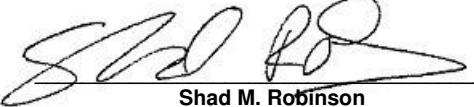


SIGNED this 21st day of January, 2025.

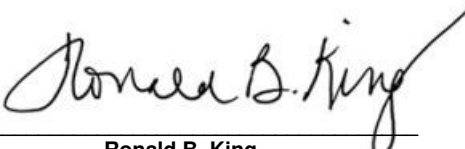


  
Craig A. Gargotta  
Chief United States Bankruptcy Judge

  
Michael M. Parker  
United States Bankruptcy Judge

  
Shad M. Robinson  
United States Bankruptcy Judge

  
Christopher G. Bradley  
United States Bankruptcy Judge

  
Ronald B. King  
United States Bankruptcy Judge

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

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**ORDER RESCINDING STANDING ORDERS SUPERSEDED BY REVISIONS  
TO THE LOCAL COURT RULES AND RELATED DOCUMENTS**

The United States Bankruptcy Court for the Western District of Texas adopted revisions to its Local Court Rules and related documents effective February 3, 2025. As part of that process, many of the Court's standing orders were incorporated into its rules. Those superseded standing orders are no longer necessary and are hereby rescinded as provided below.

**Effective February 3, 2025, the following standing orders, provided in full as Exhibit 1, shall be rescinded:**

Order #	Title	File Date (not the effective date)
23-05	<a href="#">Standing Order Regarding Bankruptcy Court Hearings</a> (See L. Rule 9073-1.)	11/6/2023

21-05	<a href="#"><u>Amended Standing Order for Chapter 13 Case Administration for the Austin Division Effective in all cases Filed on and after January 1, 2022</u></a> (See Order # 25-03, <i>Amended Standing Order for the Adoption of a District Form Chapter 13 plan, effective 2/3/2025. See generally the revised local rules relating to chapter 13 practice.</i> )	12/22/2021
21-04	<a href="#"><u>Standing Order Increasing Benchmark Fee for Chapter 13 Cases</u></a> (See Order # 25-04, <i>Standing Order Regarding Benchmark Fees in Chapter 13 Cases, effective 2/3/2025.</i> )	12/1/2021
20-09	<a href="#"><u>Standing Order Regarding Chapter 13 Tax Refunds</u></a> (See L. Rule 3023-1.)	9/14/2020
20-08	<a href="#"><u>Standing Order Adopting Chapter 13 Loan Modification Program</u></a> (See L. Rule 9019-1(d).)	8/21/2020
18-02	<a href="#"><u>Standing Order Relating to Non-Attorney Professional Electronic Filer Accounts</u></a> (See L. Rule 5005-1 and the <i>Administrative Policies and Procedures for Electronic Filing.</i> )	9/18/2018
18-01	<a href="#"><u>Standing Order Relating to Declarations for Electronic Filing - Effective March 1, 2018</u></a> (See L. Rule 5005-1 and the <i>Administrative Policies and Procedures for Electronic Filing.</i> )	3/1/2018
17-10	<a href="#"><u>Amended Standing Order Relating to Divisional Venue Assignment for Chapter 7, 12 and 13 Cases - Effective December 27, 2017</u></a> (See L. Rule 1002-1(b).)	12/27/2017
17-09	<a href="#"><u>Standing Order Regarding Objections to Proofs of Claim - Effective December 19, 2017</u></a> (See L. Rule 3007-1.)	12/19/2017
17-07	<a href="#"><u>Standing Order Relating to Payment of Filing Fees in Installments - Effective December 1, 2017</u></a> (See L. Rule 1006-1.)	11/8/2017

17-06	<a href="#"><u>Standing Order for Chapter 13 Case Administration for the Waco Division Effective in all cases Filed on and after November 1, 2017</u></a> (See Order # 25-03, Amended Standing Order for the Adoption of a District Form Chapter 13 plan, effective 2/3/2025. See generally the revised local rules relating to chapter 13 practice.)	11/2/2017
17-05	<a href="#"><u>Standing Order for Chapter 13 Case Administration for the Midland Division Effective in all cases Filed on and after November 1, 2017</u></a> (See Order # 25-03, Amended Standing Order for the Adoption of a District Form Chapter 13 plan, effective 2/3/2025. See generally the revised local rules relating to chapter 13 practice.)	10/30/2017
17-04	<a href="#"><u>Standing Order for Chapter 13 Case Administration for the Austin Division Effective in all cases Filed on and after November 1, 2017</u></a> (See Order # 25-03, Amended Standing Order for the Adoption of a District Form Chapter 13 plan, effective 2/3/2025. See generally the revised local rules relating to chapter 13 practice.)	10/26/2017
17-03	<a href="#"><u>Standing Order for Chapter 13 Case Administration for the El Paso Division Effective in all cases Filed on and after November 1, 2017</u></a> (See Order # 25-03, Amended Standing Order for the Adoption of a District Form Chapter 13 plan, effective 2/3/2025. See generally the revised local rules relating to chapter 13 practice.)	10/17/2017
17-02	<a href="#"><u>Consolidated Standing Order Adopting District Form Chapter 13 Plan and Chapter 13 Plan - Effective for Cases Filed on and after November 1, 2017 in all Divisions</u></a> (See Order # 25-03, Amended Standing Order for the Adoption of a District Form	10/16/2017

	<i>Chapter 13 plan, effective 2/3/2025. See generally the revised local rules relating to chapter 13 practice.)</i>	
17-01	<a href="#"><u>Standing Order: (I) That Pro Bono Legal Counsel are not Debt Relief Agencies and (II) That Pro Bono Counsel for Debtors are not Subject to Sections 526 through 528 of the Bankruptcy Code</u></a> (See L. Rule 2016-1(c).)	9/7/2017
16-01	<a href="#"><u>Standing Order Relating to Chapter 13 Practices in the San Antonio Division</u></a> (See Order # 25-03, Amended Standing Order for the Adoption of a District Form Chapter 13 plan, effective 2/3/2025. See generally the revised local rules relating to chapter 13 practice.)	8/5/2016
15-05	<a href="#"><u>Consolidated Standing Order for Chapter 13 Case Administration for the Austin Division</u></a> (See Order # 25-03, Amended Standing Order for the Adoption of a District Form Chapter 13 plan, effective 2/3/2025. See generally the revised local rules relating to chapter 13 practice.)	10/29/2015
15-04	<a href="#"><u>Amended Standing Order Relating to Ongoing Mortgage Payments in Chapter 13 Cases in the Austin Division</u></a> (See Order # 25-03, Amended Standing Order for the Adoption of a District Form Chapter 13 plan, effective 2/3/2025. See generally the revised local rules relating to chapter 13 practice.)	10/29/2015
15-03	<a href="#"><u>Standing Order:(I)That Pro Bono Legal Counsel are not Debt Relief Agencies and (II) That Pro Bono Counsel for Debtors are not Subject to Sections 526 through 528 of the Bankruptcy Code</u></a> (See L. Rule 2016-1(c).)	10/6/2015
15-02	<a href="#"><u>Standing Order Increasing Benchmark Fee for Chapter 13 Cases</u></a> (See Order # 25-04, Standing Order Regarding Benchmark Fees in Chapter 13 Cases, effective 2/3/2025.)	9/30/2015

