMENTS DISBURSED BY THE TRUSTEE IN A CONDUIT CASE:

<u>MORTGAGEE</u>	<u># OF PAYMENTS PAID BY TRUSTEE</u>	<u>CURRENT POST-PETITION MORTGAGE PAYMENT AMOUNT</u>	<u>FIRST CONDUIT PAYMENT DUE DATE (MM-DD-YY)</u>
------------------	--------------------------------------	--	--

D.(3) POST-PETITION MORTGAGE ARREARAGE:

<u>MORTGAGEE</u>	<u>TOTAL AMT.</u>	<u>DUE DATE(S)</u> (MM-DD-YY)	<u>%</u>	<u>TERM (APPROXIMATE)</u> (MONTHS _____ TO _____)	<u>TREATMENT</u>
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E.(1) SECURED CREDITORS-PAID BY THE TRUSTEE:

*Attach additional page(s) titled, *E.(1)A (cont.)* and/or *E.(1)B (cont.)* as necessary.

A.

<u>CREDITOR</u>	<u>COLLATERAL</u>	<u>SCHED. AMT.</u>	<u>VALUE</u>	<u>%</u>	<u>TERM (APPROXIMATE)</u> (MONTHS _____ TO _____)	<u>TREATMENT</u> Per Mo.
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B.

<u>CREDITOR</u>	<u>COLLATERAL</u>	<u>SCHED. AMT.</u>	<u>VALUE</u>	<u>%</u>	<u>TREATMENT</u> Pro-rata
-----------------	-------------------	--------------------	--------------	----------	------------------------------

To the extent the value amount in E.(1) is less than the scheduled amount in E.(1), the creditor may object. In the event a creditor objects to the treatment proposed in paragraph E.(1), the *Debtor(s)* retain(s) the right to surrender the *Collateral* to the creditor in satisfaction of the creditor’s claim.

E.(2) SECURED 1325(a)(9) CLAIMS PAID BY THE TRUSTEE - NO CRAM DOWN:

A.

<u>CREDITOR</u>	<u>COLLATERAL</u>	<u>SCHED. AMT.</u>	<u>%</u>	<u>TERM (APPROXIMATE)</u> (MONTHS _____ TO _____)	<u>TREATMENT</u> Per Mo
-----------------	-------------------	--------------------	----------	--	----------------------------

B.

<u>CREDITOR</u>	<u>COLLATERAL</u>	<u>SCHED. AMT.</u>	<u>%</u>	<u>TREATMENT</u> Pro-rata
-----------------	-------------------	--------------------	----------	------------------------------

The valuation of *Collateral* set out in E.(1) and the interest rate to be paid on the above scheduled claims in E.(1) and E.(2) will be finally determined at confirmation. The allowed claim amount will be determined based on a timely filed proof of claim and the *Trustee’s Recommendation Concerning Claims* (“TRCC”) or by an order on an objection to claim.

Absent any objection to the treatment described in E.(1) or E.(2), the creditor(s) listed in E.(1) and E.(2) shall be deemed to have accepted the *Plan* per section 1325(a)(5)(A) of the Bankruptcy Code and to have waived its or their rights under section 1325(a)(5)(B) and (C) of the Bankruptcy Code.

F. SECURED CREDITORS - COLLATERAL TO BE SURRENDERED:

<u>CREDITOR COLLATERAL</u>	<u>SCHED. AMT.</u>	<u>VALUE</u>	<u>TREATMENT</u> Surrender
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Upon confirmation, pursuant to 11 U.S.C. § 1322 (b)(8), the surrender of the *Collateral* described herein will provide for the payment of all or part of a claim against the *Debtor(s)* in the amount of the value given herein.

The valuation of *Collateral* in F. will be finally determined at confirmation. The allowed claim amount will be determined based on a timely filed proof of claim and the *Trustee's Recommendation Concerning Claims* ("TRCC") or by an order on an objection to claim.

The *Debtor(s)* request(s) that the automatic stay be terminated as to the surrendered *Collateral*. If there is no objection to the surrender, the automatic stay shall terminate and the *Trustee* shall cease disbursements on any secured claim which is secured by the *Surrendered Collateral*, without further order of the Court, on the 7th day after the date the *Plan* is filed. However, the stay shall not be terminated if the Trustee or affected secured lender files an objection in compliance with paragraph 8 of the General Order until such objection is resolved.

Nothing in this *Plan* shall be deemed to abrogate any applicable non-bankruptcy statutory or contractual rights of the *Debtor(s)*.

G. SECURED CREDITORS-PAID DIRECT BY DEBTOR:

<u>CREDITOR</u>	<u>COLLATERAL</u>	<u>SCHED. AMT.</u>
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H. PRIORITY CREDITORS OTHER THAN DOMESTIC SUPPORT OBLIGATIONS:

<u>CREDITOR</u>	<u>SCHED. AMT.</u>	<u>TERM (APPROXIMATE)</u> (MONTHS ____ TO ____)	<u>TREATMENT</u>
-----------------	--------------------	--	------------------

I. SPECIAL CLASS:

<u>CREDITOR</u>	<u>SCHED. AMT.</u>	<u>TERM (APPROXIMATE)</u> (MONTHS ____ TO ____)	<u>TREATMENT</u>
-----------------	--------------------	--	------------------

JUSTIFICATION:

J. UNSECURED CREDITORS:

*Attach additional page(s) titled, *J. UNSECURED CREDITORS (cont.)* as necessary.

<u>CREDITOR</u>	<u>SCHED. AMT.</u>	<u>COMMENT</u>
-----------------	--------------------	----------------

TOTAL SCHEDULED UNSECURED: \$ _____

The *Debtor's(s')* estimated (but not guaranteed) payout to unsecured creditors based on the scheduled amount is _____%.

General unsecured claims will not receive any payment until after the order approving the TRCC becomes final.

K. EXECUTORY CONTRACTS AND UNEXPIRED LEASES:

§ 365 PARTY	ASSUME/REJECT	CURE AMOUNT	TERM (APPROXIMATE)	TREATMENT
			(MONTHS _____ TO _____)	

**SECTION II
DEBTOR'S(S) CHAPTER 13 PLAN - GENERAL PROVISIONS
FORM REVISED 10/1/16**

A. SUBMISSION OF DISPOSABLE INCOME:

Debtor(s) hereby submit(s) future earnings or other future income to the *Trustee* to pay the *Base Amount*.

B. ADMINISTRATIVE EXPENSES, DSO CLAIMS & PAYMENT OF TRUSTEE'S STATUTORY PERCENTAGE FEE(S) AND NOTICING FEES:

The Statutory Percentage Fees of the *Trustee* shall be paid in full pursuant to 11 U.S.C. §§ 105(a), 1326(b)(2), and 28 U.S.C. § 586(e)(1)(B). The *Trustee* is authorized to charge and collect Noticing Fees as indicated in Section I, Part "B" hereof.

C. ATTORNEY FEES:

Debtor's(s') Attorney Fees totaling the amount indicated in Section I, Part C, shall be disbursed by the *Trustee* in the amount shown as "Disbursed By The Trustee" pursuant to this *Plan* and the *Debtor's(s')* Authorization for Adequate Protection Disbursements ("*AAPD*"), if filed.

D.(1) PRE-PETITION MORTGAGE ARREARAGE:

The Pre-Petition *Mortgage Arrearage* shall be paid by the *Trustee* in the allowed pre-petition arrearage amount and at the rate of interest indicated in Section I, Part D.(1). To the extent interest is provided, it will be calculated from the date of the Petition. The principal balance owing upon confirmation of the *Plan* on the allowed pre-petition *Mortgage Arrearage* amount shall be reduced by the total adequate protection less any interest (if applicable) paid to the creditor by the *Trustee*. Such creditors shall retain their liens.

D.(2) CURRENT POST-PETITION MORTGAGE PAYMENTS DISBURSED BY TRUSTEE IN A CONDUIT CASE:

Current Post-Petition Mortgage Payment(s) shall be paid by the *Trustee* as indicated in Section I, Part D.(2), or as otherwise provided in the General Order.

The *Current Post-Petition Mortgage Payment(s)* indicated in Section I, Part D.(2) reflects what the *Debtor(s)* believe(s) is/are the periodic payment amounts owed to the *Mortgage Lender* as of the date of the filing of this *Plan*. Adjustment of the *Plan Payment* and *Base Amount* shall be calculated as set out in the General Order, paragraph 15(c)(3).

Payments received by the *Trustee* for payment of the *Debtor's Current Post-Petition Mortgage Payment(s)* shall be deemed adequate protection to the creditor.

