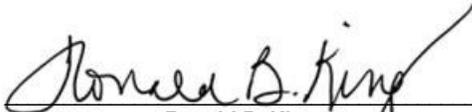


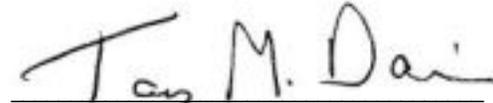
SIGNED this 26th day of October, 2017.



  
\_\_\_\_\_  
Ronald B. King  
Chief United States Bankruptcy Judge

  
\_\_\_\_\_  
Craig A. Gargotta  
United States Bankruptcy Judge

  
\_\_\_\_\_  
H. Christopher Mott  
United States Bankruptcy Judge

  
\_\_\_\_\_  
Tony M. Davis  
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

**STANDING ORDER FOR CHAPTER 13 CASE  
ADMINISTRATION FOR THE AUSTIN DIVISION  
EFFECTIVE IN ALL CASES FILED ON AND AFTER NOVEMBER 1, 2017**

**1. Effective Date and Applicability**

The Effective Date of this Standing Order is November 1, 2017, and applies to all cases filed in the Austin Division on and after November 1, 2017. This Standing Order, together with the Consolidated Standing Order for the Adoption of a District Form Chapter 13 Plan entered in the Western District of Texas effective November 1, 2017 (“District-Wide Standing Order”), will govern in all cases filed in the Austin Division on and after November 1, 2017.

This Standing Order, together with the District-Wide Standing Order, supersedes and replaces all prior standing orders relating to chapter 13 administration, cases, and plans in the Austin Division (“Prior Standing Orders”) in all cases filed on and after November 1, 2017. For all cases filed prior to November 1, 2017, the Prior Standing Orders will remain in effect unless otherwise ordered by the Court in a particular chapter 13 case.

**2. Chapter 13 Plan Form**

Pursuant to the District-Wide Standing Order, a district-wide form Chapter 13 Plan has been adopted for use in all divisions in all cases filed on and after November 1, 2017 (“District-Wide Form Plan”). The District-Wide Form Plan may be revised periodically. The Clerk shall make available to the public the District-Wide Form Plan and any revised District-Wide Form Plans.

The District-Wide Form Plan must be used by all chapter 13 debtors in all cases filed in the Austin Division on and after November 1, 2017. For all cases filed before November 1, 2017, the form Chapter 13 Plan adopted by the Consolidated Standing Order for Chapter 13 Case Administration for the Austin Division dated October 29, 2015 (“Prior Plan Form”) must be used by chapter 13 debtors, unless otherwise ordered by the Court in a particular chapter 13 case.

### **3. Trustee’s Recommendation Concerning Claims**

After the deadline for filing proofs of claims has passed, the chapter 13 Trustee (“Trustee”) is authorized to file a Trustee’s Recommendation Concerning Claims (“TRCC”) and serve a copy upon the Debtor, Debtor’s counsel, all creditors, and other parties in interest. No order will be entered approving the TRCC. Instead, if no objection or other response is timely filed, then the TRCC shall be binding upon all creditors and other parties in interest, and the Trustee is authorized to make disbursements according to the provisions of the TRCC without further order of the Court.

If an objection or other response to the TRCC is timely filed, the Trustee may nonetheless make distributions in accordance with the provisions of the TRCC, except with respect to the claim that is the subject of the response or objection. The Trustee is authorized to reserve funds attributable to the challenged claim until the allowance or treatment of the claim has been resolved. If, as a result of the claim resolution, there is a greater or lesser amount of money available for distribution to other creditors, the Trustee may adjust the payments to creditors accordingly without having to file another TRCC.

The TRCC must prominently display the following notice:

**This pleading requests relief that may be adverse to your interests.**

**No hearing will be conducted on this recommendation concerning claims (or its treatment of any claim) unless a written response is filed within 21 days from the date of service.**

**A timely response is necessary for a hearing to be held. If no response is timely filed, the treatment of claims reflected in this recommendation shall be deemed approved by the Court without further hearing or order.**

**By order of the Court, the Trustee’s Recommendation Concerning Claims shall set a bar date for objecting to claims, for contesting the validity or priority of liens, and for challenging the priority of claims. The bar date shall be the 21<sup>st</sup> day after the service of the recommendation of claims as shown in the certificate of service attached hereto. Any objection, motion, or adversary proceeding contesting the validity or priority of any claim reflected in this recommendation concerning claims may not be filed after the expiration of the bar date except upon leave of court, after motion requesting such leave, and upon notice of hearing to the chapter 13 Trustee, the Debtor, the Debtor’s counsel, and all parties in interest.**

#### **4. Objections to Claims Following the Trustee's Recommendation Concerning Claims**

Objections to proofs of claim must be in writing and filed no later than 21 days after service of the TRCC. Any revised or agreed order affecting distributions to creditors or allowance of a claim should be submitted to the Trustee for review, and then marked by counsel submitting the order: "approved by Trustee as to form," prior to submission to the Court.

