

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF OHIO

IN RE: ) ADMINISTRATIVE ORDER NO. 09-02  
)  
ADMINISTRATION OF ) JUDGE RANDOLPH BAXTER  
CHAPTER 13 CASES IN ) JUDGE PAT E. MORGENSTERN-CLARREN  
THE CLEVELAND COURT ) JUDGE ARTHUR I. HARRIS

**ORDER GOVERNING CONDUIT MORTGAGE PAYMENTS  
IN CHAPTER 13 CASES**

This Standing Order is effective for all Chapter 13 cases filed on or after August 10, 2009.

- I. As used in this Administrative Order, the following definitions shall apply:
- i. "Arrearage" is the total amount past due as of the petition date, as stated in the Real Property Creditor's filed proof of claim, or such other total amount as may be determined by the Court.
  - ii. "Trustee" is the Standing Chapter 13 Trustee.
  - iii. "Debtor" is the Chapter 13 Debtor or Debtors.
  - iv. "Conduit Payments" are the Mortgage Payments which first become due post-petition and are paid by the Debtor to the Real Property Creditor through the Trustee.
  - v. "Mortgage Payments" are those regular, periodic payments which are owed by the Debtor to the Real Property Creditor as set forth in the documents evidencing the loan that is the basis of the Real Property Creditor's claim. These payments are limited to the principal and interest owed on the mortgage loan unless the Real Property Creditor has imposed a pre-petition escrow requirement for the prepayment of property taxes and insurance, in which case the mortgage payment will consist of principal, interest, property taxes, and insurance premiums.
  - vi. "Real Property Creditor" is an entity entitled to enforce a note given by the Debtor, which note is secured by a mortgage on the Debtor's principal residence (including manufactured and mobile homes) and with respect to which the Debtor proposes to make continuing post-petition Mortgage Payments to the Trustee under the terms of the Debtor's Chapter 13 Plan. Real Property Creditor includes an entity acting either on its own behalf or through a disclosed agent, such as a servicer. Should a Debtor choose to include inside the plan the continuing post-petition mortgage payments on a debt secured by the Debtor's non-principal residence, the creditor holding the note given by the Debtor, which note is secured by a mortgage on the Debtor's non-principal residence, shall be deemed to be a Real Property Creditor for purposes of this Administrative Order.

- II. Unless the Court orders otherwise for good cause (including but not limited to the absence of a pre-petition mortgage delinquency), all Mortgage Payments shall be made by the Debtor to the Trustee for disbursement by the Trustee as Conduit Payments. The plan payment to be paid by the Debtor to the Trustee shall include the Conduit Payment, inclusive of Trustee's fees.
- III. The Trustee is authorized to deduct from any payments collected under 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.
- IV. The Debtor must complete the Authorization to Release Information to the Trustee Regarding Secured Claims Being Paid by the Trustee (Exhibit A) and forward this document to the Trustee's office (not to the Court) within 7 days after the bankruptcy petition is filed.
- V. The Trustee will not make payments to the Real Property Creditor on the Arrearage until such time as a proof of claim is filed with the Court and the Chapter 13 plan is confirmed.
- VI. The Trustee is authorized to disburse Conduit Payments, as if the Chapter 13 plan had been confirmed, once the Real Property Creditor has filed a proof of claim to which a fully executed Addendum to Chapter 13 Proof of Claim for Debt Secured by a Mortgage on the Debtor's Principal Residence to be Paid Through Chapter 13 Trustee (Exhibit B) has been attached. The Trustee shall commence disbursements as soon as is practicable and is not required to make partial payments to Real Property Creditors.
- VII. Any Conduit Payment paid or tendered to the Real Property Creditor shall be applied to the next post-petition payment due under the terms of the note and shall not accrue a late charge as per the terms of the note unless the Debtor fails to make a full payment or payments under the Chapter 13 Plan, which causes a delay in the distribution of the Conduit Payment to the Real Property Creditor.
- VIII. If the Real Property Creditor proposes a change in the Conduit Payment due to a change in the escrow portion of the Conduit Payment for insurance and/or taxes, changed interest rate, or other reason, the Real Property Creditor shall file with the Court before the effective date of any change of the Conduit Payment written notice of the terms of the change of payment in a document that substantially conforms with Exhibit C, Notice of Mortgage Payment Change. A party in interest shall have an opportunity to object to the proposed change in payment by filing an objection within 21 days after the notice is filed. The Real Property Creditor shall forward a copy of the notice to the Debtor and, if not served electronically through the Court's CM/ECF system, the Trustee and Debtor's attorney. If no objection is filed by a party in interest to the Real Property Creditor's Notice of Mortgage Payment Change within 21 days after the notice is filed, the Trustee is authorized to disburse the new Conduit Payment.
- IX. If the Real Property Creditor proposes to increase the Conduit Payment by more than \$20.00, the Trustee shall file with the Court a notice of the change in the Debtor's plan payment. Such notice shall be treated as a modification of the Debtor's plan. Should the new Conduit Payment jeopardize the feasibility of the

plan, the Trustee may seek dismissal or conversion of the case, whichever the Trustee deems appropriate.