13-03	<a href="#"><u>Order Adopting Local Rules of the United States Bankruptcy Court, Western District of Texas</u></a> (See Order # 25-01, <i>Order Adopting Local Rules of the United States Bankruptcy Court for the Western District of Texas, effective 2/3/2025.</i> )	11/1/2013
13-01	<a href="#"><u>Consolidated Standing Order for Chapter 13 Case Admin for Austin</u></a> (See Order # 25-03, <i>Amended Standing Order for the Adoption of a District Form Chapter 13 plan, effective 2/3/2025. See generally the revised local rules relating to chapter 13 practice.</i> )	2/6/2013
12-02	<a href="#"><u>Chapter 13 Case Administration for El Paso, Midland and Waco</u></a> (See Order # 25-03, <i>Amended Standing Order for the Adoption of a District Form Chapter 13 plan, effective 2/3/2025. See generally the revised local rules relating to chapter 13 practice.</i> )	11/19/2012
12-01	<a href="#"><u>Amended Standing Order Relating to Ongoing Mortgage Payments in Chapter 13 Cases in the Austin Division</u></a> (See Order # 25-03, <i>Amended Standing Order for the Adoption of a District Form Chapter 13 plan, effective 2/3/2025. See generally the revised local rules relating to chapter 13 practice.</i> )	3/23/2012
11-04	<a href="#"><u>Amended Standing Order Relating to Attorney Fees in Chapter 13 Cases in the Waco Division</u></a> (See Order # 25-04, <i>Standing Order Regarding Benchmark Fees in Chapter 13 Cases, effective 2/3/2025.</i> )	10/18/2011
11-03	<a href="#"><u>Standing Order Chapter 7 Trustee Bank Service Fees</u></a> (See L. Rule 6004-1(a)(2).)	10/3/2011
11-02	<a href="#"><u>Standing Order Regarding Mandatory Electronic Filing</u></a> (See L. Rule 5005-1 and the <i>Administrative Policies and Procedures for Electronic Filing.</i> )	4/27/2011

10-02	<a href="#"><u>Standing Order El Paso Chapter 13 Fees</u></a> (See Order # 25-04, <i>Standing Order Regarding Benchmark Fees in Chapter 13 Cases, effective 2/3/2025.</i> )	11/29/2010
08-02	<a href="#"><u>Standing Order Relating to Attorney Fees in Chapter 13 Cases in the Midland Division</u></a> (See Order # 25-04, <i>Standing Order Regarding Benchmark Fees in Chapter 13 Cases, effective 2/3/2025.</i> )	5/29/2008
08-01	<a href="#"><u>Amended Standing Order Relating to Attorney Fees in Chapter 13 Cases in the Waco Division</u></a> (See Order # 25-04, <i>Standing Order Regarding Benchmark Fees in Chapter 13 Cases, effective 2/3/2025.</i> )	1/7/2008
07-02	<a href="#"><u>Standing Order Relating To Attorney Fees In Chapter 13 Cases In The El Paso and Waco Divisions</u></a> (See Order # 25-04, <i>Standing Order Regarding Benchmark Fees in Chapter 13 Cases, effective 2/3/2025.</i> )	1/23/2007
06-01	<a href="#"><u>Standing Order Relating to Attorneys Fees - Ch. 13 San Antonio Division</u></a> (See Order # 25-04, <i>Standing Order Regarding Benchmark Fees in Chapter 13 Cases, effective 2/3/2025.</i> )	6/13/2006
05-07	<a href="#"><u>Standing Order for Ch 13 Case Adm for Midland Division</u></a> (See Order # 25-03, <i>Amended Standing Order for the Adoption of a District Form Chapter 13 plan, effective 2/3/2025. See generally the revised local rules relating to chapter 13 practice.</i> )	11/17/2005
05-05	<a href="#"><u>First Joint Standing Order Relating to Chapter 13 Case Administration Under BAPCPA in the El Paso and Waco Divisions</u></a> (See Order # 25-03, <i>Amended Standing Order for the Adoption of a District Form Chapter 13 plan, effective 2/3/2025. See generally the revised local rules relating to chapter 13 practice.</i> )	11/8/2005

05-04	<a href="#"><u>Amended Standing Order Relating to Chapter 13 Practices in the San Antonio Division</u></a> (See Order # 25-03, <i>Amended Standing Order for the Adoption of a District Form Chapter 13 plan, effective 2/3/2025. See generally the revised local rules relating to chapter 13 practice.</i> )	11/7/2005
05-01	<a href="#"><u>General Order - Chapter 13 Debtor Attorney Fees - San Antonio Division</u></a> (See Order # 25-04, <i>Standing Order Regarding Benchmark Fees in Chapter 13 Cases, effective 2/3/2025.</i> )	4/20/2005
04-08	<a href="#"><u>Third Amended Standing Order Relating To Attachments To Pleadings and Proof(s) of Claim</u></a> (See L. Rule 5005-1 and the <i>Administrative Policies and Procedures for Electronic Filing.</i> )	12/6/2004
04-07	<a href="#"><u>Order Adopting New Administrative Procedures for Electronic Filing</u></a> (See L. Rule 5005-1 and the <i>Administrative Policies and Procedures for Electronic Filing.</i> )	11/30/2004
04-06	<a href="#"><u>Amended Standing Order Regarding Privacy Related Rules</u></a> (See FRBP 9037, L. Rule 5005-1, and the <i>Administrative Policies and Procedures for Electronic Filing.</i> )	11/15/2004
02-06	<a href="#"><u>Second Amended Standing Order Relating to the Submission of Orders</u></a> (See L. Rule 5005-1 and the <i>Administrative Policies and Procedures for Electronic Filing.</i> )	12/4/2002
01-04	<a href="#"><u>Standing Order on First Day Motions in Chapter 11 Cases</u></a> (See L. Rule 1020.1-1 and 1020.2-1.)	5/7/2001
00-02	<a href="#"><u>Standing Order for Case Administration for Austin Division</u></a> (See Order # 25-03, <i>Amended Standing Order for the Adoption of a District Form Chapter 13 plan, effective 2/3/2025. See generally the</i>	11/15/2000

	revised local rules relating to chapter 13 practice.)	
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It is **SO ORDERED**.

# # #



# **Exhibit 1**

Rescinded Standing Orders Superseded by Revisions  
to the Local Court Rules and Related Documents


Effective February 3, 2025

SIGNED this 06th day of November, 2023.

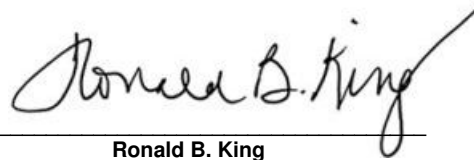


  
Craig A. Gargotta  
Chief United States Bankruptcy Judge

  
Michael M. Parker  
United States Bankruptcy Judge

  
Shad M. Robinson  
United States Bankruptcy Judge

  
Christopher G. Bradley  
United States Bankruptcy Judge

  
Ronald B. King  
United States Bankruptcy Judge

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

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**STANDING ORDER REGARDING BANKRUPTCY COURT HEARINGS**

**IT IS HEREBY ORDERED:**

As directed by the presiding judge in a bankruptcy case or proceeding, trials and hearings will be conducted either (1) in-person, (2) remotely by video conference, (3) remotely by telephone conference, or (4) a combination of in-person and remote appearances. The hearing notice issued by the clerk of court will inform interested parties of the date, time, location, and available participation options for the trial or hearing. Additional information may be found on the presiding judge's webpage at <https://www.txwb.uscourts.gov/judges-information>.

(a) Members of the Public Permitted to Appear In-Person.

If a hearing notice allows for in-person appearances, members of the public and media may observe the trial or hearing in the courtroom unless the presiding judge directs otherwise, such as in sealed, secret, or confidential matters.

(b) Members of the Public Not Permitted to Appear by Video Conference.

In accordance with federal judiciary policy applicable to bankruptcy courts, only parties in interest, their attorneys, and witnesses may appear remotely by video conference. Members of the public and media are prohibited from observing a trial or hearing remotely by video conference.

(c) Members of the Public Permitted to Appear Telephonically in Non-Evidentiary Hearings.

If a hearing notice allows for telephonic appearances, members of the public and media may call in and observe a non-evidentiary hearing remotely by telephone. A non-evidentiary hearing for these purposes is one in which a witness is not expected to testify. Members of the public and media are prohibited from observing a trial or hearing remotely by telephone when a witness is expected to testify.

(d) Photographs and Recording of Court Proceedings Prohibited.

Recording, broadcasting, televising, or taking photographs in the courtroom and in adjacent areas, including the offices of the clerk of court, is strictly prohibited, unless authorized in writing by the presiding judge. This prohibition applies to all court proceedings regardless of whether the trial or hearing is in-person, remote, or a combination thereof. The clerk of court maintains an audio recording of every proceeding, which constitutes the official record of the proceeding. Information for ordering a copy of an audio recording or transcript is available on the court's website at <https://www.txwb.uscourts.gov/transcript-and-cd-requests>.