Upon completion of the *Plan*, *Debtor(s)* shall resume making the *Current Post-Petition Mortgage Payments* required by their contract on the due date following the date specified in the *Trustee's* records as the date through which the *Trustee* made the last *Current Post-Petition Mortgage Payment*.

Unless otherwise ordered by the Court, if a *Conduit Debtor* is current on his/her *Plan Payments* or the payment(s) due pursuant to any wage directive, the *Mortgage Lender* shall be deemed current post-petition.

D.(3) POST-PETITION MORTGAGE ARREARAGE:

The *Post-Petition Mortgage Arrearage* shall be paid by the *Trustee* in the allowed amount and at the rate of interest indicated in Section I, Part D.(3). To the extent interest is provided, it will be calculated from the date of the Petition.

Mortgage Lenders shall retain their liens.

E.(1) SECURED CLAIMS TO BE PAID BY TRUSTEE:

The claims listed in Section I, Part E.(1) shall be paid by the *Trustee* as secured to the extent of the lesser of the allowed claim amount (per a timely filed Proof of Claim not objected to by a party in interest) or the value of the *Collateral* as stated in the *Plan*. Any amount claimed in excess of the value shall automatically be split and treated as unsecured as indicated in Section I, Part H or J, per 11 U.S.C. § 506(a). Such creditors shall retain their liens on the *Collateral* described in Section I, Part E.(1) as set out in 11 U.S.C. § 1325(a)(5)(B)(I) and shall receive interest at the rate indicated from the date of confirmation or, if the value shown is greater than the allowed claim amount, from the date of the Petition, up to the amount by which the claim is over-secured. The principal balance owing upon confirmation of the *Plan* on the allowed secured claim shall be reduced by the total of adequate protection payments less any interest (if applicable) paid to the creditor by the *Trustee*.

E.(2) SECURED 1325 (a)(9) CLAIMS TO BE PAID BY THE TRUSTEE – NO CRAM DOWN:

Claims in Section I, Part E.(2) are either debts incurred within 910 days of the *Petition Date* secured by a purchase money security interest in a motor vehicle acquired for the personal use of the *Debtor(s)* or debts incurred within one year of the *Petition Date* secured by any other thing of value.

The claims listed in Section I, Part E.(2) shall be paid by the *Trustee* as fully secured to the extent of the allowed amount (per a timely filed Proof of Claim not objected to by a party in interest). Such creditors shall retain their liens on the *Collateral* described in Section I, Part E.(2) until the earlier of the payment of the underlying debt determined under non-bankruptcy law or a discharge under § 1328 and shall receive interest at the rate indicated from the date of confirmation. The principal balance owing upon confirmation of the *Plan* on the allowed secured claim shall be reduced by the total of adequate protection payments paid to the creditor by the *Trustee*.

To the extent a secured claim not provided for in Section I, Part D, E.(1) or E.(2) is allowed by the Court, *Debtor(s)* will pay the claim direct per the contract or statute.

Each secured claim shall constitute a separate class.

F. SATISFACTION OF CLAIM BY SURRENDER OF COLLATERAL:

The claims listed in Section I, Part F shall be satisfied as secured to the extent of the value of the *Collateral*, as stated in the *Plan*, by surrender of the *Collateral* by the *Debtor(s)* on or before confirmation. Any amount claimed in excess of the value of the *Collateral*, to the extent it is allowed, shall be automatically split and treated as indicated in Section I, Part H or J, per 11 U.S.C. § 506(a).

Each secured claim shall constitute a separate class.

G. DIRECT PAYMENTS BY DEBTOR(S):

Payments on all secured claims listed in Section I, Part G shall be disbursed by the *Debtor(s)* to the claimant in accordance with the terms of their agreement or any applicable statute, unless otherwise provided in Section III, “Nonstandard Provisions.”

No direct payment to the IRS from future income or earnings in accordance with 11 U.S.C. § 1322(a)(1) will be permitted.

Each secured claim shall constitute a separate class.

H. PRIORITY CLAIMS OTHER THAN DOMESTIC SUPPORT OBLIGATIONS:

Failure to object to confirmation of this *Plan* shall not be deemed acceptance of the “SCHED. AMT.” shown in Section I, Part H. The claims listed in Section I, Part H shall be paid their allowed amount by the *Trustee*, in full, pro-rata, as priority claims, without interest.

I. CLASSIFIED UNSECURED CLAIMS:

Classified unsecured claims shall be treated as allowed by the Court.

J. GENERAL UNSECURED CLAIMS TIMELY FILED:

All other allowed claims not otherwise provided for herein shall be designated general unsecured claims.

K. EXECUTORY CONTRACTS AND UNEXPIRED LEASES:

As provided in § 1322(b)(7) of the Bankruptcy Code, the *Debtor(s)* assume(s) or reject(s) the executory contracts or unexpired leases with parties as indicated in Section 1, Part K.

Assumed lease and executory contract arrearage amounts shall be disbursed by the *Trustee* as indicated in Section I, Part K.

L. CLAIMS TO BE PAID:

“TERM (APPROXIMATE)” as used in this *Plan* states the estimated number of months from the *Petition Date* required to fully pay the allowed claim. If adequate protection payments have been authorized and made, they will be applied to principal as to both under-secured and fully secured claims and allocated between interest and principal as to over-secured claims. Payment pursuant to this *Plan* will only be made on statutory, secured, administrative, priority and unsecured claims that are allowed or, pre-confirmation, that the *Debtor(s)* has/have authorized in a filed Authorization for Adequate Protection Disbursements.

M. ADDITIONAL PLAN PROVISIONS:

Any additional *Plan* provisions shall be set out in Section III, “Nonstandard Provisions.”

N. POST-PETITION NON-ESCROWED AD VALOREM (PROPERTY) TAXES AND INSURANCE:

Whether the *Debtor* is a *Conduit Debtor* or not, if the regular payment made by the *Debtor* to a *Mortgage Lender* or any other lienholder secured by real property does not include an escrow for the payment of ad valorem (property) taxes or insurance, the *Debtor* is responsible for the timely payment of post-petition taxes directly to the tax assessor and is responsible for maintaining property insurance as required by the mortgage security agreement, paying all premiums as they become due directly to the insurer. If the *Debtor* fails to make these payments, the mortgage holder may, but is not required to, pay the taxes and/or the insurance. If the mortgage holder pays the taxes and/or insurance, the mortgage holder may file, as appropriate, a motion for reimbursement of the amount paid as an administrative claim or a *Notice of Payment Change by Mortgage Lender* or a *Notice of Fees, Expenses, and Charges*.

O. CLAIMS NOT FILED:

A claim not filed with the Court will not be paid by the *Trustee* post-confirmation regardless of its treatment in Section I or on the *AAPD*.

P. CLAIMS FOR PRE-PETITION NON-PECUNIARY PENALTIES, FINES, FORFEITURES, MULTIPLE, EXEMPLARY OR PUNITIVE DAMAGES:

Any unsecured claim for a non-pecuniary penalty, fine, or forfeiture, or for multiple, exemplary or punitive damages, expressly including an IRS penalty to the date of the petition on unsecured and/or priority claims, shall be paid only a pro-rata share of any funds remaining after all other unsecured claims, including late filed claims, have been paid in full.

Q. CLAIMS FOR POST-PETITION PENALTIES AND INTEREST:

No interest, penalty, or additional charge shall be allowed on any pre-petition claims subsequent to the filing of the petition, unless expressly provided herein.

R. BUSINESS CASE OPERATING REPORTS:

Upon the filing of the *Trustee's* 11 U.S.C. § 1302(c) Business Case Report, business *Debtors* are no longer required to file operating reports with the *Trustee*, unless the *Trustee* requests otherwise. The filing of the *Trustee's* 11 U.S.C. § 1302(c) Business Case Report shall terminate the *Trustee's* duties but not the *Trustee's* right to investigate or monitor the *Debtor's*(*s*) business affairs, assets or liabilities.

S. NO TRUSTEE'S LIABILITY FOR DEBTOR'S POST- CONFIRMATION OPERATION AND BAR DATE FOR CLAIMS FOR PRE-CONFIRMATION OPERATIONS:

The *Trustee* shall not be liable for any claim arising from the post-confirmation operation of the *Debtor's(s')* business. Any claims against the *Trustee* arising from the pre-confirmation operation of the *Debtor's(s')* business must be filed with the Bankruptcy Court within sixty (60) days after entry by the Bankruptcy Court of the Order of Confirmation or be barred.