#### **5. Motions to Value Property Independent of the Plan**

Motions to Value Property or to Avoid a Lien may be filed as part of the Debtor's plan. Any motion by the Debtor to value property of the estate or to avoid a lien, independent of the plan, must be filed no later than 21 days after service of the TRCC.

#### **6. Responses to Objections to Claim; Responses to Motions to Value Property**

Responses to Objections to Claims and Motions to Value Property must be filed by the deadline provided in the notice included in such motion pursuant to Local Rule 9014. If no such notice is included, no response is necessary and the Objection to Claim or Motion to Value Property shall be set for hearing.

#### **7. Amendments to the Chapter 13 Plan; Responses to Objections to Confirmation**

The last date that a debtor may seek to amend its chapter 13 plan is not later than 21 days prior to the date scheduled for hearing on the confirmation of the plan. The Court will only consider *de minimis*, nonsubstantive, or technical amendments to the plan made after that date. The Court will consider material amendments, such as those based on claim resolutions, or as necessitated by changed circumstances, but additional notice may then be required before the hearing can be held.

Any revised or agreed orders affecting treatment of claims or disbursements in a chapter 13 plan shall be incorporated into an amended plan. Additionally, any revised or agreed orders shall be submitted to the Trustee for review, and then marked by counsel submitting the order: "approved by Trustee as to form," prior to submission to the Court.

If the Trustee has not recommended confirmation, a substantive response to pending objections to confirmation should be filed no later than 6 days prior to the confirmation hearing. If the response indicates the Debtor will address an issue in the future, the response should specifically indicate when and how the issues will be addressed.

If no response is timely filed, the Court may elect to deny confirmation by default.

The Court may, at the confirmation hearing and upon request of the Trustee or another party in interest, dismiss a chapter 13 case for failure of the Debtor to obtain confirmation of the chapter 13 plan.

## **8. Service of the Plan and Pre-Confirmation Amendments**

Whether or not the plan is filed with the chapter 13 petition at the commencement of the case, the Debtor shall be responsible for service of the plan on all creditors. Whenever a chapter 13 plan is amended prior to confirmation, the Debtor shall serve the amended plan on all affected parties and the Trustee. A certificate of service must be filed with the Clerk of the Court reflecting service of any plan or amended plan and should indicate service was made pursuant to Local Rule 9013.

## **9. Certificates of Service**

Certificates of Service for all pleadings and all plans shall certify that service has been accomplished on the parties required to be served under Local Rule 9013(d) and at the proper address as required by 11 U.S.C. § 342 and each address must be expressly listed on the certificate.

## **10. Debtor's Duty to Facilitate Notice Regarding Domestic Support Obligations**

In order to facilitate the expedient notice to domestic support claim holders and the applicable state agencies provided for in 11 U.S.C. § 1302, the Debtor shall, no later than 7 days after the filing of the petition, provide to the Trustee the names, current addresses, and telephone numbers of all persons to whom the Debtor owes a domestic support obligation. At the same time the Debtor shall provide to the Trustee the names, addresses, and telephone numbers of the state child support enforcement agencies as set forth under 11 U.S.C. § 1302(d)(1)(B)(i) for the states in which the persons to whom the Debtor owes a domestic support obligation reside.

## **11. Adequate Protection Payments by the Chapter 13 Trustee; Pre-Confirmation Disbursements**

A secured creditor may file a Motion for Adequate Protection Payments pursuant to 11 U.S.C. § 363(e), using 14-day negative notice language, if the creditor is not provided for in the plan or objects to the monthly payment proposed in the Debtor's plan. Any order on adequate protection payments should be submitted to the Trustee for review prior to submission to the Court.

The Trustee shall be authorized to make pre-confirmation disbursements of funds held by the Trustee in this case to the allowed secured, administrative, and priority claims provided for in the proposed plan on a pro-rata basis on regular monthly disbursement dates. The Trustee may reserve funds sufficient to pay ongoing mortgage payments which are due.

## **12. Motions for Relief From Stay**

If the automatic stay applicable to a creditor is terminated either by confirmation of the plan or order of the Court (or notice filed pursuant to the terms of a Court order), the Trustee shall cease payments to all secured creditors having a lien on such collateral. Those creditors

having a lien on the collateral shall have 90 days from the date the automatic stay is terminated to file any unsecured deficiency claim.

Any revised or agreed order affecting distributions to creditors or allowance of a claim should be submitted to the Trustee for review, and then marked by counsel submitting the order: “approved by Trustee as to form,” prior to submission to the Court.

### **13. Attorney’s Duties and Compensation**

An attorney representing a debtor under chapter 13 shall be the attorney of record in the bankruptcy case from the filing of the petition for relief under chapter 13, if signed by the attorney, or from the filing of a notice of appearance until the case is dismissed or closed (including disposition of motions to reinstate), unless relieved from representation by order of the Court obtained pursuant to motion and notice under Local Rules 2014(e) and 9013.

The Court may determine and maintain a standard benchmark fee for chapter 13 cases. The benchmark fee for routine non-business chapter 13 cases shall be \$3,600. If the bankruptcy case is successfully confirmed on the first confirmation setting, the benchmark fee awarded shall be \$3,900. The benchmark fee for business chapter 13 cases shall be \$4,900.