(e) This Order shall become effective immediately.

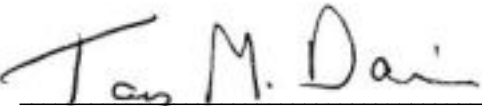
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SIGNED this 22nd day of December, 2021.

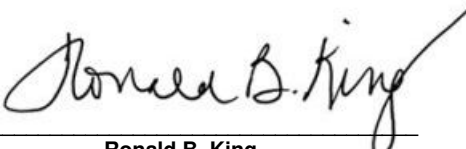


  
Craig A. Gargotta  
Chief United States Bankruptcy Judge

  
H. Christopher Mott  
United States Bankruptcy Judge

  
Tony M. Davis  
United States Bankruptcy Judge

  
Michael M. Parker  
United States Bankruptcy Judge

  
Ronald B. King  
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

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AMENDED STANDING ORDER FOR CHAPTER 13 CASE ADMINISTRATION FOR  
THE AUSTIN DIVISION EFFECTIVE IN ALL CASES FILED ON OR AFTER  
JANUARY 1, 2022\*

\*This amended standing order only revises the benchmark chapter 13 fees and the presumptively reasonable fees for post-confirmation contested matters set forth in paragraph 13, below. Changes to the fees in paragraph 13 are provided in *italicized, bold, and underlined* text.

1. **Effective Date and Applicability**

The effective date of this Order is January 1, 2022, and applies to all cases filed in the Austin Division on or after that date. This 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”), together with the Standing Order Regarding Chapter 13 Tax Refunds effective October 1, 2020, will govern in all cases filed in the Austin Division on or after January 1, 2022.

This amended standing order, together with the District-Wide Standing Order and the Standing Order Regarding Chapter 13 Tax Refunds effective October 1, 2020, 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 or after January 1, 2022. For all cases filed on or prior to December 31, 2021, 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 21st 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 Recommendations 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 **\$4,500**. If the bankruptcy case is successfully confirmed on the first confirmation setting, the benchmark fee awarded shall be **\$4,800**. The benchmark fee for business chapter 13 cases shall be **\$5,800**. These benchmark fees include the **\$500** increase in benchmark fees made by Standing Order signed December 1, 2021.



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 - **\$350**
2. Defending a Motion to Dismiss - **\$325**
3. Motions to Sell Property - **\$500** (additional \$200 with expedited hearing);
4. Applications to Incur Debt - **\$250**
5. Notice to Retain Tax Refund - **\$500**
6. Motions for Moratorium - \$200
7. Motion to Reinstate Case - **\$425** to be paid direct; and
8. Motion to Modify filed more than 120 days following the confirmation hearing where the plan was confirmed - **\$700**

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 25th 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
--------------------	---------------------------------

**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*]

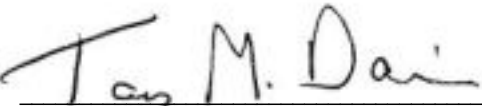
Attorney for Mortgage Creditor  
[*address*]

SIGNED this 01st day of December, 2021.

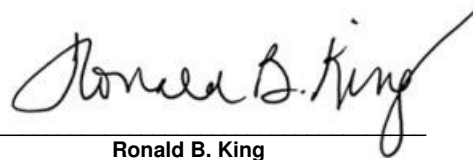


  
Craig A. Gargotta  
Chief United States Bankruptcy Judge

  
H. Christopher Mott  
United States Bankruptcy Judge

  
Tony M. Davis  
United States Bankruptcy Judge

  
Michael M. Parker  
United States Bankruptcy Judge

  
Ronald B. King  
United States Bankruptcy Judge

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

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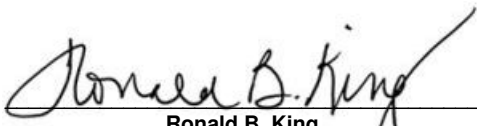
**STANDING ORDER INCREASING BENCHMARK FEE FOR CHAPTER 13 CASES**

The benchmark fee for all chapter 13 cases (consumer and business) filed in all divisions of this District shall be increased by \$500 for cases filed on or after January 1, 2022.

###

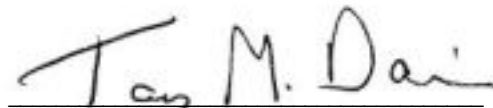
SIGNED this 14th day of September, 2020.



  
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

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS**

§  
§  
§  
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**STANDING ORDER REGARDING CHAPTER 13 TAX REFUNDS**

This Standing Order relates to tax refunds received by Debtor(s) in chapter 13 cases in all divisions of the Western District of Texas.

1. This Standing Order is effective **October 1, 2020** (“Effective Date”). This Standing Order applies to all active chapter 13 cases in which a chapter 13 plan has not been confirmed by the Effective Date. This Standing Order does not apply to chapter 13 cases in which a chapter 13 plan has been confirmed on or before the Effective Date.

2. Section 4.1 of the Western District of Texas district-wide chapter 13 plan adopted by the Judges of this Court on November 1, 2017, as set forth in the *Consolidated Standing Order for the Adoption of a District Form Chapter 13 Plan* (“Form Plan”) is hereby deleted as of the Effective Date. Section 4.1 will be deemed deleted from any Form Plan that contains section 4.1 which is confirmed after the Effective Date.

3. As of the Effective Date, section 4.1 of the Form Plan is hereby superseded and replaced with the following treatment of tax refunds in chapter 13 cases:

(A) Tax refunds received by the Debtor (or either Debtor if a joint case) while the chapter 13 case is pending are presumed to be disposable income to be turned over by the Debtor(s) upon

receipt to the Trustee. The amount of the tax refund turned over to the Trustee shall increase the base amount of the plan. The plan shall be deemed modified accordingly, and the Trustee shall file a Notice of Plan Modification within 21 days from the Trustee's receipt of the tax refund. The Trustee is hereby authorized to endorse a tax refund check if the check is made payable to the Debtor(s).

(B) However, the Debtor(s) may rebut the presumption that all or a portion of the tax refund is disposable income to be turned over to the Trustee, by filing a Notice to Retain all or a portion of the tax refund no later than 30 days of the receipt by the Debtor(s) of the tax refund. The Notice to Retain filed by the Debtor(s) shall contain 21-day negative notice as set forth in Local Rule 9014(a) and should be served on the Trustee. Such Notice to Retain shall state with specificity the basis as to why all or some portion of the tax refund is not disposable income and Debtor(s) shall simultaneously provide to the Trustee supporting documentation demonstrating the tax refund sought to be retained is needed to pay expenses that are reasonable and necessary for the support of the Debtor(s) or dependents. If the Trustee does not file an objection to the Notice to Retain within the 21-day negative notice period, the Debtor(s) shall thereafter be entitled to retain and use the amount of the tax refund set forth in the Notice to Retain without further order of the Court. If the Trustee timely files an objection to the Notice to Retain, the Court will determine what portion of the tax refund, if any, is disposable income to be turned over by the Debtor(s) to the Trustee.

(C) Upon receipt by the Debtor(s) of a tax refund, the Debtor(s) shall hold such tax refund in trust and not spend the tax refund unless and until (i) a Notice to Retain is filed by the Debtor(s) and no objection is filed by the Trustee to the Notice to Retain within the 21-day period; or (ii) if an objection is timely filed by the Trustee to a Notice to Retain, the Court has determined what portion of the tax refund, if any, is disposable income to be turned over by the Debtor(s) to the Trustee; or (iii) other order of the Court. If the Debtor(s) do not intend to file a Notice to Retain with respect to all or a portion of a tax refund, the Debtor(s) shall, immediately upon receipt of the tax refund, turnover the tax refund (or such portion of the tax refund that the Debtor does not intend to seek to retain) to the Trustee as disposable income.