T. DISPOSAL OF DEBTOR'S NON-EXEMPT PROPERTY; RE-VESTING OF PROPERTY; NON-LIABILITY OF TRUSTEE FOR PROPERTY IN POSSESSION OF DEBTOR WHERE DEBTOR HAS EXCLUSIVE RIGHT TO USE, SELL, OR LEASE IT; AND TRUSTEE PAYMENTS UPON POST CONFIRMATION CONVERSION OR DISMISSAL:

Debtor(s) shall not dispose of or encumber any non-exempt property or release or settle any lawsuit or claim by *Debtor(s)*, prior to discharge, without consent of the *Trustee* or order of the Court after notice to the *Trustee* and all creditors.

Property of the estate shall not vest in the *Debtor* until such time as a discharge is granted or the *Case* is dismissed or closed without discharge. Vesting shall be subject to all liens and encumbrances in existence when the *Case* was filed and all valid post-petition liens, except those liens avoided by court order or extinguished by operation of law. In the event the *Case* is converted to a case under chapter 7, 11, or 12 of the Bankruptcy Code, the property of the estate shall vest in accordance with applicable law. After confirmation of the *Plan*, the *Trustee* shall have no further authority, fiduciary duty or liability regarding the use, sale, insurance of or refinancing of property of the estate except to respond to any motion for the proposed use, sale, or refinancing of such property as required by the applicable laws and/or rules. Prior to any discharge or dismissal, the *Debtor(s)* must seek approval of the court to purchase, sell, or refinance real property.

Upon dismissal of the *Case* post confirmation, the *Trustee* shall disburse all funds on hand in accordance with this *Plan*. Upon conversion of the *Case*, any balance on hand will be disbursed by the *Trustee* in accordance with applicable law.

U. ORDER OF PAYMENT:

Unless otherwise ordered by the court, all claims and other disbursements made by the Chapter 13 *Trustee* after the entry of an order confirming the Chapter 13 Plan, whether pursuant to this *Plan* or a modification thereof, will be paid in the order set out below, to the extent a creditor's claim is allowed or the disbursement is otherwise authorized. Each numbered paragraph below is a level of payment. All disbursements which are in a specified monthly amount are referred to as "per mo." At the time of any disbursement, if there are insufficient funds on hand to pay any per mo payment in full, claimant(s) with a higher level of payment shall be paid any unpaid balance owed on a per mo payment plus the current per mo payment owed to that same claimant, in full, before any disbursement to a claimant with a lower level of payment. If multiple claimants are scheduled to receive per mo payments within the same level of payment and there are insufficient funds to make those payments in full, available funds will be disbursed to the claimants within that level on a pro-rata basis. Claimants with a higher level of payment which are designated as receiving pro-rata payments shall be paid, in full, before any disbursements are made to any claimant with a lower level of payment.

1st – Clerk's Filing Fee and Trustee's Percentage Fee(s) and Noticing Fees in B.(1) and B.(2) and per statutory provisions will be paid in full.

2nd – Current Post-Petition Mortgage Payments (Conduit) in D.(2) and as adjusted according to the General Order, which must be designated to be paid per mo.

3rd – Creditors listed in E.(1)(A) and E.(2)(A), which must be designated to be paid per mo, and Domestic Support Obligations ("DSO") in B.(3), which must be designated to be paid per mo.

4th – Attorney Fees in C, which must be designated to be paid pro-rata.

5th – Post-Petition Mortgage Arrearage as set out in D.(3), if designated to be paid per mo.

6th – Post-Petition Mortgage Arrearage as set out in D.(3), if designated to be paid pro-rata.

7th – Arrearages owed on Executory Contracts and Unexpired Leases in K, which must be designated to be paid per mo.

8th – Any Creditors listed in D.(1) if designated to be paid per mo.

9th – Any Creditors listed in D.(1), if designated to be paid pro-rata and/or Creditors listed in E.(1)(B) or E.(2)(B), which must be designated to be paid pro-rata.

10th – All amounts allowed pursuant to a *Notice of Fees, Expenses and Charges*, which will be paid pro-rata.

11th – Priority Creditors Other than Domestic Support Obligations ("Priority Creditors") in H.,

which must be designated to be paid pro-rata.

12th – Special Class in I, which must be designated to be paid per mo.

13th – Unsecured Creditors in J, other than late filed or penalty claims, which must be designated to be paid pro-rata.

14th – Late filed claims by Secured Creditors in D.(1), D.(2), D.(3), E.(1) and E.(2), which must be designated to be paid pro-rata, unless other treatment is authorized by the Court.

15th – Late filed claims for DSO or filed by Priority Creditors in B.(3) and H, which must be designated to be paid pro-rata.

16th – Late filed claims by Unsecured Creditors in J, which must be designated to be paid pro-rata.

17th – Unsecured claims for a non-pecuniary penalty, fine, or forfeiture, or for multiple, exemplary or punitive damages, expressly including an IRS penalty to the date of the petition on unsecured and/or priority claims. These claims must be designated to be paid pro-rata.

V. POST-PETITION CLAIMS:

Claims filed under § 1305 of the Bankruptcy Code shall be paid as allowed. To the extent necessary, Debtor(s) will modify this *Plan*.

**W. TRUSTEE'S RECOMMENDATION CONCERNING CLAIMS ("TRCC")
PROCEDURE:**

See the provisions of the General Order regarding this procedure.

**SECTION III
NONSTANDARD PROVISIONS**

The following nonstandard provisions, if any, constitute terms of this *Plan*. Any nonstandard provision placed elsewhere in the *Plan* is void.

I, the undersigned, hereby certify that the Plan contains no nonstandard provisions other than

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those set out in this final paragraph.

Debtor's(s') Attorney

Debtor (if unrepresented by an attorney)

Debtor's (s') Chapter 13 Plan (Containing a Motion for Valuation) is respectfully submitted.

Debtor's(s') Counsel

State Bar Number

Debtor

Joint Debtor

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that the foregoing Debtor's(s') Chapter 13 Plan (Containing a Motion for Valuation) was served on the following entities either by Electronic Service or by First Class Mail, Postage Pre-paid on the _____ day of _____, 20____ :

(List each party served, specifying the name and address of each party)

Dated: _____

Debtor or Debtor's(s') Counsel

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS
STANDING ORDER 11-3
CONDUIT MORTGAGE PAYMENTS IN CHAPTER 13

This Standing Order is effective for all Chapter 13 cases filed on or after December 1, 2011.

- I. REQUIRED CONDUIT PAYMENTS: Regular payments owed by a Debtor to a Creditor holding a claim secured by the Debtor's principal residence shall be made by the Debtor to the Trustee for payment through the Chapter 13 plan if the Debtor is (i) delinquent as of the petition date, or, (ii) becomes delinquent after the petition date. Such payments are referred to herein as "conduit payments."
- II. DEFINITIONS: As used in this Standing Order, the following capitalized terms shall mean:
 - A. The "Arrearage" is the total amount past due as of the petition date, as calculated on Official Form B10 (Attachment A), and shall be equal to the amount contained in the creditor's filed and allowed Proof of Claim, unless specifically controverted in the plan or by an objection to the claim as required by D. Kan. LBR 3015(b).1.
 - B. "Debtor" or "Debtors" are hereafter referred to as "Debtor."
 - C. "Real Property Creditor" is the entity claiming a mortgage or a servicer of the mortgage on the real property that is the principal residence of the Debtor. This Standing Order is intended to cover a loan secured by a security agreement in Debtor's principal residence (i.e., promissory note on a manufactured or mobile home), and such lender will be referred to as a "Real Property Creditor" herein for the sake of simplicity, even if some specific references, e.g., to "mortgage" or "escrow analysis," are not strictly applicable.
 - D. The Standing Chapter 13 Trustee is referred to as "Trustee."
- III. OTHER RULES APPLICABLE: Nothing in this Standing Order shall relieve any party from complying with any obligation under the United States Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Local Rules of the District and Bankruptcy Courts of Kansas, or any applicable Standing Orders. These procedures shall not be modified by any plan language without express order from the Court.
- IV. DEBTOR'S DUTIES
 - A. Debtor may be excused from complying with this Standing Order only upon the entry of a Court order upon a showing of circumstances justifying the same.¹
 - B. Debtor must complete Exhibit B—Mortgage Creditor Checklist and Exhibit C—Authorization to Release Information to the Trustee Regarding Secured Claims Being Paid by the Trustee and forward those documents to Trustee (not to the Court) within 14 days of the filing of the bankruptcy petition.

¹ See e.g., *In re Perez*, 339 B.R. 385 (Bankr. S.D. Tex. 2006) (Court lists 21 non-exclusive factors to be examined in determining whether to excuse debtors from conduit payment scheme or employer withholding orders). The additional cost associated with the trustee fee on the conduit payment will not, by itself, constitute good cause.