Attorney’s fees will be disbursed according to the provisions of the plan. The plan must specifically state the monthly amount to be disbursed in attorney’s fees. Unless specifically ordered otherwise by the Court upon motion, notice, and opportunity for hearing, such monthly amount shall not exceed \$1,000 in cases in which the Debtor serves as a disbursing agent for ongoing mortgage payments and \$1,500 in cases in which the Trustee serves as disbursing agent for ongoing mortgage payments, in the first monthly disbursement following confirmation, and then up to \$350 per month thereafter until paid in full. Attorney’s fees shall be payable from available funds after payment of administrative expenses, adequate protection payments, and other court ordered payments.

If an attorney receives fees of more than \$1,050 in advance and fails to obtain confirmation of a plan, the attorney shall file a statement, no later than 14 days after denial of confirmation without leave to propose a new plan, dismissal of the case, or conversion of the case, describing why the fees are properly allowable under 11 U.S.C. § 330(a)(4)(B). If an attorney fails to timely file the statement, the Court will set a show cause hearing upon request by the Trustee.

The following services are presumed included in the benchmark fee:

1. All conferences with the Debtor(s);
2. Timely filing of a pay order;
3. Preparation of the petition and its associated forms, schedules, statement of financial affairs, plan, and amendments to all such documents;
4. Timely filing of pay advices and timely providing of tax returns;
5. Timely providing the Trustee with the domestic support obligation contact information;
6. Attendance at all 341 meetings (including reset meetings);

7. Attendance at confirmation and discharge hearings (including any reset hearings);
8. Preparation of routine motions, which shall be deemed to include the following:
  - a) Motions to Waive Pay Order;
  - b) Motions to Pay Filing Fees in Installments;
  - c) Objections to Claim and Motions to Value or Avoid Lien;
  - d) Responses to exemption objections and Responses to confirmation objections; and
  - e) Motions to Modify filed less than 120 days after the confirmation hearing where the plan was confirmed.

Notwithstanding the foregoing, an attorney may, for cause shown, request additional fees for the services listed. If so, the attorney must make the request for additional fees as set out below. Counsel shall not condition representation upon payment of an additional fee.

An attorney may only request and obtain an award of fees for additional services beyond those specified above by court order, on motion, notice, and with an opportunity for hearing. Such request may be by separate application following the conclusion of the matter for which fees are requested, or in the motion which constitutes the additional services.

Any such request for additional fees shall be set forth in the caption of the pleading (and in the form of order submitted); shall number the request in the caption and in the body of the motion; shall set forth the total fees requested to date (including the benchmark fee awarded and any additional fees previously awarded or pending) and the basis for the request; and shall be served on all parties in the case. No request for fees for filing a responsive pleading for the Debtor may be contained in such responsive pleading. A separate motion for fees is required.

Furthermore, the Debtor's attorney may not demand or receive fees from the Debtor for such representation without a separate motion and order. Additional fees, if awarded, shall be paid at the rate of not more than \$350 per month if the plan payment is sufficient or in the amount necessary to complete payment within the remaining term of the plan, following payment of previously awarded fees. An attorney may request payment at a different rate only upon a showing of unusual circumstances.

Presumptively reasonable fees for post-confirmation contested matters include:

1. Defending a Motion for Relief from Stay - \$300.00;
2. Defending a Motion to Dismiss - \$275.00;
3. Motions to Sell Property - \$400.00 (additional \$200.00 with expedited hearing);
4. Applications to Incur Debt - \$200.00;
5. Applications for Tax Refund - \$450.00;
6. Motions for Moratorium - \$200.00;
7. Motion to Reinstate Case - \$375.00 to be paid direct; and
8. Motion to Modify filed more than 120 days following the confirmation hearing where the plan was confirmed - \$650.

Debtor's counsel shall file amended Schedules I and J at the time the Motion to Modify is filed and provide income verification to the Trustee at that time. Income verification shall include the two most recent tax returns and proof of recent income, which means: for employed debtors, pay stubs; for self-employed debtors, a cash-basis profit and loss statement for the past twelve months; and for income from other sources, recent documents evidencing those sources of income.

If the above documents are not filed or submitted timely, a fee award, if any, for such plan modification will be considered at the time of the hearing.

#### **14. Certification Regarding Post-Petition Domestic Support Obligations, Tax Returns, and Direct Payments**

No later than 7 calendar days prior to the first scheduled confirmation hearing, the Debtor shall file an affirmation pursuant to F.R.C.P. 43(b) which affirms that: (1) the Debtor has paid all amounts that are required to be paid under a domestic support obligation, and that first become payable after the date of the filing of the petition if the Debtor is required by a judicial or administrative order, or by statute, to pay such domestic support obligations as required by 11 U.S.C. § 1325 (a)(8); (2) the Debtor has filed all applicable federal, state, and local tax returns as required by 11 U.S.C. § 1308, pursuant to 11 U.S.C. § 1325(a)(9); and (3) the Debtor is current in making all post-petition direct payments under the plan.

