

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----x
In re:

Chapter

Case No. - ()

Debtor(s).
-----x

**CREDITOR'S REQUEST FOR
TERMINATION OF LOSS MITIGATION**

Parties to Loss Mitigation:

Debtor(s): _____

Debtor(s)' Counsel: _____

Creditor: _____

Creditor's Counsel: _____

Lien position: _____

Property
address: _____

Loss Mitigation requested on: _____

Order approving Loss Mitigation entered on: _____

Last Loss Mitigation session conducted on: _____ with _____
and _____ present.

_____, creditor, hereby requests termination of
Debtor(s)' request for loss mitigation based upon the following:

1. A document request was sent by the creditor on _____ and
creditor still has not received the following documents (please check all that
apply):
 - _____ a. Two consecutive pay periods of paystubs and/or two months of
 - _____ b. The last two years of income tax returns, signed by all taxpayers.
 - _____ c. Hardship letter
 - _____ d. Statement of monthly income and expenses.
 - _____ e. Proof of residency.
 - _____ f. Third party affidavit regarding contribution.
 - _____ g. Two months of bank statements.
 - _____ h. Appraisal of home or statement of value of home
 - _____ i. Other to be specified here: _____

2. Debtor(s) has/have insufficient income to support a loan modification. This is based upon debtor(s)' monthly income of _____, as determined by () paystubs, () tax returns, () operating statements, () budget, () third party contribution and debtor(s)' monthly expenses of _____.

3. Debtor(s) has/have insufficient income to support a loan modification that would add the amount of arrears of \$ _____ to be recapitalized by the loan modification. The principal balance of the loan modification would have to be \$ _____, which would require a monthly payment of \$ _____ at _____ % interest.

4. Debtor(s)' real property does/do not qualify for loss mitigation based upon an appraisal dated _____ and a value of _____.

5. There are title issues:
 - a. Title is in the name(s) of: _____ and the note is in the name(s) of: _____.

 - b. Liens exist against the property; they are: _____

 _____.

 - c. Other: _____.

6. Debtor(s) does/do not qualify for loss mitigation:
 - a. This property is NOT Debtor(s)' principal residence. Debtor(s) resides at _____.

 - b. Debtor(s) has/have already received a loan modification as of _____, which resulted in the loan being adjusted by _____ (a copy of the loan modification MUST be attached to this document).

 - c. It has been determined that this loan is not in need of modification, as Debtor(s) are current and/or are able to show the ability to pay under the note as it currently exists.

7. Debtor(s) was/were approved for a loan modification as of _____, but Creditor seeks to terminate loss mitigation because the Debtor(s) has/have not:
 - a. made the necessary payments in the trial period, with the last payment received by Creditor on _____ in the amount of \$ _____.

 - b. supplied the following documents requested on _____: _____
 _____.

 - c. Debtor(s) income has/have changed since the trial period. Current income is now \$ _____, based upon _____ while pre-trial income was \$ _____.

 - d. Debtor(s) expenses has/have changed since the trial period. Current expenses are now \$ _____, based upon _____ while pre-trial expenses were \$ _____, based upon _____.

8. Debtor(s) has/have failed to provide the Creditor with adequate protection

during the loss mitigation process. The last payment received by Creditor which was applied to the _____ payment.

from D

9. Other, to be explained in detail: _____

_____.

10. I hereby attest that on _____, I spoke directly with _____ who is _____ via telephone at () _____ to personally advise of the Creditor's decision to request termination of the loss mitigation process and the reason(s) for the same. I hereby understand that the Creditor's request to deny loss mitigation will NOT be entertained by the court unless Creditor conducts a telephone status conference with the Debtor(s)' designated contact person and advises the Debtor(s) designated contact person of the basis for the denial PRIOR to requesting termination.

Wherefore, _____, Creditor, hereby requests termination of the loss mitigation process based upon the above information supplied by the Debtor(s) and relied upon by the Creditor.

Dated:

(name) _____
(title) _____
(Creditor) _____
Address _____

Telephone No. () _____
Fax No. () _____
Email address: _____

Sworn to before me this _____ day of _____, 20____

Notary Public

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X

In re:

Chapter

Case No. - ()

Debtor(s).

-----X

CREDITOR LOSS MITIGATION AFFIDAVIT

STATE OF)
)ss.:
COUNTY OF)

I, _____, being sworn, say:

I am not a party to this action, am over 18 years of age and reside in _____.