- C. Debtor or Debtor's attorney shall mail a copy to the Trustee of all correspondence, notices, statements, payment coupons, escrow notices and default notices concerning any adjustment to the monthly payments or interest rate immediately upon receipt of the same.
 - D. Debtor shall include the regular payment amount owing to the Real Property Creditor, inclusive of Trustee's fees, in the plan payment to be paid by Debtor to the Trustee.
 - E. Pursuant to provisions of Paragraph V(D) below, in the event the monthly conduit payment changes due to either changed escrow requirements or a change in an adjustable interest rate, Debtor's plan payment to the Trustee shall change by the same amount, plus the Trustee's fee.
 - F. For any Debtor who is employed and required to make mortgage payments through the Trustee, an employer pay order shall be promptly entered by the Clerk of the Bankruptcy Court as provided in Debtor's plan and served upon the employer of Debtor. Until the employer begins to withhold bankruptcy plan payments from Debtor's pay, Debtor is required to make plan payments directly to the Trustee. A Debtor may be excused from complying with employer pay orders only upon the entry of a Court order upon a showing of circumstances justifying the same.
- V. TRUSTEE'S DUTIES
- A. The Trustee is authorized to deduct from any payments collected, pursuant to 11 U.S.C. § 1326, the authorized percentage fee on the funds distributed as necessary costs and expenses, together with any fee, charge or amount required under § 1326.
 - B. The Trustee shall allow as an administrative expense an amount equal to two full regular monthly payments inclusive of escrow deposits and two associated late fees. This allowance shall reimburse Real Property Creditor for post-petition delinquencies that may accrue until the Trustee begins payments to that creditor. This added amount shall bear interest at the contract rate in effect on the date of the petition.
 - C. The Trustee will not make payments to the Real Property Creditor on the pre-petition arrearage until such time as a Proof of Claim is filed with the Court and the Plan is confirmed. The Court is deemed to have granted authority to the Trustee to disburse conduit payments, as if the plan had been confirmed, once the Real Property Creditor has filed a Proof of Claim to which a fully executed Official Form B10 (Attachment A) and Exhibit D (Addendum to Chapter 13 Proof of Claim) has been attached. The Trustee is required to make a full mortgage payment for each full plan payment made. The Trustee is not required to make partial payments to Real Property Creditors.
 - D. Any notice filed pursuant to Fed. R. Bankr. P. 3002.1(b) or (c) shall be treated as an amendment to the creditor's claim and Debtor's plan. The Trustee shall be authorized to disburse the new conduit payment or fees as soon as practicable and without seeking formal modification of the plan.
 - E. Should the new conduit payment or fees jeopardize the feasibility of the plan, the Trustee may file a motion to amend the plan or seek conversion or dismissal of the case, whichever the Trustee deems appropriate.

VI. REAL PROPERTY CREDITOR'S DUTIES

- A. The Real Property Creditor shall file a Proof of Claim, to which it shall attach the Official Form B10 (Attachment A) and Addendum for Residential Home Mortgage Debt Paid Through the Chapter 13 Trustee (Exhibit D).
 - B. At least 45 days prior to a change of the name of the Real Property Creditor payee, or the address to which payments should be made, Real Property Creditor shall notify the Trustee, Debtor and the attorney for the Debtor, of any such change in a document that conforms to Exhibit E, Notice of Transfer of Servicing and Claim, or Exhibit F, Notice of Transfer of Claim (Other than for Security).
 - C. During the pendency of the Chapter 13 case, Real Property Creditor shall submit to the Trustee, Debtor, and Debtor's attorney on or before the 10th of January of each year, a 12 month summary of the activity on the loan with a form substantially in conformity with Exhibit G, Model Mortgage Payment History.
 - D. Any amount paid or tendered to the Real Property Creditor prior to confirmation shall be applied to the next post-petition payment under the terms of the note due, without penalty. Alternatively, the mortgage holder may apply the payment as it deems appropriate, but said application shall be deemed to be the Real Property Creditor's waiver of all fees and expenses to which it is entitled under the loan documents.
 - E. Confirmation of the plan shall impose an affirmative duty and legal obligation on the Real Property Creditor to do all of the following:
 1. Apply the payments received from the Trustee for payment on the Arrearage, if any, only to such Arrearage pursuant to the plan. The Arrearage shall be deemed paid in full upon the entry of the Discharge Order in this case, unless otherwise ordered by the Court.
 2. Deem the pre-petition Arrearage (and post-petition Arrearage, if any) contractually current upon confirmation of the plan so as to preclude the imposition of late payment charges or other default-related fees and services based solely on any pre-petition default or the payments referred to in paragraph V(B), above. This obligation will have no force and effect if the case is dismissed or converted.
 3. Apply the post-petition monthly mortgage payments paid by the Trustee or by Debtor to the month in which they were designated to be made under the plan. Even if such payments are placed into a suspense, forbearance or similar account, they will be deemed to have been applied to the note pursuant to this subsection.
- VII. These procedures may be varied in a particular case only by order of the Court.

IT IS HEREBY ORDERED that this Standing Order rescinds D. Kan. Bk. S.O. 09-2 and shall become effective December 1, 2011, and shall remain in effect until further order of the Court.

Dated this 10th day of November, 2011.

s/ Robert E. Nugent
ROBERT E. NUGENT, CHIEF JUDGE

s/ Janice Miller Karlin
JANICE MILLER KARLIN, JUDGE

s/ Dale L. Somers
DALE L. SOMERS, JUDGE

s/ Robert D. Berger
ROBERT D. BERGER, JUDGE

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Exhibits:

- Exhibit A: Intentionally omitted
- Exhibit B: The same as former Exhibit A - Mortgage Creditor Checklist
- Exhibit C: The same as former Exhibit B - Authorization to Release Information to the Trustee Regarding Secured Claims Being Paid by the Trustee
- Exhibit D: Addendum to Chapter 13 Proof of Claim for Residential Home Mortgage Debt Paid Through Chapter 13 Trustee
- Exhibit E: Notice of Transfer of Servicing and Claim
- Exhibit F: Notice of Transfer of Claim (Other than for Security)
- Exhibit G: The same as former Exhibit H - Model Mortgage Payment History

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-Exhibit B-

MORTGAGE CREDITOR CHECKLIST¹

(FILE WITH TRUSTEE ONLY—DO NOT FILE WITH THE COURT)

Debtor Name(s): _____ Bk Case #: _____

Property Address: _____

Daytime Phone: () _____ Evening Phone: () _____

Attorney name: (if any) _____

THE FOLLOWING INFORMATION MUST BE COMPLETED FOR ALL MORTGAGES. PLEASE BE SURE TO COMPLETE THIS FORM TO THE BEST OF YOUR ABILITY AND ATTACH THE MOST RECENT PAYMENT COUPON OR STATEMENT THAT WAS SUPPLIED BY YOUR MORTGAGE CREDITOR(S).

Creditor Name: _____		
Account #: _____		
Payment Address: _____		
Street Address		
_____	_____	_____
City	State	Zip
Creditor Phone Number: (if known) _____		
Regular Monthly Payment Amount: \$ _____ Current Interest Rate: _____		
Monthly Payment Due Date: _____		
Date Payment Late: _____ Monthly Late Charge Amount \$ _____		
Is this a variable interest rate loan? <input type="checkbox"/> Yes <input type="checkbox"/> No		
If yes, when is the next anticipated adjustment date? _____		
Are property taxes included in the monthly payment? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Is insurance included in the monthly payment? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Is the loan due in full and payable in less than 5 years? <input type="checkbox"/> Yes <input type="checkbox"/> No		
If yes, date due: _____		

¹File one of these forms with the Trustee for each creditor to whom you granted a mortgage on your home.

-Exhibit C-

**AUTHORIZATION TO RELEASE INFORMATION TO
THE TRUSTEE REGARDING SECURED CLAIMS
BEING PAID BY THE TRUSTEE**

(FILE WITH TRUSTEE ONLY—DO NOT FILE WITH THE COURT)

Debtor Name(s): _____ Case #: _____

The debtor(s) in the above captioned bankruptcy case do/does hereby authorize any and all lien holder(s) on real property of the bankruptcy estate to release information to the Standing Chapter 13 Trustee in this bankruptcy filing.

The information to be released includes, but is not limited to, the amount of the post-petition monthly installment, the annual interest rate and its type, the loan balance, escrow accounts, amount of the contractual late charge and the mailing address for payments. This information will only be used by the Trustee and his/her staff in the administration of the bankruptcy estate and may be included in motions before the Court.