In the case of a debtor who is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, the Debtor shall also file with the Court the certification required by 11 U.S.C. § 1328(a) within 21 days after the completion by the Debtor of all payments under the plan.

#### **15. Applications to Incur Consumer Debt**

The Debtor shall not incur consumer debt without written approval of either the Court or the Trustee. The Debtor's attorney (or the Debtor, if not represented by counsel) shall make written application to the Trustee for approval in an Application to Incur Consumer Debt. The Debtor's attorney shall not file the Application to Incur Consumer Debt with the Clerk. If approved by the Trustee, the Trustee shall file the approval with the Clerk. If the Trustee denies the Application to Incur Consumer Debt or does not respond within 14 days, the Debtor's attorney may then file with the Clerk a Motion to Incur Consumer debt and the Motion to Incur Consumer Debt shall contain as an attachment the Trustee's denial of the Application to Incur Consumer Debt, if applicable.

Additional attorney's fees incurred as a result of an Application to Incur Consumer Debt may be paid through the chapter 13 plan and the plan base shall be increased accordingly.

## **16. Sale of Exempt Property**

Debtor shall not, without Court approval, transfer or dispose of assets, unless it is an exempt asset with a value of less than \$2,500.00. Debtor shall not transfer or sell any property claimed as exempt homestead unless approved by order of the Court.

## **17. Federal Income Tax Refunds in Chapter 13 Cases**

Setoff rights of the Internal Revenue Service are provided for in 11 U.S.C. § 362(b)(26). Local Rule 3023(b)(1) is superseded to the extent it authorizes application of post-petition tax refunds to pre-petition tax liabilities, unless the Court orders otherwise on motion of a party in interest under Local Rule 9013.

## **18. Procedure for Responding to Post-Confirmation Trustee's Motions to Dismiss**

A Trustee's Motion to Dismiss ("TMTD") filed after confirmation shall contain 21-day negative notice language and will be set for hearing not less than 60 days from the date of the filing of the motion. If the Debtor is able to bring plan payments current, the Debtor shall file a response which provides the date on which plan payments will be current. The parties may incorporate this deadline in an agreed order.

If no timely response to the TMTD is filed, no earlier than the 25<sup>th</sup> day after the TMTD was filed, the Court will enter the dismissal order and the hearing on the TMTD will be terminated.

If the Debtor desires to cure the default over time and continue the chapter 13 case, then the Debtor should respond to the TMTD with a Motion to Modify Plan in Response to the TMTD. The Debtor's motion shall be entitled: "Debtor's Motion to Modify Plan in Response to Trustee's Motion to Dismiss Case." The Motion to Modify Plan in Response to TMTD must contain 21-day negative notice language prominently indicated on the first page of the pleading and must be linked to the TMTD in ECF. The negative notice language on the Motion to Modify in Response should supply the date and time of the hearing on the TMTD (as any potential hearing on the Motion to Modify will be heard at the same time as the TMTD).

Counsel may file a response to the TMTD stating that the Debtor intends to file a Motion to Modify; however, the Motion to Modify must be filed timely as set forth below.

1. If a Motion to Modify is required to resolve the TMTD, the motion must be filed in time for the hearing on the motion to be set along with the pending TMTD, meaning that the Motion to Modify must be filed at least 32 days before the TMTD hearing. If a Motion to Modify is required to resolve the TMTD but is not filed in time to be set with the TMTD, the Court will grant the TMTD, absent extraordinary circumstances.
2. If a Motion to Modify cannot be filed within 32 days before the TMTD hearing or an amended Motion to Modify is subsequently filed, the Debtor

must move to expedite the hearing on the Motion to Modify, or the amended motion, to set the hearing along with the TMTD. The Debtor must follow the appropriate procedures regarding Motions to Expedite. See the judge's procedures page at:

Judge Davis: <http://www.txwb.uscourts.gov/motions-expedite>

Judge Mott: <http://www.txwb.uscourts.gov/procedures-judge-h-christopher-mott#motion-expedite>

## **19. Summary Dismissal of Case**

A chapter 13 case may be summarily dismissed upon submission of an order by the Trustee for any one of the following causes:

1. Failure of the Debtor to timely file a plan;
2. Failure of the Debtor to timely file schedules;
3. Unexcused failure of the Debtor to appear at the scheduled meeting of creditors;
4. The Debtor becomes 60 days delinquent on payments under a confirmed plan;
5. Failure to comply with the provisions of a prior order which provides for such relief;
6. Failure to submit tax returns pursuant to 11 U.S.C. § 521(e)(2); and
7. Failure to submit payment advices pursuant to 11 U.S.C. § 521(a)(1)(B)(iv).

## **20. Procedures for Closing Completed Cases**

Upon payment by the Debtor of the final plan payment to the Trustee, the Trustee will file with the Court a Trustee's Notice of Completion of Plan Payments. The Trustee will serve copies of the Trustee's Notice of Completion of Plan Payments on the Debtor and the Debtor's attorney.