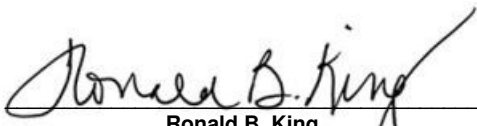
(D) Nothing contained in paragraph 3 of this Standing Order shall prevent the Court, by order entered in a particular case, from providing for other treatment of tax refunds received by the Debtor(s) in a particular case.


It is **SO ORDERED**.

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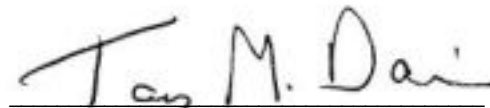
SIGNED this 21st day of August, 2020.



  
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

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS**

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**STANDING ORDER ADOPTING  
CHAPTER 13 LOAN MODIFICATION PROGRAM**

This Standing Order adopts the attached Loan Modification Program for Chapter 13 Cases in the Western District of Texas (“Loan Modification Program”) developed by the Bankruptcy Law Section of the State Bar of Texas. A copy of the Loan Modification Program and all Mandatory Forms is posted to the Court’s website at [www.txwb.uscourts.gov](http://www.txwb.uscourts.gov).

Participation in the Loan Modification Program when negotiating mortgage loan modifications is encouraged, but not required. Debtors remain free to negotiate mortgage loan modifications on their own, outside of the Loan Modification Program. If the Loan Modification Program is used, however, compliance with its terms and use of its forms is mandatory.

Effective September 1, 2020, the Loan Modification Program shall apply to all active Chapter 13 cases pending in the Western District of Texas. The Court may modify the terms of the Loan Modification Program and the Mandatory Forms from time to time. Any amended documents will be posted to the Court’s website.

It is **SO ORDERED**.

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## **BANKRUPTCY LOAN MODIFICATION PROGRAM** **FOR THE WESTERN DISTRICT OF TEXAS**

1. **PURPOSE.** This Loan Modification Program (also “LMP”) is adopted to provide a uniform procedure to allow Chapter 13 Debtors, Lenders, and other parties to negotiate a potential modification of an Eligible Loan. The goal of the Loan Modification Program is to facilitate communication between the parties; provide for the confidential exchange of information and documents; and to encourage the parties to finalize a feasible, consensual, and beneficial loan modification.
2. **EFFECTIVE DATE.** This Loan Modification Program shall apply to all active Chapter 13 Cases pending on or after the date these procedures are adopted by the Court.
3. **COURT DISCRETION.** All provisions set forth herein shall apply to every Loan Modification Matter (also “LMM”) unless otherwise ordered by the Court in any specific Case. Any request for a variance shall be made by a motion served on all LMM Parties and the Chapter 13 Trustee or on those parties as directed by the Court. Such parties shall have fourteen (14) days from the date of service to object and request a hearing. If an objection is not timely filed, the Court may enter an order approving the relief sought without conducting a hearing.
4. **DEFINITIONS AND GENERAL PROVISIONS.** In this Loan Modification Program, the following definitions and general provisions shall apply. Defined terms used in this LMP are capitalized. **Read this section carefully since these definitions and provisions apply throughout this Loan Modification Program:**

**Additional Parties** – Any non-Debtor entity whose participation in the LMM may be necessary or desirable, including any non-Debtor co-obligor or co-borrower on the Eligible Loan; any non-Debtor entity with an ownership interest in the Eligible Property; any creditor with a lien on the Eligible Property, other than the Lender; and any other third party.

**Auditor** – The person appointed by the Program Manager who may complete a review of the LMM, as described herein.

**Case** – A Chapter 13 bankruptcy case pending in the Court.

**Certification of Document Preparation** – The Certification obtained by the Debtor upon completion of the Document Preparation Software and payment of the Document Preparation Software Fee. The Certification of Document Preparation must be attached to the filed *Initial Notice of Loan Modification Matter*. The Certificate is generated by the Document Preparation Software.

**Conduit Program** – The process by which all mortgage arrears, the periodic post-petition mortgage payments, and any mortgage fees, expenses and charges owed to a mortgage lender are disbursed by the Trustee. This includes any Trial Period Payments and payments pursuant to a Loan Modification Agreement.

**Court** – The United States Bankruptcy Court in which the Case is pending.

**Debtor** – Any individual with a pending Case as of or after the Effective Date, including a *pro se* Debtor. The term includes joint debtors.

**Direct Pay** – Disbursements by the Debtor directly to the Lender on an Eligible Loan, as opposed to disbursements by the Trustee to the Lender.

**Document Preparation Software** – The secure online program, maintained and operated by the Portal Provider, which facilitates the preparation of the Initial LMM Package by (1) populating the Initial Documents and (2) by generating a customized checklist of the required additional forms and supporting documents required by the Lender.

**Document Preparation Software Fee** – A non-refundable fee to be paid by the Debtor to the Portal Provider. The fee is \$60.00 as of the Effective Date. This fee is in addition to the LMM Portal Submission Fee. A separate Document Preparation Software Fee shall be collected by the Portal Provider for each Eligible Loan submitted to the Loan Modification Program. If the Debtor is authorized to initiate more than one LMM on any Eligible Loan, a separate Document Preparation Software Fee shall be collected by the Portal Provider each time an LMM is initiated.

**Eligible Loan** – Any loan, extension of money or credit, or any repayment obligation which is secured by Eligible Property. This term includes, without limitation, subprime or non-traditional loans; loans in foreclosure prior to the filing of the Case; loans secured by a first or junior deed of trust or lien on Eligible Property; and/or a loan that has been pooled, securitized, or assigned to a creditor or trustee.

**Eligible Property** – Real property in which the Debtor has an ownership interest, including an ownership interest in the Debtor's principal residence and/or homestead property, secondary property, or commercial property.

**Final LMM Report** – The report to be filed with the Court by the Debtor or the Program Manager at the conclusion of the LMM.

**Initial Documents** – Collectively, this includes those documents generally required by a Lender to initiate the review of Debtor's LMM, which documents are included in the Document Preparation Software.

**Initial LMM Package** – All Initial Documents and, additionally, any other forms and supporting documents required by the Lender, as reported by the Lender to the Portal Provider, in order to commence the assessment of a Debtor’s LMM.

**Initial Notice of Loan Modification Matter** – The Mandatory Form filed by the Debtor which states that the Debtor has completed all required procedures to commence the LMM.

**Lender** – The owner, holder, servicer or assignee of the Loan as well as any Successor Lender. Use of this term in this LMP neither establishes nor modifies the legal relationship of the parties.

**Loan Modification Agreement** – The written agreement to be signed by all LMM Parties which sets out the basic terms agreed to by the LMM Parties, if an agreement is reached. The Loan Modification Agreement must be attached as an exhibit to the *Motion to Approve Loan Modification Agreement*.

**Loan Modification Matter or LMM** – A request for a modification of the repayment terms of an Eligible Loan from Lender or for any other Loss Mitigation solution. Debtor must commence a separate LMM for each Eligible Loan.

**Loan Modification Program or LMP** – The procedures, obligations, duties and deadlines set out herein.

**LMM Objection Period** – The fourteen (14) day period following the service of the *Initial Notice of Loan Modification Matter* during which any LMM Party or Party-in-Interest may file a written objection if such party objects to the proposed LMM.

**LMM Party or Parties** – This term includes (1) the Debtor and the Lender, (2) any Additional Party that has been ordered by the Court or has agreed to or requested to participate in the LMM or (3) any of them.

**LMM Portal Submission Fee** – A non-refundable fee to be paid by the Debtor to the Portal Provider. The fee is \$60.00 as of the Effective Date. This fee is in addition to the Document Preparation Software Fee. A separate LMM Portal Submission Fee shall be collected by the Portal Provider for each Eligible Loan submitted to the LMP. If the Debtor is authorized to initiate more than one LMM on any Eligible Loan, a separate Portal Submission Fee shall be collected by the Portal Provider each time an LMM is initiated.

**Loss Mitigation** – This term includes the full range of solutions that may prevent (1) the loss of Eligible Property through foreclosure and/or (2) an increase in costs to the Lender. This term includes, without limitation, a loan modification, loan refinance, forbearance, short sale, or surrender of the Eligible Property in full or partial satisfaction of the Eligible Loan.