DATE:

Debtor's Signature

DATE:

Joint Debtor's Signature

-EXHIBIT D-

ADDENDUM TO CHAPTER 13 PROOF OF CLAIM
FOR RESIDENTIAL HOME MORTGAGE DEBT
PAID THROUGH CHAPTER 13 TRUSTEE

I. Creditor Information

Loan No: _____
Creditor Name: _____

Servicer Name: _____
Address: _____
Contact Person: _____
Tel No: _____
Fax No: _____
Email: _____

Payments should be made payable to: _____

Address to which payments are to be sent: _____

Creditor Attorney Name: _____
Address: _____
Contact: _____
Tel No: _____
Fax No: _____
Email: _____

II. Loan Information

Type of Loan and rate as of petition date: _____
Fixed Rate: _____% (State interest rate as of date of petition)
Adjustable Rate: _____% (State interest rate as of date of petition)
Last Adjustment Date: _____
Next Adjustment Date: _____
Date of month payment due: _____
Date of month payment considered late under note: _____
Amount of late fee: _____

Post-petition payments	\$	_____
Principal & Interest:	\$	_____
Taxes:	\$	_____
Insurance:	\$	_____
Other: _____	\$	_____
Other: _____	\$	_____
Total post-petition payment:	\$	_____

III. Interest on Pre-petition Arrearage

- Creditor demands interest on the full pre-petition arrearage of \$ _____
 - This loan was executed prior to October 22, 1994.
 - The loan documents provided for interest on all arrearages.
 - The loan jurisdiction allows for interest on arrearages.
 - Interest is demanded at the contract rate of _____ %.
 - Interest is demanded at _____ %.

- Creditor demands interest on the advances of \$ _____
 - The loan documents provide for interest on advances.
 - The loan jurisdiction allows for interest on advances.
 - Interest is demanded at the contract rate of _____ %.
 - Interest is demanded at _____ %.

AMERICAN BANKRUPTCY INSTITUTE

-EXHIBIT E-

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS**

IN RE:)
John Q. Debtor,) Case No.
) Chapter 13
)
Debtor.)
)
)
)
)
_____)

NOTICE OF TRANSFER OF SERVICING AND CLAIM

PLEASE TAKE NOTICE that the servicing of the mortgage loan represented by the Proof of Claim #4 filed on 2/24/07 in the amount of \$100,000, by Many Mortgages Incorporated, Transferor, with the address of 1234 Main St., Anywhere, IN 46601 has been transferred to Universal Servicing Company, Transferee (Loan No. 222222).

Chapter 13 Trustee payments and regular monthly payments should be sent to Universal Servicing Company, Bankruptcy Department, 123 Walnut, Anytown, PA 65432.

Dated:

By: John Smith
Agency for Universal Servicing Company as
Servicer for Many Mortgages Incorporated

2017 ROCKY MOUNTAIN BANKRUPTCY CONFERENCE

CERTIFICATE OF SERVICE

Creditor (Transferee), Universal Servicing Company, certifies that it has served a copy of this Notice by ordinary U.S. mail or served electronically through the Court's ECF System on this _____ day of _____, 2007:

Debtor(s)

John Q. Debtor
1234 Main Street
Anywhere, IN 46601

Debtor's Attorney

Mary Counselor, Esquire
Jones & Associates
123 Pine St.
Anywhere, IN 46601

Trustee

Jan Hamilton
PO Box 3527
Topeka, KS 66601

Transferor

Many Mortgages Incorporated
123 Walnut
Anytown, PA 65432

U.S. Trustee

Office of the United States Trustee
301 N. Main, Ste 1150
Wichita, KS 67202

AMERICAN BANKRUPTCY INSTITUTE

-EXHIBIT F-

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS**

IN RE:)	Case No.
John Q. Debtor,)	
)	Chapter 13
Debtor.)	
_____)	

NOTICE OF TRANSFER OF CLAIM (Other than for Security)

A Proof of Claim has been filed in this case. The transferee hereby evidences, by way of documentation attached hereto, that the referenced claim has been transferred, other than the security, as is referenced in this Notice. This Notice must be used when any of the original payment information in a Proof of Claim changes. However, it should not be used for an amendment to the amount of the claim. For changes in the amount of the claim or the arrears only, an Amended Proof of Claim must be filed.

Original Claim Information:

Name of Claimant: _____
 Name of Payee [if different from claimant]: _____
 Payment Address: _____
 Last 4 digits of Account #: _____
 Claim # on Court's Registry: _____ [Or date of entry of Order allowing claim]
 Amount of Claim: _____ [Total debt] _____ [Arrears]

Transferee Information:

Name of Claimant: _____
 Name of Payee [if different from claimant]: _____
 Payment Address: _____
 Name/Address for Notices [if different from payment address]: _____

 Phone #: _____
 Last 4 digits of Account #: _____

I, _____, do hereby declare under penalty of perjury that the information provided in this Notice is true and accurate to the best of my knowledge. I hereby declare that a copy of this Notice has been mailed to the Transferor and that proof of the transfer is annexed thereto.

By: _____ Date: _____
 Transferee/Agent of Transferee

2017 ROCKY MOUNTAIN BANKRUPTCY CONFERENCE

CERTIFICATE OF SERVICE

Creditor (Transferee), Universal Servicing Company, certifies that it has served a copy of this Notice by ordinary U.S. mail or served electronically through the Court's ECF System on this _____ day of _____, 2007:

Debtor(s)

John Q. Debtor
1234 Main St.
Anywhere, IN 46601

Debtor's Attorney

Mary Counselor, Esquire
Jones & Associates
123 Pine St.
Anywhere, IN 46601

Trustee

Jan Hamilton
PO Box 3527
Topeka, KS 66601

Transferor

Many Mortgages Incorporated
123 Walnut
Anytown, PA 65432

U.S. Trustee

Office of the United States Trustee
301 N. Main, Ste 1150
Wichita, KS 67202

-EXHIBIT G-

MODEL MORTGAGE PAYMENT HISTORY

*(FILE WITH TRUSTEE, DEBTOR and DEBTOR'S ATTORNEY ONLY
DO NOT FILE WITH THE COURT)*

2017 ROCKY MOUNTAIN BANKRUPTCY CONFERENCE

Debtor: John Q. Dehter
Case Number: 07-112345

Plan = POC = \$10,300

TRANSACTION DATE	AMOUNT RECEIVED	ARREARS or MONTHLY	POST DUE DATE	POST MONTHLY PAYMENT	PRE-PETITION BALANCE	SPECIAL ASSESSMENT	SUSPENSE
1/1/2007	\$ 800.00	Monthly	1/1/2007	\$ 800.00	\$ 10,300.00		
2/10/2007	\$ 800.00	Monthly	2/1/2007	\$ 800.00	\$ 10,300.00		
2/15/2007	\$ 120.00	Arrears			\$ 10,180.00		
3/3/2007	\$ 800.00	Monthly	3/1/2007	\$ 800.00	\$ 10,180.00		
3/15/2007	\$ 100.00	Arrears			\$ 10,080.00		
4/3/2007	\$ 850.00	Monthly	4/1/2007	\$ 800.00			\$ 50.00
6/10/2007	\$ 1,200.00	Monthly	5/1/2007	\$ 800.00			\$ 400.00
7/1/2007	\$ 1,200.00	Monthly	6/1/2007	\$ 800.00			\$ 400.00
7/2/2007	\$ 800.00*	Monthly	7/1/2007	\$ 800.00			
7/16/2007						\$32.00 IC	
7/24/2007						\$15.00 PI	
7/31/2007						\$500.00 Attorney Fee	

* Payment Made from Suspense

**Chapter 13 Trustees Weigh Advantages and Disadvantages
of Paying Debtors' Ongoing Mortgages**

By Doreen Solomon, Assistant Director for Review and Oversight,
and Martha Hallowell, Deputy Assistant Director for Review and Oversight
Executive Office for U.S. Trustees

Receipt of Ongoing Mortgage Payments

In 1999, the United States Trustee Program ("Program") began collecting data designed to identify whether standing trustees receive funds from the debtors sufficient to make ongoing mortgage payments, which are also known as "direct payments" or "conduit payments," as part of debtors' chapter 13 plan payments. That year, only 15 of 177 trustees, or 8 percent, chose to accept such payments on a regular basis. By Fiscal Year 2009, the number of trustees accepting these payments in all of their cases had increased to 81 of 189, or 43 percent.

The reasons trustees receive ongoing mortgage payments vary in each judicial district, but the change in procedures is usually initiated by an interested party in the bankruptcy community, including the court, bar or standing trustee. The Program takes no position on whether a standing trustee should run ongoing mortgage payments through the chapter 13 plan. However, the Program will work with trustees who want to implement ongoing mortgage payments through the plan and will generally approve budget requests to accommodate the costs of implementation, including additional training costs.