- X. As soon as practicable before a change of the Real Property Creditor payee, or the address to which payments should be made, the Real Property Creditor shall file with the Court a document that substantially conforms to Exhibit D, Notice of Transfer of Servicing, and/or Exhibit D-1, Notice of Transfer of Claim (Other than for Security), and serve it on the Trustee, the Debtor, and the Debtor's attorney.
- XI. Within 45 days after the Chapter 13 case is filed, the Real Property Creditor shall file a 12-month summary of the activity on the loan, including any advances or expenses incurred by the Real Property Creditor in connection with the servicing of the note or mortgage that the Real Property Creditor claims is chargeable to the debtor. Once every 12 months, the Debtor may request an updated accounting, which the Real Property Creditor shall file and serve within 45 days after the date on which the request is made.
- XII. If the Debtor has made all payments required under the Chapter 13 Plan and this Order, a party in interest may file a motion seeking an order of the Court determining that all pre-petition and/or post-petition defaults to the Real Property Creditor are deemed cured and all payments made on such debt through the date of plan completion are current, extinguishing any right of the Real Property Creditor to recover any amount alleged to have arisen before the filing of the petition, or to declare a default of the note, mortgage or other loan documents based upon pre-petition events, with no arrearage, no escrow balance, late charges, costs, expenses or attorney fees owing, except to the extent that the Court orders otherwise.
- XIII. Nothing in this Administrative 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 Court for the Northern District of Ohio – Eastern Division (Cleveland), or any applicable Administrative or General Orders.
- XIV. These procedures may be varied in a particular case only by order of the Court. Dated this 11th day of May, 2009.

/s/ Judge Randolph Baxter  
Judge Randolph Baxter

/s/ Judge Pat E. Morgenstern-Clarren  
Judge Pat E. Morgenstern-Clarren

/s/ Judge Arthur I. Harris  
Judge Arthur I. Harris

EXHIBIT A

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

**SEND TO TRUSTEE ONLY  
DO NOT FILE WITH THE COURT**

Debtor(s): \_\_\_\_\_

Case No: \_\_\_\_\_

The Debtor(s) authorize any and all lien holder(s) and insurers on real property of the bankruptcy estate to release information to the 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, annual interest rate, loan balance, escrow accounts, amount of the contractual late charge, and the mailing address for payments. Any information protected by the E-Government Act, such as Social Security numbers, shall not, however, be released.

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.

\_\_\_\_\_  
Debtor's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Joint Debtor's Signature

\_\_\_\_\_  
Date

EXHIBIT B

**ADDENDUM TO CHAPTER 13 PROOF OF CLAIM  
FOR DEBT SECURED BY A MORTGAGE ON THE DEBTOR'S PRINCIPAL  
RESIDENCE TO BE PAID THROUGH CHAPTER 13 TRUSTEE**

**ATTACH TO FILED PROOF OF CLAIM**

Debtor(s): \_\_\_\_\_ Case No: \_\_\_\_\_

Last 4 digits of Loan No: \_\_\_\_\_

Current monthly payment amount: \$ \_\_\_\_\_

\_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_  
Principal & Interest      Taxes      Insurance      Other

Explain each category of expense included in "other": \_\_\_\_\_  
\_\_\_\_\_

**Description of Security for Debt**

Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_  
County: \_\_\_\_\_  
Permanent Parcel # \_\_\_\_\_

**Creditor Information**

Creditor entitled to enforce the note secured by the mortgage

Name: \_\_\_\_\_  
Contact (individual's name and position): \_\_\_\_\_  
Tele No: \_\_\_\_\_ Fax No: \_\_\_\_\_  
E-mail: \_\_\_\_\_

Servicer acting on behalf of creditor

Name: \_\_\_\_\_  
Contact (individual's name and position): \_\_\_\_\_  
Tele No: \_\_\_\_\_ Fax No: \_\_\_\_\_  
E-mail: \_\_\_\_\_

Attorney

Servicer Name: \_\_\_\_\_

Creditor Address: \_\_\_\_\_

Tele No: \_\_\_\_\_ Fax No: \_\_\_\_\_

E-mail: \_\_\_\_\_

EXHIBIT C

NOTICE OF MORTGAGE PAYMENT CHANGE

FILE WITH COURT

Debtor(s): \_\_\_\_\_ Case No: \_\_\_\_\_

Last 4 digits of Loan No: \_\_\_\_\_

A post-petition mortgage payment change will occur as a result of (check one):