Unless the Debtor is not entitled to a discharge, the filing of the chapter 13 Trustee's Notice of Completion of Plan Payments will constitute notice that each debtor must file under penalty of perjury the Debtor's Motion for Entry of Discharge and Certification Regarding Plan Completion ("Motion for Entry of Discharge"). The Motion for Entry of Discharge must be signed, filed, and served on all creditors and parties in interest included on the Court's mailing matrix within 60 days of the file date of the Trustee's Notice of Completion of Plan Payments. Failure to file the Motion for Entry of Discharge timely could result in the closing of the case without a discharge. The Motion for Entry of Discharge will include verifications by the Debtor regarding satisfaction of plan requirements, entitlement to a discharge, and the status of domestic support obligations. The Motion for Entry of Discharge will also verify that the Debtor is not disqualified by the provisions of 11 U.S.C. § 1328(h) from receiving a discharge. Unless an objection is filed in a timely manner, and provided the Debtor is otherwise entitled, the Clerk of the Court will enter an Order of Discharge. Entry of the Order of Discharge without objection constitutes a finding that 11 U.S.C. § 1328(h) has been satisfied by the Debtor.

In the event the Debtor seeks a hardship discharge pursuant to 11 U.S.C. § 1328(b), the Debtor's Motion for Hardship Discharge shall include certifications regarding the status of domestic support obligations and that the Debtor is not disqualified by the provisions of 11 U.S.C. § 1328(h) from receiving a discharge. The Trustee will not file the Trustee's Notice of Completion of Plan Payments.

## **21. Procedures Relating to Ongoing Mortgage Payments**

**A. Definitions:** As used herein, the following terms shall mean:

1. "Arrearage" means past-due payments, fees, or charges due to a Mortgage Creditor as of the Petition Date.
2. "Ongoing Mortgage Payment" means the monthly post-petition amount the Debtor is obligated to pay to the Mortgage Creditor, and that will be disbursed by the Trustee under the Plan or this Standing Order, on a monthly basis pursuant to the terms of a note, mortgage, or deed of trust constituting a perfected lien on real property that is the Debtor's principal residence, including principal, interest, taxes, insurance, and any other charges allowed to be escrowed or otherwise charged or assessed against such real property. This does not include rental or lease payments, lot payments, or payments on Contracts for Deed.
3. "Mortgage Creditor" means the entity or entities, or the servicer for such entity or entities, asserting a claim secured by a consensual lien through a mortgage or deed of trust on real property that is the principal residence of the Debtor.
4. "Petition Date" means the date the Debtor files the chapter 13 petition or the date the case converted to chapter 13 from another chapter.
5. "Party in Interest" means the Debtor, the Trustee, the United States Trustee, the holder(s) of a lien in real property that is the Debtor's principal residence, and any other party with an interest in the property.

### **B. Ongoing Mortgage Payments**

1. If a debtor owes an Arrearage claim to a Mortgage Creditor, all post-petition mortgage payments to the Mortgage Creditor during the term of the chapter 13 plan shall be made through the Trustee as part of the chapter 13 plan payment.
2. If a debtor is current on the mortgage on the Petition Date, the Debtor may make the post-petition mortgage payments directly to the Mortgage Creditor.
  - a) If a debtor who is current on the mortgage on the Petition Date makes the post-petition mortgage payments directly to the Mortgage Creditor,

Debtor shall complete Exhibit #1 and provide that document to the Trustee (not the Court) within 5 days of the Petition Date.

- b) If a debtor who is current on the mortgage on the Petition Date nevertheless decides to pay the post-petition payments to the Mortgage Creditor through the Trustee as part of the plan payment, the terms of this Standing Order apply.

**C. Debtor's Duties**

1. A debtor with an Arrearage claim shall complete Exhibit #2 Mortgage Arrearage Claim Checklist and Exhibit #3 Authorization to Release Information to the Trustee and provide those documents to the Trustee (not to the Court) within 5 days of the Petition Date.
2. The Debtor's plan shall include the name of all Mortgage Creditors holding an Arrearage claim and shall include the estimated amount of the Arrearage and the full amount of the Ongoing Mortgage Payment as of the Petition Date.
3. The Debtor shall include in the chapter 13 plan payment to the Trustee the amount of the Ongoing Mortgage Payment, plus the Trustee's fee.

**D. Trustee's Duties**

1. The Trustee will not disburse Ongoing Mortgage Payments until a proof of claim is filed with the Court. If the Trustee deems the proof of claim to contain sufficient information, and in the absence of a filed objection to the proof of claim, the Court grants the Trustee authority to disburse Ongoing Mortgage Payments as if the plan had been confirmed. If the Trustee has available funds, the initial disbursement should precede the hearing on plan confirmation.
2. The Trustee is authorized to set up an additional claim for the Mortgage Creditor for the Debtor's first mortgage payment due after the filing of the case. The claim will be paid as a secured claim, on a pro-rata basis along with the pre-petition mortgage arrearage claim, unless the Mortgage Creditor has already clearly added such amount to the pre-petition arrearage claim. This allowance shall reimburse the Mortgage Creditor for any post-petition delinquency that may accrue until the Trustee begins payments to that Creditor.
3. If a Party in Interest objects to the amount of the Ongoing Mortgage Payment, the Trustee shall be authorized to hold the Ongoing Mortgage Payments in reserve pending a resolution of the objection pursuant to an allowed amended claim or a Court order.