This article provides a brief overview of the current case law and local rules that may affect a trustee's decision to make ongoing mortgage payments, and discusses the advantages and disadvantages of requiring debtors to pay ongoing mortgages to the trustee for disbursement to the mortgage servicer through the plan.

Case Law and Local Rules

The Bankruptcy Code does not require trustees to run ongoing mortgage payments through the plan. Section 1326(c) of the Bankruptcy Code permits the debtor to act as his or her own disbursing agent and make payments directly to the creditor. 11 U.S.C. § 1326(c). The absence of an express mandate gives the courts discretion to decide which payments to creditors the debtor may make directly. In some jurisdictions, courts have exercised that discretion and allowed debtors to make their own ongoing mortgage payments directly, over the objections of the trustee. *See Cohen v. Lopez (In re Lopez)*, 372 B.R. 40 (9th Cir. B.A.P. 2007), *aff'd*, 550 F.3d 1202 (9th Cir.2008); *In re Clay*, 339 B.R. 784 (Bankr. D. Utah 2006); and *In re Vigil*, 344 B.R. 624 (Bankr. D.N.M. 2006).

Courts that disfavor the practice of allowing debtors to pay creditors directly have promulgated local rules and administrative procedures that require the debtor to make ongoing mortgage payments through the trustee, particularly if the debtor was in arrears on the mortgage pre-petition. For example, in the Southern District of Texas, Local Rule 3015(b) requires a

debtor to make home mortgage payments through the trustee in accordance with the Chapter 13 Trustee's Procedures for Administration of Home Mortgage Payments, unless the debtor qualifies for exemption. *In re Perez*, 339 B.R. 385, 392 (Bankr.S.D.Tex.2006) (affirmed, and local rule upheld, by *Perez v. Peake (In re Perez)*, 373 B.R. 468 (S.D. Tex. 2007)). These procedures provide:

"The debtor's plan payments to the chapter 13 trustee shall include the amount due on the debtor's regular monthly mortgage installments for a claim secured by a security interest in real property that is the debtor's principal residence pursuant to the terms of 11 U.S.C. § 1322(b)(5) ("the ongoing mortgage") unless there is no default on the mortgage as of the petition date, the date of plan confirmation and the date of the filing of a plan modification."

See Chapter 13 Trustee's Procedures for Administration of Home Mortgage Payments (U.S. Bankruptcy Court for the Southern District of Texas, as amended on December 20, 2007). These procedures are posted on the website for the Bankruptcy Court for the Southern District of Texas.

Similarly, the Bankruptcy Court for the Southern District of Ohio implemented Local Rule 3015-1(d)(1), which provides that a "plan payment on the real estate mortgage pursuant to 11 U.S.C. § 1322(b)(5) of the Code shall be made by the trustee if the obligation is in arrears as of the petition date, unless otherwise ordered by the court." Bankr. S.D. Ohio L.B.R. 3015-1(d)(1).

Advantages of Payment by Trustees

The advantages of having the standing trustee receive and distribute payments to the mortgage servicer include a more accurate and complete accounting of mortgage payments, and a reduction in creditor motions to lift the automatic stay.

More Accurate Accounting of Payments

The standing trustee and trustee staff maintain a comprehensive system of records. Payments from debtors, payments to creditors, and other relevant case information are entered on a daily basis. The trustee uses a sophisticated software program to track all case administration events, including the identities of succeeding mortgage servicers if the mortgage is sold. In the event of a home sale or refinancing, the system is able to generate an accurate payoff figure.

The trustee's records provide a reliable, and sometimes the only reliable, source of information concerning the mortgage. This can be critical if there are disputes over payments, penalties or the status of the loan at the end of the case. In fact, the Bankruptcy Court for the District of Kansas requires debtors to make ongoing mortgage payments to the trustee specifically to avoid situations where debtors emerge from bankruptcy only to find they are in default because they were unaware of additional charges. See *Payne v. Mortgage Electronic*

Registration Systems, Inc. (In re Payne), 387 B.R. 614, 631 (Bankr. D. Kan. 2008).

Fewer Motions to Lift Stay

The trustee has a system in place for monitoring and addressing missed plan payments. A mortgage servicer may be less inclined to file a motion for relief from stay upon the first missed payment if the mortgage payments are coming from the trustee, because the servicer knows the trustee is aware of the problem. Reducing the number of automatic stay motions reduces the time spent opposing those motions, which also reduces the legal fees incurred by the debtor, and the burden on the bankruptcy court.

Disadvantages of Payment by Trustees

The disadvantages of running ongoing mortgage payments through the trustee include the need to hire additional staff with special skills, initial non-reimbursed expenses, and liability of the trustee.

Need for Additional Staff with Special Skills

Handling ongoing mortgage payments increases the workload of the trustee's office. The additional tasks may require more staff, or at least a more highly trained and skilled employee who may command a higher salary. An employee who is responsible for processing ongoing mortgage payments must be able to perform more complex duties, such as determining if critical information is missing, and recalculating payments if the interest rate adjusts, property taxes increase or decrease, or the debtor refinances. Mistakes in these areas may cause the claim to be paid incorrectly.

In some situations it may be advantageous for the trustee and staff to receive training from another trustee who has been making ongoing payments. With adequate justification, the U.S. Trustee will approve such training costs.

Initial Non-Reimbursed Operating Expenses

A trustee who commences making ongoing mortgage payments incurs costs before the disbursements generate percentage fee revenue sufficient to cover the expenses of administering the claim. Trained staff must be on board before the trustee begins to make ongoing mortgage payments. Frequently, the trustee must temporarily increase the percentage fee to cover those initial costs. As receipts grow, the trustee may be able to lower the percentage fee, perhaps to a level below the initial rate. (The U.S. Trustee will entertain frequent percentage fee changes during the transition to ensure that the trustee is able to meet the operation's ongoing needs.) If a trustee is already at or near the maximum 10 percent fee, the ability to increase the fee is severely limited. This may create a significant cash flow problem that can be solved only by reducing other operating expenses or the trustee's compensation.

Potential Liability

A trustee may be liable if a debtor's ongoing mortgage payments are not made to the mortgage servicer or are misapplied. For example, if a claim is incorrectly coded as unsecured, it will not be paid timely and may be paid on a prorated basis instead of in full. If a claim is assigned to the wrong case, the funds will be applied to someone else's mortgage. However, these are the same type of risks that trustees currently assume when paying any other claim.

Conclusion

If a trustee chooses not to handle ongoing mortgage payments, the U.S. Trustee will support that decision. Conversely, if a trustee chooses to accept and make ongoing mortgage payments, the U.S. Trustee will support the trustee's efforts. We understand that managing these mortgages will require more resources, and we will authorize additional staff and training costs to the extent allowed by Program policy. The trustee must evaluate the various factors particular to his or her situation, as well as consider the wishes of the bankruptcy community, in reaching this decision.



1700 G Street NW, Washington, DC 20552

August 4, 2016

Executive Summary of the 2016 Mortgage Servicing Rule

On August 4, 2016, the Consumer Financial Protection Bureau (Bureau) issued a final rule (2016 Mortgage Servicing Rule) amending certain mortgage servicing provisions in Regulation X and Regulation Z. Concurrently with the issuance of the 2016 Mortgage Servicing Rule, the Bureau issued an interpretive rule under the Fair Debt Collection Practices Act (FDCPA), relating to servicers' compliance with certain mortgage servicing provisions as amended by the 2016 Mortgage Servicing Rule.

The 2016 Mortgage Servicing Rule's key changes and the interpretive rule (2016 FDCPA Interpretive Rule) are summarized below. The key provisions affecting small servicers are highlighted in a separate table titled Small Servicers and Key Provisions of the 2016 Mortgage Servicing Rule, available at <http://www.consumerfinance.gov/policy-compliance/guidance/implementation-guidance/mortserv>. This summary and the table provide high-level summaries of the 2016 Mortgage Servicing Rule, but are not substitutes for it. The 2016 Mortgage Servicing Rule, available at <http://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/amendments-2013-mortgage-rules-under-real-estate-settlement-procedures-act-regulation-x-and-truth-lending-act-regulation-z/>, is the definitive source regarding its requirements.

Successors in Interest

The 2016 Mortgage Servicing Rule makes several changes related to successors in interest.

First, it adds similar definitions of "successor in interest" to subpart C of Regulation X and to Regulation Z. The two definitions vary slightly to account for the different terms used in the two regulations (*e.g.*, use of the term "borrower" in Regulation X and "consumer" in Regulation Z).