- Escrow Analysis Variable Interest Rate Adjustment Other

Dated \_\_\_\_\_ As of \_\_\_\_\_
Old interest rate: \_\_\_\_\_%
New interest rate: \_\_\_\_\_%

Explain "Other": \_\_\_\_\_

Current monthly payment amount: \$ \_\_\_\_\_

Principal & Interest Taxes Insurance Other

Explain each category of expense included in "Other": \_\_\_\_\_

New monthly payment amount: \$ \_\_\_\_\_

Principal & Interest Taxes Insurance Other

Explain each category of expense included in "Other": \_\_\_\_\_

Date new monthly payment amount begins: \_\_\_\_\_

A copy of the annual escrow analysis outlining the basis for the payment change is or is not attached. (If not attached, explain why.)

A post-petition cost and fee disclosure of the fees and costs due under the contract in the past 12 months is or is not attached. (If not attached, explain why.)

Questions should be directed to:

Creditor: \_\_\_\_\_

Address: \_\_\_\_\_

Contact (name and position): \_\_\_\_\_

Email: \_\_\_\_\_

Tele No: \_\_\_\_\_

Fax No: \_\_\_\_\_

**CERTIFICATE OF SERVICE**

Certifier, \_\_\_\_\_, 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 \_\_\_\_\_, 2009:

**Debtor**

Name  
Street Address  
City, State Zip

**Debtor's Attorney**

Name  
Street Address  
City, State Zip

**Trustee**

Name  
Street Address  
City, State Zip

\_\_\_\_\_  
Certifier



EXHIBIT D

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION (CLEVELAND)

In re: ) Case No.  
Debtor Name, )  
)  
)  
Debtor. ) **NOTICE OF TRANSFER**  
) **OF SERVICING**  
)  
) (no hearing required)

The servicing of the note securing a mortgage represented by Proof of Claim No. \_\_\_\_\_  
filed on \_\_\_\_\_ in the amount of \$ \_\_\_\_\_, by \_\_\_\_\_,  
Transferor, with the address of \_\_\_\_\_ has been  
transferred to \_\_\_\_\_, Transferee  
(Loan No. \_\_\_\_\_).

Chapter 13 Trustee payments and Conduit Payments should be sent to \_\_\_\_\_  
\_\_\_\_\_ at \_\_\_\_\_.

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**CERTIFICATE OF SERVICE**

Creditor (Transferee), \_\_\_\_\_, 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 \_\_\_\_\_, 2009:

**Debtor(s)**

Name  
Street Address  
City, State Zip

**Debtor's Attorney**

Name  
Street Address  
City, State Zip

**Trustee**

Name  
Street Address  
City, State Zip

**Transferor**

Name  
Street Address  
City, State Zip

**U.S. Trustee**

Name  
Street Address  
City, State Zip

\_\_\_\_\_  
Certifier

EXHIBIT D-1

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION (CLEVELAND)

In re:	)	Case No.
Debtor Name,	)	
	)	<b>NOTICE OF TRANSFER</b>
	)	<b>OF CLAIM (Other than for Security)<sup>1</sup></b>
Debtor.	)	
	)	(no hearing required unless objection filed under Fed. R. Bankr. P. 3001(e)(2))

A proof of claim has been filed in this case. The transferee evidences, by way of the attached documentation, that the claim has been transferred, other than for security, as stated in this notice.

**Original Claim Information:**

Name of Claimant: \_\_\_\_\_

Name of Payee [if different from claimant]: \_\_\_\_\_

Payment Address: \_\_\_\_\_

Last 4 digits of Account No: \_\_\_\_\_

Claim No. on Court's Registry: \_\_\_\_\_

Amount of Claim as of petition date: \_\_\_\_\_

	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 No: \_\_\_\_\_

Last 4 digits of Account No: \_\_\_\_\_

I, \_\_\_\_\_, declare under penalty of perjury that the information provided in this Notice is true and accurate to the best of my knowledge. I also declare that a copy of this Notice has been mailed to the Transferor and that proof of the transfer is attached.

<sup>1</sup> 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, an amended proof of claim must be filed.

By: \_\_\_\_\_  
Type or Print Name of Transferee/Agent of Transferee

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature

### CERTIFICATE OF SERVICE

Creditor (Transferee), \_\_\_\_\_, 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 \_\_\_\_\_, 2009:

**Debtor(s)**

Name  
Street Address  
City, State Zip

**Debtor's Attorney**

Name  
Street Address  
City, State Zip

**Trustee**

Name  
Street Address  
City, State Zip

**Transferor**

Name  
Street Address  
City, State Zip

**U.S. Trustee**

Name  
Street Address  
City, State Zip

\_\_\_\_\_  
Certifier