**Mandatory Forms** – The forms adopted by the Court for use in the LMP. A list of Mandatory Forms is attached. If the title of a form is italicized in this LMP, it is a Mandatory Form.

**Original Term** – The initial duration of the LMM which is one hundred and fifty (150) days from the filing of the *Initial Notice of Loan Modification Matter* or the entry of a Court order authorizing the Debtor to proceed with the LMM, whichever date is later.

**Party-in-Interest or Parties-in-Interest** – Any party in a Case entitled to be served with a Chapter 13 Plan pursuant to the Rules and Procedures.

**Plan** - The document filed by the Debtor in compliance with the applicable provisions of the Bankruptcy Code and any applicable Rules and Procedures as well as any pre-confirmation amendment of same and any post-confirmation modification of the Plan.

**Portal** – The secure online service maintained and operated by the Portal Provider which allows documents, information, and communications to be submitted, retrieved and tracked by the LMM Parties and the Trustee. All LMM Parties must register to obtain access to the Portal (see paragraph 5E for information on Portal registration).

**Portal Provider** – An independent third-party approved by the Court to assist in the management of this LMP. As of the Effective Date, the Portal Provider is Default Mitigation Management, LLC (“DMM”). The Court may, in its sole discretion, select different or additional Portal Providers.

**Program Manager Fee** – The non-refundable payment to the Portal Provider for (1) compensation of the Program Manager, and (2) the compensation of the Auditor (if required). The fee is \$600.00 and shall be paid one-half by the Debtor and one-half by the Lender at the times specified in this LMP. A separate Portal Provider’s Fee shall be collected by the Portal Provider for each Eligible Loan submitted to the LMP. If the Debtor is authorized to initiate more than one LMM on any Eligible Loan, a separate Program Manager Fee shall be collected by the Portal Provider each time an LMM is initiated.

**Program Manager** – Collectively, any individual assigned to an LMM by the Portal Provider and the software used by the Portal Provider to monitor and administer the LMM.

**Reserved Funds** – The difference, if any, between the amount of the regular periodic payments on an Eligible Loan and the amount of any Trial Period Payments. When the Debtor is in a Conduit Program, the Reserved Funds may be retained by the Trustee and, if retained, will be disbursed as set out in this LMP.

**Resolution of the Loan Modification Matter** – The earlier of (1) the entry of an *Order Approving Loan Modification Agreement*, (2) the entry of an *Order Denying Loan Modification Agreement*, or (3) the filing with the Court of a Final LMM Report stating that the Loan Modification Matter was denied by the Lender.

**Rules and Procedures** – Collectively, the Federal Rules of Bankruptcy Procedure and any applicable Local Rules, General Orders, administrative orders, established procedures of the Court, or Trustee’s procedures.

**Submission Date** – The latest of (1) no more than seven days after the expiration of the LMM Objection Period, if no objection to the LMM is filed; (2) no more than seven days after the entry of any court order authorizing the LMM, if an objection to the LMM is filed; and (3) no more than seven days after the Lender’s registration on the Portal.

**Successor Lender** – Any entity to which the Lender transfers the Eligible Loan or the servicing of the Eligible Loan during the pendency of the LMM. Use of this term in this LMP neither establishes nor modifies the legal relationship of the parties.

**Trial Modification Offer** – The written offer received by the Debtor from the Lender containing the terms, conditions and requirements which must be satisfied for the Debtor to qualify for the modification of an Eligible Loan. The Trial Modification Offer may include a provision requiring Trial Period Payments.

**Trial Period Payments** – Payments required by the Lender prior to a final determination regarding permanent modification of the repayment obligation on an Eligible Loan.

**Trustee or Chapter 13 Trustee** – The bankruptcy trustee appointed in the Case.

## **5. FILING, SUBMISSION, UPLOADING, THE MANDATORY USE OF FORMS AND OTHER PROVISIONS.**

A. Any reference to filing a document or to a document being filed refers to the filing of that document with the Court.

B. Any reference to a submission or upload of a document refers to posting that document on the Portal.

C. All Mandatory Forms must be used, without alternation, by all LMM Parties, the Portal Provider and the Program Manager. Use of a nonstandard form shall have no effect. Failure to complete a Mandatory Form properly may result in the LMM being terminated.

D. When service of a document is required, that service shall be made in compliance with the Rules and Procedures.

E. LMM Parties must register on the Portal as described in this LMP. Registration on the Portal is free and is a one-time event. The instructions for registration on the Portal may be found at [www.dmmportal.com](http://www.dmmportal.com).

## **6. ELIGIBILITY.**

An LMM may be commenced regarding any Eligible Loan.

## **7. GENERAL PROVISIONS REGARDING THE PORTAL PROVIDER, PROGRAM MANAGER AND AUDITOR.**

A. The Portal Provider shall have extensive knowledge of (1) the forms and supporting documents required by a Lender to complete an Initial LMM Package, (2) the various programs for the modification of the terms of an Eligible Loan offered by the Lender, and (3) other available Loss Mitigation remedies.

B. The Portal Provider shall be approved by the Court and must provide a Portal for the use of the LMM Parties, the Program Manager, the Auditor (if any), and the Trustee.

C. The Portal Provider must provide access to the Document Preparation Software and the Portal and is responsible for maintaining both in good working order. The Portal and the Document Preparation Software can be accessed at [www.dmmportal.com](http://www.dmmportal.com).

D. The Portal Provider shall be responsible for making the Document Preparation Software available on the Portal. The Document Preparation Software should (1) ensure that the submission by the Debtor to the Lender is as complete and accurate as possible, (2) expedite the Lender's review of the submissions, and (3) protect all confidential information.

E. The Portal Provider and the Program Manager shall be familiar with the rules and procedures of the LMP and be able to advise the LMM Parties about their responsibilities and the basic procedures for participation in an LMM, including, without limitation, directing users to the relevant provisions of the LMP and to required forms and documents.

F. The Portal Provider, upon request, shall provide free training on the use of the Document Preparation Software and the Portal to any LMM Party or Trustee personnel.

G. The Program Manager shall monitor all communications on the Portal between the LMM Parties and shall ensure that each LMM Party is performing its/their obligations and duties as required herein, including, without limitation: (1) confirming that the Debtor has uploaded a complete Initial LMM Package; (2) facilitating the exchange of information and documents among the LMM Parties; (3) ensuring that the Loss Mitigation review proceeds according to the terms and within the required deadlines of the LMP; (4) tracking and monitoring deadlines for each LMM Party; (5) preparing for, scheduling, and conducting any conferences; and (6) reporting any unresolved non-compliance of an LMM Party to the Court by filing a *Notice of Non-Compliance* which shall include the details of the non-compliance.

H. All requests by the Portal Provider, the Program Manager, or the Auditor for information or the submission of documents shall be made through the Portal.

I. The Program Manager shall assist with any out-of-Court resolution of all allegations by an LMM Party that any other party has failed to comply with any of the provisions of this LMP.

J. The Portal Provider may retain outside parties, at no additional cost to the LMM Parties, to assist it in its duties, provided such parties have the necessary skill, experience, and knowledge base in Loss Mitigation as determined by the Portal Provider.

K. The Portal Provider, Program Manager, and Auditor are subject to the jurisdiction of the Court and will promptly answer all inquiries from the Court, the Trustee, and LMM Parties regarding the status of the LMM.

## **8. GENERAL PROVISIONS REGARDING LMM PARTIES.**

The following is applicable to all LMM Parties, in addition to the specific duties and responsibilities for each type of LMM Party as set out in this LMP:

A. All LMM Parties shall act in good faith throughout the entirety of the LMM, including, without limitation, promptly responding to all inquiries made through the Portal and providing all requested documentation and information promptly and timely.

B. All LMM Parties shall be bound by the provisions of this LMP.

C. All LMM Parties shall comply with the deadlines set out herein, subject to any permitted extension of those deadlines by the agreement of the LMM Parties or by Court order.

D. During the LMM, all material communications and requests for documents and information by and between the LMM Parties shall be conducted exclusively through the Portal, provided however, that any litigated matters between the LMM Parties shall be considered as separate matters and not subject to this requirement. By way of example, communications regarding an adversary proceeding, a contested matter, or a discovery dispute are not subject to this requirement.