Generally, a person is a successor in interest for purposes of Regulation X¹ if a borrower transfers an ownership interest in a property securing a mortgage loan to the person by means of one of the types of transfers enumerated in the 2016 Mortgage Servicing Rule. These types of transfers are: (i) a transfer by devise, descent, or operation of law on the death of a joint tenant or tenant by the entirety; (ii) a transfer to a relative resulting from the death of a borrower; (iii) a transfer where the spouse or children of the borrower become an owner of the property; (iv) a transfer resulting from a decree of a dissolution of marriage, legal separation agreement, or from an incidental property settlement agreement, by which the spouse of the borrower becomes an owner of the property; or (v) a transfer into an inter vivos trust in which the borrower is and remains a beneficiary and which does not relate to a transfer of rights of occupancy in the property. A person does not have to assume or otherwise be liable on the mortgage loan in order to be a successor in interest under the 2016 Mortgage Servicing Rule.

Second, the 2016 Mortgage Servicing Rule includes provisions related to how a servicer confirms a successor in interest's identity and ownership interest in the property securing the mortgage loan. A servicer must respond to a written request from a person indicating that the person may be a successor in interest if the request includes the name of the borrower from whom the person received an ownership interest and information that enables the servicer to identify the mortgage loan. The response must generally provide a written description of the documents the servicer reasonably requires to confirm the person's identity and ownership interest in the property as well as contact information for further assistance.

The 2016 Mortgage Servicing Rule generally requires servicers, other than small servicers and qualified lenders, to maintain certain policies and procedures with respect to successors in interest. These policies and procedures must be reasonably designed to ensure that, upon receiving notice of the existence of a potential successor in interest, the servicer can: (1) promptly provide a potential successor in interest with a description of the documents the servicer reasonably requires to confirm the person's identity and ownership interest in the property and (2) upon receiving those documents, the servicer can promptly notify a potential successor in interest of the servicer's determination regarding the potential successor's status (*i.e.*, confirmation of the person's status as a successor in interest, a request for additional documents needed to make a determination, or a determination that the person is not a successor in interest).

¹ For Regulation Z's definition of successor in interest, see 12 CFR 1026.2(a)(27)(i).

Third, the 2016 Mortgage Servicing Rule provides that a confirmed successor in interest shall be considered a borrower for purposes of Regulation X's mortgage servicing provisions (including the servicing transfer, error resolution, request for information, early intervention, continuity of contact, loss mitigation, force-placed insurance, and escrow provisions) and a consumer for purposes of Regulation Z's mortgage servicing provisions (including the periodic statement requirements for mortgage loans, provisions on interest rate adjustment notices, the payment processing and payoff statement requirements, and the mortgage transfer notice requirement). The rights discussed in these provisions generally apply to confirmed successors in interest in the same way that they would apply to another borrower or consumer. If a servicer, such as a small servicer, is otherwise exempt from a requirement, such as the early intervention requirement, it does not need to comply with that requirement with regard to a confirmed successor in interest.

A servicer must respond to a confirmed successor in interest's request for information but can omit location, contact, and personal financial information (other than information about the mortgage loan's terms, status, and payment history) if the information pertains to a borrower other than the confirmed successor in interest requesting the information. Similarly, in response to a borrower's request for information, a servicer may omit location, contact, and personal financial information (other than information about the mortgage loan's terms, status, and payment history) that pertains to a potential or confirmed successor in interest who is not the requester.

The 2016 Mortgage Servicing Rule does not require a servicer to send a specific written disclosure or notice to a confirmed successor in interest if the servicer provides the same written disclosure or notice to another borrower or consumer, including another confirmed successor in interest. For example, if a servicer provides a force-placed insurance disclosure to a borrower, the servicer does not need to send the same force-placed insurance disclosure to a confirmed successor in interest. Similarly, a servicer that is subject to the early intervention requirements is not required to comply with the live contact requirements with respect to a confirmed successor in interest if it is complying with those requirements with respect to another borrower, including another confirmed successor in interest. A confirmed successor in interest who does not receive servicing communications because the servicer is providing them to another borrower on the account can request additional information as needed through the request for information process under Regulation X.

Unless a servicer is exempt from the loss mitigation requirements, it must review and evaluate a loss mitigation application received from a confirmed successor in interest in accordance with Regulation X's loss mitigation procedures if the property is the confirmed successor in interest's

principal residence. This requirement includes a loss mitigation application that a servicer received but did not review and evaluate prior to confirmation of a successor interest. Although a servicer who is required to comply with the loss mitigation requirements cannot require a confirmed successor in interest to assume the mortgage loan before evaluating a complete loss mitigation application, the 2016 Mortgage Servicing Rule does not prohibit a servicer from conditioning an offer for a loss mitigation option on the successor in interest assuming the mortgage loan under state law.

These changes are effective 18 months after the 2016 Mortgage Servicing Rule's publication in the *Federal Register*.

Definition of Delinquency

The 2016 Mortgage Servicing Rule defines “delinquency” to mean a period of time during which a borrower and a borrower’s mortgage loan obligation are delinquent. It provides that a borrower and a borrower’s mortgage loan obligation are delinquent beginning on the date a periodic payment sufficient to cover principal, interest, and, if applicable, escrow, becomes due and unpaid, until such time as no periodic payment is due and unpaid. The 2016 Mortgage Servicing Rule applies this definition to specified mortgage servicing provisions of Regulation X and the periodic statement provisions for mortgage loans of Regulation Z.

These changes are effective 12 months after the 2016 Mortgage Servicing Rule's publication in the *Federal Register*.

For more information on the definition of delinquency and how it applies, see the Factsheet on Delinquency and the 2016 Mortgage Servicing Rule, <http://www.consumerfinance.gov/policy-compliance/guidance/implementation-guidance/mortserv>.

Requests for Information

The 2016 Mortgage Servicing Rule changes how a servicer must respond to requests for ownership information when Fannie Mae or Freddie Mac is the owner of the loan or the trustee of the securitization trust in which the loan is held. For any request for ownership information where Fannie Mae or Freddie Mac is not the owner of the loan or the trustee of the securitization trust in which the loan is held, the servicer must provide the name of the trust and the trustee’s name, address, and appropriate contact information. For requests that do not expressly request the name or number of the trust or pool when Fannie Mae or Freddie Mac is the owner of the loan or the trustee of the securitization trust in which the loan is held, the servicer complies by

providing the name and contact information for Fannie Mae or Freddie Mac, as applicable. However, if the request does expressly request the name or number of the trust or pool when Fannie Mae or Freddie Mac is the owner of the loan or the trustee of the securitization trust in which the loan is held, the servicer must provide the name of the trust, and the trustee's name, address, and appropriate contact information.

These changes are effective 12 months after the 2016 Mortgage Servicing Rule's publication in the *Federal Register*.

Force-Placed Insurance

The 2016 Mortgage Servicing Rule amends the force-placed insurance disclosures and model forms to account for situations when a servicer wishes to force-place insurance because the borrower has insufficient, rather than expiring or expired, hazard insurance on the property. Additionally, the 2016 Mortgage Servicing Rule gives servicers the option to include a borrower's mortgage loan account number on the force-placed insurance notices.

These changes are effective 12 months after the 2016 Mortgage Servicing Rule's publication in the *Federal Register*.

Early Intervention

The 2016 Mortgage Servicing Rule clarifies a servicer's early intervention live contact and written notice obligations. It also revises the exemption from early intervention for borrowers who are in bankruptcy or who have invoked cease communication protection under the Fair Debt Collection Practices Act (FDCPA).

The 2016 Mortgage Servicing Rule clarifies that a servicer must establish or make good faith efforts to establish live contact so long as the borrower remains delinquent and must provide multiple early intervention written notices in certain circumstances. A servicer is not required to provide more than one written notice within a 180-day period. If the borrower is 45 days or more delinquent at the end of any 180-day period, a servicer must provide the written notice again no later than 180 days after providing the prior written notice. If the borrower is less than 45 days delinquent at the end of any 180-day period, a servicer must provide the written notice again no later than 45 days after the payment due date.

The 2016 Mortgage Servicing Rule exempts a servicer from the early intervention live contact requirements for a mortgage loan when ***either*** the following first or second condition is met: (1)

any borrower on the loan is in bankruptcy; or (2) the servicer is a debt collector under the FDCPA with respect to the mortgage loan, and any borrower on the loan has invoked the FDCPA's cease communication protection with respect to that loan.² If either the first or second condition is met, the servicer is also exempt from the written notice requirements for the mortgage loan if no loss mitigation option is available. If any loss mitigation option is available, the servicer must comply with modified written notice requirements for the mortgage loan, unless ***both*** the first and second conditions are met: (1) any borrower on the mortgage loan is a debtor in bankruptcy; ***and*** (2) the servicer is a debt collector under the FDCPA with respect to the mortgage loan, and any borrower on the loan has invoked the FDCPA's cease communications protection with respect to that loan.² If both of these conditions are met, the servicer is exempt from the written notice requirements for the mortgage loan.