**E. Mortgage Creditor's Duties**

1. Any Ongoing Mortgage Payment disbursed by the Trustee to the Mortgage Creditor shall be applied to the next post-petition payment due under the terms of the note and shall not accrue a late charge under such note or reported as "late" to the credit reporting agencies unless the Debtor fails to make a full payment under the chapter 13 plan to the Trustee that causes a delay in the Trustee's disbursement of the Ongoing Mortgage Payment to the Mortgage Creditor.
2. The Mortgage Creditor shall comply with subsection F herein regarding post-petition Mortgage Payment changes and charges.

**F. Post-Petition Mortgage Payment Changes and Charges**

1. Changes to Ongoing Mortgage Payment. If the mortgage documents provide for payment changes, including changes due to interest rate adjustments or escrow account modifications, the following terms shall apply:
  - a) No later than 21 days prior to any post-petition change in the Ongoing Mortgage Payments, the Mortgage Creditor shall file with the Court and serve on the Debtor and Debtor's counsel a document that substantially complies with Official Form 410S1, Notice of Mortgage Payment Change, that shall include the new mortgage payment amount, the date the new payment takes effect, and a description of the reason for the payment change.
  - b) No later than 21 days after service of the Mortgage Creditor's Notice of Mortgage Payment Change, any Party in Interest may file a response to such notice of payment change. If no such response is filed, that amount will become the new Ongoing Mortgage Payment on the effective date provided in the Mortgage Creditor's Notice of Mortgage Payment Change. The Trustee is authorized to disburse the new Ongoing Mortgage Payment without seeking formal modification of the plan. If the Mortgage Creditor's Notice of Mortgage Payment Change is filed less than 21 days prior to the effective date of the mortgage payment change, the Trustee is authorized to set the new Ongoing Mortgage Payment to commence as soon as practicable.
  - c) If a response is filed to the Mortgage Creditor's Notice of Mortgage Payment Change, the Court will set a hearing in the ordinary course. The Trustee is authorized to disburse the new Ongoing Mortgage Payment after the effective date provided in the Mortgage Creditor's Notice of Mortgage Payment Change if the disbursement occurs prior to the hearing.

- d) No post-petition adjustment to the Ongoing Mortgage Payment shall be valid unless authorized by the agreement upon which the claim is based. The Trustee may only change the mortgage payment if the Mortgage Creditor's Notice of Mortgage Payment Change is filed with the Court, unless otherwise ordered by the Court.
  - e) If a Mortgage Creditor has a claim based on an open-end credit agreement such as a home equity line of credit, or if the interest rate or payment term is subject to frequent change that makes compliance with this sub-part impracticable or overly burdensome, a motion may be filed with the Court to exempt that claim from compliance with this subsection or to alter the manner of compliance required. The Mortgage Creditor, the Debtor, and the Trustee may also present an agreement to do so for the Court's approval.
2. Post-Petition Mortgage, Fees, Expenses, and Charges. If the Mortgage Creditor incurs post-petition attorney's fees, costs, or other charges such as property inspection fees, post-petition late charges, or other items payable by the Debtor under the terms of the loan documents, the following shall apply:
- a) Following service of the Mortgage Creditor's Notice of Post-Petition Mortgage Fees, Expenses and Charges, the Trustee is authorized to add such amount as an arrearage claim to be paid as funds are available for that class of claimant, after payment of other allowed secured claims. The Mortgage Creditor shall not duplicate or separately claim allowance of such fees, expenses, or charges in an order of the Court or in a proof of claim.
  - b) The Trustee shall annually file a report (Exhibit #4) which sets forth the date and amount of each payment made by the Trustee to a creditor whose claim is subject to these provisions. The report shall specify the period covered by the report and identify the months for which each contractual payment is applied according to the records of the Trustee. The report shall be served on the Debtor, Debtor's counsel, and each creditor holding a claim described on the report.
3. Changes to Mortgage Creditor Payee. At least 60 days prior to a change of the name of the Mortgage Creditor payee, or change to the address to which Ongoing Mortgage Payments should be sent, Mortgage Creditor shall file with the Court and notify the Trustee, Debtor, and Debtor's attorney of any such change using a document that conforms to Exhibit #5 Notice of Transfer of Servicing. The Trustee will change the name and/or address of the Mortgage Creditor payee as soon as practicable after the Notice of Transfer of Servicing is filed with the Court.

**G. Trustee’s Final Report Upon Dismissal or Conversion**

Upon dismissal or conversion of the case, the Trustee will file a Final Report including an accounting of all Arrearage payments and Ongoing Mortgage Payments. The Mortgage Creditor will have 30 days from the filing of such report to file an objection to the Trustee’s accounting. Absent a timely objection, the Trustee’s Final Report will be binding on the Mortgage Creditor.