E. On behalf of each LMM Party, a person (1) with complete knowledge of the Eligible Loan; (2) who is reasonably capable of answering questions posed by the Court, any other LMM Party or the Trustee; and (3) with full authority to enter a binding settlement agreement, shall participate in the LMM, including, without limitation, all conferences, and shall attend any LMM related hearings, unless such attendance is excused. Any LMM Party may appear at hearings through counsel unless the Court orders otherwise in a specific LMM.

F. The pendency of an LMM does not relieve any LMM Party from full compliance with any (1) orders of the Court or (2) applicable provisions of or deadlines established by the United States Bankruptcy Code or the Rules and Procedures.

G. Any LMM Party who requires (1) a foreign language interpreter or (2) an interpreter because of a hearing impairment in order to participate in any part of the LMM shall provide such interpreter at that LMM Party's sole expense.

H. If the Case is dismissed, converted, or venue of the Case is transferred to a Court without an LMP prior to the completion of the LMM, the LMM will immediately terminate. LMM Parties will be relieved of all LMP requirements.

I. If the Case is otherwise eligible to be closed, the Case shall remain open during the pendency of the LMM.

J. All communications and information exchanged on the Portal during the LMM are privileged and confidential. They are inadmissible in any subsequent proceeding to the extent provided by any applicable Rules and Procedures or the Federal Rules of Evidence.

K. During the pendency of the LMM, nothing herein precludes the LMM Parties from negotiating Loss Mitigation solutions other than a modification of the repayment terms of the Eligible Loan, provided such negotiations are conducted through the Portal.

L. If any LMM Party fails to comply with any of the provisions of this LMP, the other LMM Parties must attempt to resolve the issues through communication on the Portal, requesting assistance from the Program Manager, if needed. If a resolution cannot be reached, any LMM Party may file a *Motion to Terminate Loan Modification Matter*, detailing the basis for the relief sought.

M. The Trustee may establish procedures which are not inconsistent with the provisions of this LMP for the administration of Cases involved in the LMP. Such procedures must be in writing and include an effective date. Such procedures shall be posted on the Trustee's website. All LMM Parties must comply with the Trustee's procedures. The Trustee, in his/her sole discretion, may revise the Trustee's procedures. Revised Trustee procedures, if any, shall be posted on the Trustee's website and must include the effective date of the revisions.

N. The Court may set status conferences to monitor the progress of any LMM.

## **9. PROVISIONS REGARDING THE DEBTOR.**

A. All *pro-se* Debtors shall have the same duties and responsibilities as a Debtor represented by an attorney and shall comply with all provisions of the LMP.

B. Debtor shall comply with all requirements necessary to commence an LMM and timely file and serve the *Initial Notice of Loan Modification Matter*, as well as upload a copy to the Portal. The *Initial Notice of Loan Modification Matter* shall be served in compliance with the Rules and Procedures on any Party-in-Interest and any person filing a Notice of Appearance in the Case.

C. A separate LMM must be commenced for each Eligible Loan.



D. By no later than the Submission Date, the Debtor shall (1) submit the Initial LMM Package to the Portal together with a file-stamped copy of the *Initial Notice of Loan Modification Matter*; (2) pay the LMM Portal Submission Fee as well as the Debtor's share of the Program Manager Fee and (3) submit a copy of any order of the court authorizing the LMM, if any such order is entered.

E. If the Debtor contemplates initiating an LMM, the Debtor shall include language in any Plan filed by the Debtor stating that the Debtor intends to commence an LMM. Such provision shall be included in the section of the Plan reserved for non-standard language. The following mandatory language must be used:

The Debtor may enter the Loan Modification Program adopted by this Court which could result in a modification of a loan secured by real property in which the Debtor owns an interest or in other loss mitigation solutions, including, without limitation, loan refinance, forbearance, short sale, or surrender of the real property in full or partial satisfaction of the debt secured by the real property. Such loan modification or other loss mitigation solution may be approved by the Court without further notice to parties-in-interest and without modification of the Chapter 13 Plan if the loan modification or loss mitigation solution does not create a material adverse impact on the treatment of creditor's claims under this Plan, other than the Lender's; does not render the Plan unfeasible or insufficient; and does not increase or decrease the Plan payment to the Trustee.

F. Debtor shall remain current on all payments required to be paid pursuant to the Plan during the pendency of the LMM, including, without limitation, payments disbursed by Direct Pay.

G. A Debtor in a Conduit Program is required make all payments on an Eligible Loan through the Trustee including ongoing periodic post-petition mortgage payments; Trial Period Payments; all payments pursuant to any Loan Modification Agreement; all mortgage arrears; and all post-petition fees, expenses and charges pursuant to Rule 3002.1 of the Federal Rules of Bankruptcy Procedure.

H. If the Court has not adopted a Conduit Program, the Debtor shall disburse any periodic post-petition mortgage payments owed on the Eligible Loan by Direct Pay, including Trial Period Payments. Debtor may propose a Plan which defers the payment of any pre-petition or post-petition arrears for a reasonable period of time. Any payment required pursuant to a Notice of Fees, Expenses, and Charges filed pursuant to Rule 3002.1 of the Federal Bankruptcy Rules of Procedure will be paid in accordance with the existing procedures established by the Court, including disbursement by Direct Pay.

I. If the Court has adopted a Conduit Program, the Debtor shall make monthly Plan payments to the Trustee which are sufficient to pay any periodic post-petition mortgage payments owed on the Eligible Loan including Trial Period Payments. Debtor may propose a Plan which defers the payment of any pre-petition or post-petition arrears for a reasonable period

of time. Any payment required pursuant to a Notice of Fees, Expenses, and Charges filed pursuant to Rule 3002.1 of the Federal Bankruptcy Rules of Procedure will be paid in accordance with the existing procedures of the applicable Conduit Program. Any payments pursuant to a permanent loan modification shall be disbursed by the Trustee in accordance with the Loan Modification Agreement.

J. Debtor shall promptly answer any questions from and shall provide additional documentation and information to the Lender, the Portal Provider and/or the Program Manager through the Portal. All questions and requests for additional documentation and information must be reasonable.

K. Within seven (7) days of the earlier of (1) the conclusion of the Original Term, including any extension thereof, or (2) the date the Lender reports its final decision on the Portal regarding the LMM request, the Debtor shall prepare the Final LMM Report on the Portal and file and serve it on all LMM Parties and the Trustee. The Final LMM Report will be completed in accordance with the instructions provided on the Portal and shall state whether: (1) the Eligible Loan will be modified, (2) the loan modification request was denied, or (3) another Loss Mitigation solution was agreed upon. A printout of the current and complete Portal history shall be attached to the Final LMM Report. In the event the Debtor fails to prepare, file, and serve the Final LMM Report, the Program Manager may do so.

## **10. PROVISIONS REGARDING LENDER.**

A. If the Lender is not previously registered on the Portal and does not timely file a written objection to participating in the LMM, the Lender shall register on the Portal within fourteen (14) days of the filing of the *Initial Notice of Loan Modification Matter*. If the Lender files a written objection to participating in the LMM, the Lender is required to register on the Portal within seven (7) days of the entry of an order requiring the Lender to participate in the LMM. If Lender's counsel is not registered on the Portal, counsel is subject to the same requirements set out herein.

B. If the Lender does not file a written objection to participating in the LMM within the LMM Objection Period, the Lender shall provide the Portal Provider with Lender's most current Initial LMM Package as part of Lender's registration on the Portal. If the Lender is already registered on the Portal, Lender will provide any updates to Lender's Initial LMM Package within fourteen (14) days of the filing of the *Initial Notice of Loan Modification Matter*. If the Lender files a written objection to participating in the LMM, the Lender is required to provide the Portal Provider with Lender's most current Initial LMM Package within seven (7) days of the entry of any order requiring the Lender to participate in the LMM. Lender is responsible for providing any updates to its Initial LMM Package to the Portal Provider, if necessary.