Further, the 2016 Mortgage Servicing Rule requires that a servicer resume compliance with the early intervention requirements once the bankruptcy case is closed or dismissed, or the borrower reaffirms personal liability for the mortgage loan. For "ride through" borrowers who have discharged personal liability for a mortgage loan, a servicer is required to resume compliance with the written notice requirements if the borrower has made any partial or periodic payment on the mortgage loan after commencement of the borrower's bankruptcy case.

These changes are effective 12 months after the 2016 Mortgage Servicing Rule's publication in the *Federal Register*.

Loss Mitigation

The 2016 Mortgage Servicing Rule revises and clarifies several of Regulation X's loss mitigation requirements.

First, it requires servicers to meet the loss mitigation requirements more than once in the life of a loan for borrowers who become current on payments at any time between a borrower's prior complete loss mitigation application and a subsequent loss mitigation application.

Second, it modifies an existing exception to the 120-day prohibition on foreclosure filing to allow a servicer to join the foreclosure action of either a superior or subordinate lienholder.

² Note that this second condition is not met unless the servicer is a debt collector subject to the FDCPA with respect to the mortgage loan for which the borrower invokes cease communications protection.

Third, it clarifies how servicers select the reasonable date by which a borrower should return documents and information to complete a loss mitigation application.

Fourth, it clarifies a servicer's obligations if a borrower submits a complete loss mitigation application more than 37 days before the foreclosure sale. The servicer must not move for a foreclosure judgment, move for an order of sale, or conduct a foreclosure sale, even where a third party conducts the sale proceedings, unless one of the specified circumstances is met (the borrower's loss mitigation application is properly denied, withdrawn, or the borrower fails to perform on a loss mitigation agreement). Absent one of the specified circumstances, conduct of the sale violates Regulation X. Additionally, the servicer must promptly instruct foreclosure counsel not to make any further dispositive motion, to avoid a ruling or order on a pending dispositive motion, or to prevent conduct of a foreclosure sale, unless one of the specified circumstances is met. Counsel's failure to follow these instructions does not relieve a servicer of its obligations not to move for foreclosure judgment or order of sale, or conduct a foreclosure sale.

Fifth, it requires a servicer to provide a written notice to a borrower within five days (excluding Saturdays, Sundays, or legal holidays) after it receives a complete loss mitigation application. The notice must indicate that the servicer has received a complete application and provide the date of completion, a statement that the servicer expects to complete its evaluation within 30 days from the date it received the complete application, and an explanation that the borrower is entitled to certain specific foreclosure protections and may be entitled to additional protections under state or federal law. The notice also must clarify that the servicer might need additional information later, in which case the evaluation could take longer and the foreclosure protections could end if the servicer does not receive the information as requested.

Sixth, it sets forth how servicers must attempt to obtain documents or information not in the borrower's control and evaluate a loss mitigation application while waiting for third party information. In particular, it requires that servicers exercise reasonable diligence to obtain the documents or information and prohibits servicers from denying borrowers solely because a servicer lacks them, except under limited circumstances. It also requires that servicers promptly provide a written notice to the borrower if the servicer lacks required third party information within 30 days after receiving the borrower's complete application and cannot determine which loss mitigation options, if any, it will offer the borrower. In this circumstance, the 2016 Mortgage Servicing Rule also requires servicers to complete all possible steps in the evaluation process within the 30 days, notwithstanding the lack of the required third party information. It

also requires servicers to notify borrowers of the loss mitigation determination in writing promptly upon receipt of the third party information it lacked.

Seventh, it clarifies that servicers may offer a short-term payment forbearance program or short-term repayment plan based upon an evaluation of an incomplete loss mitigation application. It also requires servicers to provide a written notice promptly after offering a short-term payment forbearance program or short-term repayment plan, unless the borrower has rejected the offer. The notice must state the specific payment terms and duration of the program or plan and include other specified information.

Eighth, it clarifies that servicers may stop collecting documents and information from a borrower for a particular loss mitigation option after receiving information confirming that, pursuant to any requirements established by the owner or assignee, the borrower is ineligible for that option. It also clarifies that servicers may not stop collecting documents and information for any loss mitigation option based solely upon the borrower's stated preference but may stop collecting documents and information for any loss mitigation option based on the borrower's stated preference in conjunction with other information, as prescribed by requirements established by the owner or assignee of the mortgage loan.

Finally, it addresses and clarifies how loss mitigation procedures and timelines apply when a transferee servicer receives a mortgage loan for which there is a loss mitigation application pending at the time of a servicing transfer.

These changes are effective 12 months after the 2016 Mortgage Servicing Rule's publication in the *Federal Register*.

Prompt Payment Crediting

The 2016 Mortgage Servicing Rule clarifies how servicers must treat periodic payments made by consumers who are performing under either temporary loss mitigation programs or permanent loan modifications. Periodic payments made pursuant to temporary loss mitigation programs must continue to be credited according to the loan contract and could, if appropriate, be credited as partial payments. Periodic payments made pursuant to a permanent loan modification must be credited under the terms of the permanent loan agreement.

These changes are effective 12 months after the 2016 Mortgage Servicing Rule's publication in the *Federal Register*.

Periodic Statements

The 2016 Mortgage Servicing Rule clarifies certain periodic statement disclosure requirements relating to mortgage loans that have been accelerated, have been permanently modified, or are in temporary loss mitigation programs.

It also requires servicers to send modified periodic statements (or written notices, where servicers are otherwise permitted to send coupon books and written notices instead of periodic statements) to consumers who have filed for bankruptcy, subject to certain exemptions. The content will vary depending on whether the consumer is a debtor in a Chapter 7 or 11 bankruptcy case, or a Chapter 12 or 13 bankruptcy case. The 2016 Mortgage Servicing Rule includes sample forms that servicers may use for consumers in bankruptcy to ensure compliance.

The 2016 Mortgage Servicing Rule also exempts servicers from the periodic statement requirement for charged-off mortgage loans if the servicer will not charge any additional fees or interest on the account and provides a periodic statement including additional disclosures related to the effects of charge off.

The changes regarding the bankruptcy periodic statement exemption and modified statements for consumers in bankruptcy are effective 18 months after the 2016 Mortgage Servicing Rule's publication in the *Federal Register*, and the other periodic statement changes are effective 12 months after the 2016 Mortgage Servicing Rule's publication in the *Federal Register*.

Small Servicer

A small servicer includes a servicer that, together with any affiliates, services 5,000 or fewer mortgage loans for which the servicer (or an affiliate) is the creditor or assignee. The 2016 Mortgage Servicing Rule excludes certain seller-financed transactions and mortgage loans voluntarily serviced for a non-affiliate, even if the non-affiliate is not a creditor or assignee, from being counted toward the 5,000 loan limit.

This change is effective 12 months after the 2016 Mortgage Servicing Rule's publication in the *Federal Register*.

Technical Corrections and Clarifications

In addition to the changes discussed above, the 2016 Mortgage Servicing Rule makes technical corrections and minor clarifications to wording throughout several provisions of Regulations X

and Z. Generally, these corrections and clarifications are not substantive in nature.

These technical corrections and minor clarifications are effective 12 months after the 2016 Mortgage Servicing Rule's publication in the *Federal Register*.

Interpretive Rule

The 2016 FDCPA Interpretive Rule provides safe harbors from liability for servicers taking the following actions in compliance with Regulation X or Regulation Z, as amended by the 2016 Mortgage Servicing Rule: (1) communicating about a mortgage loan with a confirmed successor in interest as required or authorized by specified mortgage servicing rules in Regulation X or Z; (2) providing a written early intervention notice to a borrower who has invoked cease communication protection under the FDCPA; or (3) responding to borrower-initiated communications concerning loss mitigation after the borrower has invoked cease communication protection under the FDCPA.

Mortgage Proof of Claim Attachment

If you file a claim secured by a security interest in the debtor's principal residence, you must use this form as an attachment to your proof of claim. See separate instructions.

Part 1: Mortgage and Case Information, Part 2: Total Debt Calculation, Part 3: Arrearage as of Date of the Petition, Part 4: Monthly Mortgage Payment. Includes fields for case number, debtor information, debt calculation, and arrearage details.

Part 5: Loan Payment History from First Date of Default. Table with columns A-Q: Account Activity, Contractual Funds received, Amount incurred, Description, Contractual due date, Prin, int & esc past due balance, How Funds Were Applied/Amount Incurred (I-Q), and Balance After Amount Received or Incurred (P-Q).