On _____, I served a true copy of the Financial Packet and a request for the following documents:

- A copy of the Debtor(s)= two (2) most recent federal income tax returns;
- A copy of the Debtor(s) last two (2) paycheck stubs, proof of social security income, pensions, or any other income received by the Debtor(s);

Or, if Debtor(s) is/are self employed:

- A copy of the Debtor(s)= business= two (2) most recent months= Profit and Loss Statements, setting forth a breakdown of the monthly business income and expenses for the months of _____ ;
- A copy of the Mortgagee=s completed Financial Worksheet;
- Proof of Second/Third Party Income by Affidavit of the party, including the party=s last two (2) paycheck stubs,
- Other (please specify):

upon the following parties via (first class mail, facsimile or email) at the following addresses:

Please be advised that the loss mitigation contact is as follows:

Name: _____

Title: _____

Phone Number: _____

Fax Number: _____

Email Address: _____

Dated: _____, New York
_____, 20

Sworn to before me this
day of _____, 20

Notary Public, State of New York

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re: _____ : Case No. __ - ____ ()
_____, : Chapter __
Debtor(s) :
_____ :

LOSS MITIGATION FINAL REPORT

Name of Lender: _____

Property Address: _____

Last Four Digits of Account Number of Loan: _____

File Date of Request for Loss Mitigation: __ / __ / ____

Date of Entry of Order Granting Loss Mitigation: _____

Date of Entry of Order Approving Settlement (if any): _____

Other Requests for Loss Mitigation in this Case: ____ Yes ____ No

The use of the Court's Loss Mitigation Procedures has resulted in the following (please check appropriate box below):

- Loan modification.
- Short sale.
- Surrender of property.
- No agreement has been reached.
- Other: _____

The filing of this **Loss Mitigation Final Report** terminates the loss mitigation procedures with respect to the loan identified above by the last four digits of the account number.

Dated: _____

Signature: _____

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----x

In re: _____

Chapter _____

Case No. _____ - _____ (_____)

Debtor(s).

-----x

LOSS-MITIGATION REQUEST – BY A CREDITOR

I am a creditor (including a holder, servicer or trustee of a mortgage or lien secured by property used by the Debtor as a principal residence) of the Debtor in this case. I hereby request loss mitigation with respect to *[Identify the property, loan and creditor(s) for which you are requesting loss mitigation]*:

SIGNATURE

I have reviewed the Loss Mitigation Procedures, and I understand that if the Court orders loss mitigation in this case, I will be bound by the Loss Mitigation Procedures. I agree to comply with the Loss Mitigation Procedures, and I will participate in loss mitigation in good faith. If loss mitigation is ordered, I agree to provide the Court with a written or verbal status report stating whether or not the parties participated in one or more loss mitigation sessions, whether or not a settlement was reached, and whether negotiations are ongoing. I agree that **I will not require the Debtor to request or cause dismissal of this case** as part of any resolution or settlement that is offered or agreed to during the loss mitigation period.

Sign: _____

Date: _____, 20 _____

Print Name: _____

Title: _____

Firm or Company: _____

Telephone Number: _____

E-mail address (if any): _____

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
In re: _____

Chapter _____

Case No. _____ - _____ (_____)

Debtor(s).
-----x

LOSS-MITIGATION REQUEST – BY THE DEBTOR

I am a Debtor in this case. I hereby request loss mitigation with respect to *[Identify the property, loan and creditor(s) for which you are requesting loss mitigation]*:

SIGNATURE

I understand that if the Court orders loss mitigation in this case, I will be expected to comply with the Loss Mitigation Procedures. I agree to comply with the Loss Mitigation Procedures, and I will participate in loss mitigation in good faith. I understand that loss mitigation is voluntary for all parties, and that I am not required to enter into any agreement or settlement with any other party as part of this loss mitigation. I also understand that no other party is required to enter into any agreement or settlement with me. I understand that **I am not required to request dismissal of this case** as part of any resolution or settlement that is offered or agreed to during the loss mitigation period.

Sign: _____

Date: _____, 20_____

Print Name: _____

Telephone Number: _____

E-mail address (if any): _____

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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ORDER APPROVING LOAN MODIFICATION AGREEMENT

The debtor(s), _____, having moved this Court pursuant to General Order #M-[] for an Order approving a Loan Modification Agreement dated [] (the "Application"), attached hereto as Exhibit "A," modifying the (first, second, third, etc.) mortgage held by (name of creditor) against the debtor's residence, and all creditors, the chapter [] trustee and all parties who have filed a notice of appearance in the case having been given proper notice, and no objections having been filed, and it appearing that said loan modification is proper and in the best interest of the debtor and the estate,

NOW, on application of the debtor(s), it is hereby

ORDERED, that the debtor(s), are authorized to enter into the Loan Modification Agreement annexed hereto as Exhibit "A".

Dated: _____, 2010

U.S. Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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Case No. - ()
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LOSS-MITIGATION ORDER

- A Loss Mitigation Request¹ was filed by the Debtor on [Date] _____, 20 .
- A Loss Mitigation Request was filed by a Creditor on [Date] _____, 20 .
- The Court raised the possibility of Loss Mitigation, and the parties have had notice and an opportunity to object.