C. Within seven (7) days after the Debtor submits the completed Initial LMM

Package on the Portal, Lender shall, on the Portal: (1) acknowledge receipt of Debtor's completed Initial LMM Package and (2) designate Lender's single point of contact and Lender's counsel, if any. The designated single point of contact must have all requisite authority, within the investor's guidelines, to settle any and all issues that arise during the LMM. Legal counsel may be granted such requisite authority by the Lender.

D. Within seven (7) days of the Lender's receipt of the Debtor's Initial LMM Package on the Portal, Lender shall pay one-half of the Program Manager's Fee directly to the Portal Provider. In the event that this fee is not paid through the Portal online payment system, the Lender shall pay an additional \$25.00 processing fee to the Program Manager.

E. Upon receipt of the completed Initial LMM Package, Lender shall promptly review the package to determine Debtor's eligibility for any Loss Mitigation solutions, including modification of the repayment terms of the Eligible Loan.

F. No more than thirty (30) days after the submission of the Initial LMM Package, if the Lender requires additional or corrected documentation or information to complete its review of the Initial LMM Package, Lender shall notify the appropriate LMM Party through the Portal of such requirements and shall promptly acknowledge the submission of the additional or corrected documentation or information. If no request for additional documents or information is timely made by the Lender, the submissions made in the LMM shall be deemed complete. Lender shall not request that any information be provided on a specific form – i.e., if the Debtor provided the Lender with information on a standard government form, Lender shall use reasonable diligence in reviewing the information provided by the Debtor.

G. Lender shall promptly review all documents and information submitted by any LMM Party through the Portal and shall promptly respond to any inquiries made by any LMM Party or the Program Manager.

H. Lender shall attend and participate in any conferences regarding the LMM, unless the Lender's attendance is excused by the Program Manager or Auditor.

I. Lender shall have no more than thirty (30) days after the submissions made in the LMM are deemed complete to state its decision on the Portal regarding the request to modify an Eligible Loan or any other Loss Mitigation solution. The Lender's decision includes (1) denial of the loan modification request, (2) approval of the loan modification request, (3) issuing a Trial Modification Offer which may include requiring the Debtor to remit Trial Period Payments and may also include the satisfaction of any other terms and conditions set out in the Trial Modification Offer, or (4) acceptance or offer of any other Loss Mitigation solution.

J. Lender shall promptly notify any Successor Lender of the pendency of the LMM and shall provide the Successor Lender with a copy of the *Initial Notice of Loan Modification Matter* and any orders entered by the Court which are relevant to the LMM. The Successor Lender is obligated to comply with all terms of any entered order and all terms of this LMP.

Without limiting the foregoing, the Successor Lender is required to accept all documents and information submitted by any LMM Party which was previously accepted by the Lender. In the event there is a change in ownership of the Eligible Loan, the parties shall comply with the Rules and Procedures regarding a transferred claim. In the event there is a change in the servicer for the Eligible Loan, Lender shall file a *Notice Substituting Servicer* and shall transfer the submissions on the Portal to the Successor Lender, provided, however, that nothing herein shall preclude the Debtor or Program Manager from transferring such submissions. If the Successor Lender is not registered on the Portal, the Successor Lender shall register within fourteen (14) days of the filing of the *Notice Substituting Servicer*.

## **11. COMMENCEMENT OF LMM AND OPPORTUNITY TO OBJECT.**

A. The Debtor may commence an LMM at any time after the filing of the Case. Only the Debtor may commence an LMM.

B. To commence the LMM, the Debtor shall complete all of the following steps:

1. Register on the Portal;
2. Complete the Document Preparation Software and pay the Document Preparation Software Fee;
3. Review the Initial LMM Package prepared on the Document Preparation Software and be prepared to execute all required forms and upload all required documents to the Portal upon the expiration of the LMM Objection Period;
4. File the *Initial Notice of Loan Modification Matter*, together with the Certification of Document Preparation;
5. If Bankruptcy Schedules I and J were filed by the Debtor more than six (6) months prior to the filing of the *Initial Notice of Loan Modification Matter*, the Debtor must either (1) sign and file amended Schedules I and J pursuant to the Official Bankruptcy Forms prior to filing the *Initial Notice of Loan Modification Matter* or (2) state in the *Initial Notice of Loan Modification Matter* that Bankruptcy Schedules I and J as filed correctly state the Debtor's current income and expenses.
6. Timely comply with all requirements of Section 9.D.

C. During the LMM Objection Period, any LMM Party or Party-in-Interest may file a written objection to the *Initial Notice of Loan Modification Matter* if such party objects to the LMM or to participating in the LMM. Any written objection shall clearly state the reasons for objecting to the LMM or to participating in the LMM. If a written objection is not filed, each non-objecting party shall be deemed to have waived its objection to the Debtor initiating an LMM and/or to participating in the LMM. No Court order commencing the LMM is required if

no objection is filed. If an objection is filed, the Court will determine, after notice and hearing, whether the Debtor may proceed with the LMM and enter an appropriate order. If the Court authorizes the Debtor to proceed with the LMM, the objecting party shall be deemed to be an LMM Party, if appropriate.

## **12. PROVISIONS REGARDING ADDITIONAL PARTIES.**

A. Any LMM Party may request and the Court may order that a specific Additional Party be required to participate in the LMM, to the extent that the Court has jurisdiction over the Additional Party. Any such request shall be made by filing a *Motion to Add an Additional Party to Loan Modification Matter*. If an objection is not timely filed, the Additional Party shall be deemed to have consented to participate in the LMM and the Court may enter an order requiring the participation of the Additional Party without conducting a hearing. Any Additional Party ordered by the Court to participate in the LMM shall be deemed to be an LMM Party.

B. An Additional Party may consent to participate in the LMM by signing and filing a *Consent to Participate in Loan Modification Matter by Additional Party*. Upon the filing of this consent, the Additional Party shall be deemed an LMM Party.

C. Any LMM Party may file a motion to request that the Court determine whether the LMM can proceed without the inclusion and participation of a specific Additional Party.

## **13. TRUSTEE**

The Trustee, in his/her sole discretion, may, but is not required to, participate in the LMM.

## **14. DURATION.**

A. The LMM Parties may extend the Original Term by agreement by filing a *Notice of Extension of Loan Modification Matter*. The LMM Parties may not extend the duration of the LMM for more than a total of ninety (90) days beyond the Original Term by agreement. A Court order is necessary for a longer extension of time and may be sought by filing a *Motion to Extend the Duration of Loan Modification Matter*.

B. If an agreement to extend the Original Term cannot be reached, any LMM Party may file a *Motion to Extend the Duration of Loan Modification Matter* detailing the basis for the extension which shall be served on all LMM Parties and the Trustee. The Portal history must be attached to this motion. The deadline for objecting to such motion is seven (7) days from the date of service of same. If an objection is not filed, each non-objecting party shall be deemed to have waived its objection to the extension of the Original Term. If an objection is timely filed, the Court may schedule a hearing to determine whether an extension of the Original Term should be granted or may rule without a hearing.

C. The Debtor or Program Manager shall report any extension of the Original Term on the Portal.

D. Notwithstanding the other provision of this LMP, if the LMM Parties agree to the payment of Trial Period Payments, as evidenced by the filing of *Notice of Trial Period Payments*, the duration of the LMM shall be extended, without Court order, to allow the Debtor to complete the Trial Period Payments plus an additional sixty (60) days to allow for the approval of any Loan Modification Agreement.

E. If any LMM Party wishes to terminate the LMM prior to the expiration of the Original Term or any extension thereof, that party shall file a *Motion to Terminate Loan Modification Matter* detailing the basis for such termination request. The motion must be served on all LMM Parties and the Trustee. The Portal history must be attached to this motion. The deadline for objecting to termination of the LMM is fourteen (14) days from the date of service of such motion. If an objection is not filed, each non-objecting party shall be deemed to have waived its objection and the Court may terminate the LMM without a further hearing. If an objection is timely filed, the Court may schedule a hearing to determine whether to terminate the LMM or may rule without a hearing.