**H. Effect of Plan Completion**

Upon ceasing the conduit mortgage payments to be paid through the chapter 13 plan at or around the completion of a chapter 13 case, the Trustee will file a Notice Deeming Mortgage Current and Directing Debtor to Resume Monthly Mortgage Payments (Exhibit #6). The Mortgage Creditor will have 21 days from the filing of the notice to file an objection. Absent a timely objection, the Trustee’s Notice Deeming Mortgage Current and Directing Debtor to Resume Monthly Mortgage Payments will be binding on the Mortgage Creditor and Debtor with the same effect as an order of the Bankruptcy Court.

**22. 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 the Western District of Texas, or any applicable Standing Orders. These procedures shall not be modified by any plan language without express order from the Court.

The above procedures are hereby adopted for the Bankruptcy Court for the Western District of Texas in the Austin Division.

IT IS SO ORDERED.

###

**EXHIBIT 1**

Debtor 1 Name: \_\_\_\_\_ Case #: \_\_\_\_\_

Debtor 2 Name: \_\_\_\_\_

**PRE-PETITION MORTGAGE DECLARATION FOR DEBTOR(S) CURRENT  
ON ALL MORTGAGE PAYMENTS**

**SUBMIT TO TRUSTEE ONLY**  
**DO NOT FILE THIS DOCUMENT WITH THE COURT**

\_\_\_\_\_ The Debtor(s) are current on all home mortgage payments and shall continue to pay the regular monthly mortgage payment(s) directly to the creditor(s) listed below.

\_\_\_\_\_ The Debtor(s) do not have a mortgage.

\_\_\_\_\_ The Debtor(s) will surrender their homestead.

**THE FOLLOWING INFORMATION MUST BE PROVIDED FOR ALL  
MORTGAGE CLAIMS THE DEBTOR(S) PLAN(S) TO PAY DIRECTLY. A  
COPY OF THE MORTGAGE PAYMENT COUPON OR THE MOST RECENT  
MORTGAGE STATEMENT MUST ALSO BE ATTACHED.**

Complete Name of Mortgage Creditor/Service: \_\_\_\_\_

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

Telephone/Fax Number: \_\_\_\_\_ / \_\_\_\_\_

Name of Legal Representative, if known: \_\_\_\_\_

Address of Legal Representative: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Complete (Unredacted) Account Number: \_\_\_\_\_

---

Signature (Debtor 1)

---

Date

---

Signature (Debtor 2)

---

Date

**EXHIBIT 2**  
**MORTGAGE ARREARAGE CLAIM CHECKLIST**  
**SUBMIT TO THE TRUSTEE ONLY**  
**DO NOT FILE WITH THE COURT**

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

Bk Case #: \_\_\_\_\_

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

Residence

Rental

Other Describe: \_\_\_\_\_

Daytime Phone: (    ) \_\_\_\_\_ Evening: (    ) \_\_\_\_\_

Mortgage Company Attorney Name and Contact Information:

\_\_\_\_\_

**THE FOLLOWING INFORMATION MUST BE PROVIDED FOR ALL  
MORTGAGE ARREARAGE CLAIMS LISTED IN YOUR PLAN. PLEASE  
COMPLETE THIS FORM TO THE BEST OF YOUR ABILITY AND ATTACH  
THE MORTGAGE PAYMENT COUPON OR STATEMENT PROVIDED TO  
YOU BY THE MORTGAGE CREDITOR.**

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

Account #: \_\_\_\_\_

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Creditor Phone Number: \_\_\_\_\_

Regular Monthly Payment Amount: \$ \_\_\_\_\_ Current Interest Rate: \_\_\_\_\_%

Monthly Payment Due Date: \_\_\_\_\_

Date Payment Late: \_\_\_\_\_ Monthly Late Charge Amount: \$ \_\_\_\_\_

Is there a grace period for making a payment? If so, explain: \_\_\_\_\_

Is this a variable interest rate loan? Yes No

If yes, when is the next anticipated adjustment date? \_\_\_\_\_

Are property taxes included in the monthly payment? Yes No

Is insurance included in the monthly payment? Yes No

Is the loan due in full and payable in less than 5 years? Yes No

If yes, due date: \_\_\_\_\_

**EXHIBIT 3**

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

SUBMIT TO THE TRUSTEE ONLY  
DO NOT FILE WITH THE COURT

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

Bk Case #: \_\_\_\_\_

The debtor(s) in the above captioned bankruptcy case hereby authorize any and all lien holder(s) on real property of the bankruptcy estate to release information to Deborah B. Langehennig, Standing Chapter 13 Trustee. 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, impound accounts, amount of the contractual late charge and the mailing address for payments. This information will only be used by the Trustee and 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 4**

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

**IN RE:**  
    **[DEBTOR]**  
**DEBTOR**

**CASE NO.**  
  
**CHAPTER 13**

**NOTICE OF TRUSTEE DISBURSEMENTS IN ONGOING MORTGAGE CASE**

**NOTICE IS HEREBY GIVEN** that the following is a schedule of payments made on the above referenced claim.

This notice covers the period from [*date after last notice sent*] through [*today's date*]. These payments should be applied pursuant to the terms of the confirmed/modified plan, beginning with the first installment due under the terms of the plan, and in accordance with the procedures in place in the Western District of Texas, Austin Division.