Upon the foregoing, it is hereby

ORDERED, that the following parties (collectively, the “Loss Mitigation Parties”) are directed to participate in Loss Mitigation:

1. The Debtor(s)
2. _____, the Creditor with respect to _____
[describe Loan and/or Property].
3. [Additional parties, if any] _____ ; and it is further

ORDERED, that the Loss Mitigation Parties shall comply with the Southern District of New York Loss Mitigation Procedures; and it is further

ORDERED, that the Loss Mitigation Parties shall observe the following deadlines:

1. Within 14 days of the entry of this Order, the Party seeking Loss Mitigation will serve the Order upon the Debtor/Creditor. Upon service of this Order, said party will file an Affidavit of Service with the Court. This Order shall be served on the same parties as are served with the Loss Mitigation request;
2. Each Loss Mitigation Party shall designate contact persons and disclose contact information by [suggested time is 14 days after service of this Order], unless this information has

¹ All capitalized terms have the meanings defined in the Loss Mitigation Procedures.

been previously provided. As part of this obligation, a **Creditor shall furnish each Loss Mitigation Party with written notice of the name, address and direct telephone number of the person who has full settlement authority**; and it is further

3. The Loss Mitigation Period shall terminate one day after the last scheduled Status Conference, unless extended as provided in the Loss Mitigation Procedures.

ORDERED, that a Status Conference will be held in this case on [within 35 days of the entry of this Order] at _____ AM at _____, NY (the "Status Conference"). The Loss Mitigation Parties shall appear at the Status Conference and provide the Court with a verbal Status Report unless a written Status Report that is satisfactory to the Court has been filed not later than 7 days prior to the date of the Status Conference and requests that the Status Conference be adjourned or cancelled; and it is further

ORDERED, that the Creditor shall serve upon the Debtor and Debtor's attorney a request for information using the "*Creditor Loss Mitigation Affidavit*" form within 7 days of service of the Order and file same on the Court's Electronic Case Filing System (ECF); and it is further

ORDERED, that the Debtor shall serve upon the Creditor a response to Creditor's request for information using the "*Debtor Loss Mitigation Affidavit*" form within 21 days of service of the Creditor Loss Mitigation Affidavit and Debtor shall file only the *Debtor Loss Mitigation Affidavit* on ECF; and it is further

ORDERED, that once Debtor(s) has fully complied with the document request of the Creditor and filed the Debtor Loss Mitigation Affidavit along with proof of service of same on the Court's ECF Docket, the documents so provided will be deemed timely; and it is further

ORDERED, that a follow-up Status Conference will be held in this case on a date to be set at the initial Status Conference. The Loss Mitigation Parties shall appear at the Status Conference and provide the Court with a verbal Status Report unless a written Status Report that is satisfactory to the Court has been filed not later than 7 days prior to the date of the Status Conference and requests that the Status Conference be adjourned or Loss Mitigation terminated. The Status Report must provide a clear and concise time line detailing the steps that the parties have taken in consideration of the loan modification and the progress that the parties have made with regard to same, including, but not limited to a statement as to whether the parties have complied with the financial document exchange provisions of this Order; and it is further

ORDERED, that should Debtor(s) fail to provide to the Creditor all requested documentation as required by the Creditor's initial discovery request pursuant to this Order, the Creditor may seek termination of the Loss Mitigation Period at the Follow-up Status Conference, provided that the Creditor files a Request to Terminate Loss Mitigation 7 days prior to this Status Conference in accordance with the Loss Mitigation Procedures of this Court; and it is further

ORDERED, that should Creditor fail to provide to Debtor(s) a response to the Loss Mitigation Request prior to the Follow-up Status Conference pursuant to this Order, Debtor(s) may request that the Court enter an Order requiring that a representative of the Creditor that has full settlement authority appear before the Court pursuant to the Loss Mitigation Procedures of

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SOUTHERN DISTRICT OF NEW YORK**

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CREDITOR LOSS MITIGATION AFFIDAVIT

STATE OF)
)ss.:
COUNTY OF)

I, _____, being sworn, say:

I am not a party to this action, am over 18 years of age and reside in _____.

On _____, I served a true copy of the Financial Packet and a request for the following documents:

- A copy of the Debtor(s)= two (2) most recent federal income tax returns;
- A copy of the Debtor(s) last two (2) paycheck stubs, proof of social security income, pensions, or any other income received by the Debtor(s);

Or, if Debtor(s) is/are self employed:

- A copy of the Debtor(s)= business= two (2) most recent months= Profit and Loss Statements, setting forth a breakdown of the monthly business income and expenses for the months of _____ ;
- A copy of the Mortgagee=s completed Financial Worksheet;
- Proof of Second/Third Party Income by Affidavit of the party, including the party=s last two (2) paycheck stubs,
- Other (please specify):

upon the following parties via (first class mail, facsimile or email) at the following addresses:

Please be advised that the loss mitigation contact is as follows:

Name: _____

Title: _____

Phone Number: _____

Fax Number: _____

Email Address: _____

Dated: _____, New York

Sworn to before me this
day of

Notary Public, State of New York