In order to collect a claim against the estate or the debtor for late charges, attorney fees, or other charges you believe are authorized pursuant to your agreement with the debtor (other than a claim for a regularly scheduled installment that became due within the period covered by this report) you must file your claim pursuant to Federal Rule of Bankruptcy Procedure 3002.1(c). You may file this claim by filing a supplemental proof of claim that clearly itemizes and identifies the charges being asserted.

**RESPECTFULLY SUBMITTED,**

/s/ Deborah B. Langehennig  
Deborah B. Langehennig, Trustee  
6201 Guadalupe Street  
Austin, Texas 78752  
(512) 912-0305 Telephone

## SUMMARY OF PAYMENTS

*[insert payment history]*

## CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true and correct copy of the foregoing was sent to all parties as listed below on *[date]*, either electronically or via U.S. First Class Mail.

United States Trustee  
*[address]*

Debtor's Attorney  
*[address]*

Debtor  
*[address]*

Mortgage Co.  
*[notice address from proof of claim]*

Mortgage Co.  
*[address from notice of appearance]*

Counsel for Mortgage Co.  
*[address]*

/s/ Deborah B. Langehennig  
Deborah B. Langehennig, Trustee

**EXHIBIT 5**

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

In re: Debtors.	Case No. Chapter 13 Judge
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**MORTGAGE CREDITOR'S NOTICE OF TRANSFER  
OF SERVICING**

**PLEASE TAKE NOTICE** that the servicing of the mortgage loan 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 Conduit Mortgage Payments and Arrearage payments should be sent to Transferee at the following address:

Mortgage Creditor Name: \_\_\_\_\_

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

Contact: \_\_\_\_\_

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

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

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

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

Printed Name  
Company Name  
Company Address  
Company Phone/Fax

**EXHIBIT 6**

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

**IN RE:**

**[NAME OF DEBTOR(S)]**

**CASE NO. [CASE NO.]**

**DEBTOR(S)**

**CHAPTER 13**

**TRUSTEE'S NOTICE DEEMING MORTGAGE CURRENT AND DIRECTING  
DEBTOR TO RESUME MONTHLY MORTGAGE PAYMENTS**

**This pleading requests relief that may be adverse to your interests.**

**No hearing will be conducted on this Notice unless a written objection is filed within twenty-one (21) days from the date of service.**

**A timely objection is necessary for a hearing to be held. If no objection is timely filed, the Trustee's Notice Deeming Mortgage Current and Directing Debtor(s) to Resume Monthly Mortgage Payments will be binding on the mortgage creditor and the debtor(s) with the same effect as an order of the Bankruptcy Court.**

**TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE.**

**Comes now Deborah B. Langehennig, Chapter 13 Trustee (hereinafter "Trustee"), and making this her *Notice Deeming Mortgage Current and Directing Debtor to Resume Monthly Mortgage Payments* states as follows:**

- 1. That the Debtor(s) has completed all payments due under the Chapter 13 Plan as confirmed and modified herein and that attached hereto and marked as Exhibit 1 is the Trustee's record of payees and payments on the Debtor(s)'s residential home mortgage.**
- 2. That the Trustee has paid all monthly mortgage payments due during the Plan in accordance with the provisions of said Plan and has further paid all arrearages, interest, costs, escrow shortages, attorney fees and other expenses as set forth in the original and any amended proof of claim or written notice filed by MORTGAGE CREDITOR, its predecessors, successors and assignees.**
- 3. That the Trustee has provided MORTGAGE CREDITOR with written notice of completion of the Debtor's Plan and payment in full of all amounts set out above.**
- 4. That the Debtor's mortgage is current through the month of \_\_\_\_\_.**

5. The Debtor(s) is directed to resume making regular monthly mortgage payments beginning with the payment due for \_\_\_\_\_.

Respectfully Submitted:

\_\_\_\_\_  
Deborah B. Langehennig, Trustee  
6201 Guadalupe Street  
Austin, TX 78752  
512-912-0305 *telephone*

#### CERTIFICATE OF SERVICE

I certify that on \_\_\_\_\_ a copy of the foregoing *Trustee's Notice Deeming Mortgage Current and Directing Debtor to Resume Monthly Mortgage Payments* was served electronically and/ or by United States Mail upon the Mortgage Creditor, Creditor's Counsel, Debtor(s), Debtor's Counsel and the U.S. Trustee at the addresses indicated below.

\_\_\_\_\_  
Deborah B. Langehennig, Trustee

U.S. Trustee  
[*address*]

Attorney for Debtor(s)  
[*address*]

Debtor(s)  
[*address*]

Mortgage Creditor  
[*notice address on proof of claim*]

Mortgage Creditor  
[*notice address on notice of appearance*]

Attorney for Mortgage Creditor  
[*address*]