## **15. CONFERENCES.**

A. There is no requirement that a conference must be scheduled in an LMM. Conferences should be requested by the LMM Parties or scheduled by the Program Manager only if needed to accomplish the purpose of the LMP.

B. All conferences shall be telephonic. All LMM Parties shall participate in the conference unless excused by the other LMM Parties or the Program Manager. No telephonic conference shall be recorded. The only parties who may participate in the telephonic conference are (1) the Program Manager and (2) the LMM Parties and their attorneys.

C. A conference may be scheduled by the Program Manager upon the request of any LMM Party and as deemed necessary by the Program Manager, acting reasonably. After consultation with all LMM Parties and their attorneys (if any), the Program Manager shall fix a reasonable date and time for such conference and notify all LMM Parties and their attorneys (if any) thereof. The Program Manager shall include a call-in number for the conference as part of the notice.

D. Each LMM Party may request one (1) conference. The Program Manager, in his/her sole discretion, may schedule more than one conference.

E. The Program Manager shall report the scheduling of the conference on the Portal. The Program Manager shall participate in all conferences.

F. No LMM Party is required to participate in conferences for more than a total of

two (2) hours during the pendency of the LMM.

G. All LMM Parties participating in the conference must either personally be or must appoint a representative who is ready, willing and able to sign a binding settlement agreement during the conference and must have the ability to scan, send and receive documents by facsimile, email or other electronic means during the conference.

H. If an LMM Party that is required to appear at a conference fails to appear, the Program Manager may file a *Notice of Non-Compliance*.

## **16. TRIAL PERIOD PAYMENTS AND LOAN MODIFICATION APPROVAL PROCESS.**

A. If the Debtor receives a Trial Modification Offer which requires the Debtor to make Trial Period Payments, the Debtor shall file a *Notice of Trial Period Payments* which shall be served only on the LMM Parties and the Trustee. The Trial Modification Offer, in its entirety, must be attached to the *Notice* as Exhibit “A”. The *Notice* shall be uploaded to the Portal by the Debtor. The *Notice* must be signed by the Debtor, by and through the Debtor’s attorney, if any. All LMM Parties and the Trustee will have fourteen (14) days following the service of the *Notice* to file a written objection to the Trial Period Payments. Any written objection shall clearly state the basis for objecting to the Trial Period Payments. If no written objection is filed, any objection to the Trial Period Payments shall be deemed waived by the non-objecting party and the Trustee, if the Debtor is in a Conduit Program, or the Debtor, if the Debtor is not in a Conduit Program, is authorized to disburse the Trial Period Payments to the Lender and the Trustee is further authorized to retain Reserved Funds. If an objection to the *Notice* is filed, the Court will determine, after notice and hearing, whether the Trial Period Payments are approved. If so, the Court will enter an *Order Approving Trial Period Payments* and the Trustee, if the Debtor is in a Conduit Program, is authorized to disburse the Trial Period Payments and to retain Reserved Funds as set out in the *Order*. If the Debtor is not in a Conduit Program, the Debtor will remit the Trial Period Payments by Direct Pay. In a Conduit Program, the Trustee shall continue disbursing payments to the Lender in the amount of the Trial Period Payments and continue to retain Reserve Funds until the Resolution of the Loan Modification Matter. The Lender is not required to file a Notice of Payment Changes pursuant to Rule 3002.1 regarding the payment change.

B. In the event a Debtor makes all Trial Period Payments and satisfies any other terms and conditions required by the Lender which are set out in the Trial Modification Offer, Debtor shall be entitled to a permanent and binding modification of the repayment terms of the Eligible Loan. The full agreement between the parties shall be reduced to writing and executed by all necessary parties. The Debtor or the Lender shall file a *Motion to Approve Loan Modification Agreement* which shall be served on the LMM Parties and the Trustee. The *Motion* shall be uploaded to the Portal by the filing party. A copy of the completed and signed Loan Modification Agreement and any related documents must be attached to the *Motion*. All LMM Parties and the Trustee will have fourteen (14) days following the service of the *Motion* to file a

written objection. Any written objection shall clearly state the basis for objecting to the approval of the Loan Modification Agreement. If no written objection is filed, any objection to the approval of the Loan Modification Agreement shall be deemed waived by the non-objecting party. If no objection is filed, the Court may enter an *Order Approving Loan Modification Agreement*. If an objection is filed, the Court will determine, after notice and hearing, whether the Loan Modification Agreement should be approved. If so, the Court will enter an *Order Approving Loan Modification Agreement*.

C. Dismissal or conversion of the Case shall not be a permissible condition of the Trial Modification Offer, any agreement regarding Trial Period Payments, or any Loan Modification Agreement and may not be included in any of these as a term or condition.

D. The Court may require *pro-se* Debtors to personally appear prior to approving the Trial Period Payments or any Loan Modification Agreement.

E. The Trustee may be heard at any hearing regarding the approval of any Trial Period Payments or any *Motion to Approve Loan Modification Agreement*, but is not required to participate in such hearings.

F. If the Court enters an *Order Approving Loan Modification Agreement*, the Trustee, if the Debtor is in a Conduit Program, or the Debtor, if the Debtor is not in a Conduit Program, is authorized to make disbursements to the Lender as set out in the *Motion to Approve Loan Modification Agreement* without any further modification of the Plan. Any arrearage or any other obligations owed to the Lender, whether pre- or post- petition, shall be paid pursuant to the terms set out in the *Motion to Approve Loan Modification Agreement* and/or the Loan Modification Agreement. Unless otherwise required by the terms of any applicable Conduit Program, if the Plan is not modified, the Plan payment will not be adjusted and any funds paid to the Trustee which the Trustee does not disburse to the Lender may be disbursed by the Trustee to satisfy the claims of other creditors. Additionally, unless otherwise provided in the *Motion to Approve Loan Modification Agreement*, any Reserved Funds shall be disbursed by the Trustee first to the Debtor's attorney until the outstanding balance of any attorney's fees is paid in full and, thereafter, shall disburse any remaining Reserved Funds to satisfy the claims of other creditors. The Trustee shall make all disbursements in accordance with the provisions of the Plan and all applicable Rules and Procedures.

G. If the Lender or any other LMM Party is to receive payment of or reimbursement for any fee, cost or charge that arose from or during the LMM process, all such fees, costs and charges shall be disclosed in the *Motion to Approve Loan Modification Agreement*. If the Lender fails to disclose such fees, costs and charges as described herein, the Lender shall have waived its right to collect such fees, costs and charges.

H. If the *Motion to Approve Loan Modification Agreement* is granted by the Court, any proof of claim filed by the Lender shall be deemed amended by the terms set out in the *Motion to Approve Loan Modification Agreement* and the Lender will not be required to file an



amended proof of claim. Additionally, the Lender will not be required to file any Notice of Payment Change or any Notice of Fees, Expenses, and Charges pursuant to Rule 3002.1 of the Federal Rules of Bankruptcy Procedure regarding any payment obligation disclosed in the *Motion to Approve Loan Modification Agreement*. The Chapter 13 Trustee is authorized to make disbursements in accordance with the terms set out in the *Motion to Approve Loan Modification Agreement* and/or the *Order Approving Loan Modification Agreement*, including discontinuing disbursements on an arrearage claim provided for in the Plan, if that is consistent with the terms set out in the *Motion to Approve Loan Modification Agreement* and/or the *Order Approving Loan Modification Agreement*. All disbursements to the Lender will be made in accordance with the procedures established by the Court for the payment of such claims.

I. Unless otherwise ordered by the Court, and subject to Bankruptcy Rule 3002.1(f)-(h), if a Debtor in a Conduit Program is current on Plan payments or the payments due pursuant to any wage directive, the Trial Period Payments or any other payment that the Trustee is directed to disburse to the Lender pursuant to a *Notice of Trial Period Payments*, an *Order Approving Trial Period Payments*, and/or the *Order Approving Loan Modification Agreement* shall be deemed current, even if not yet disbursed by the Trustee to the Lender.

J. All LMM Parties shall execute and deliver any and all documents, in addition to the Loan Modification Agreement, which are reasonably necessary to effectuate the agreement between the parties only if such documents are described as required documents in the *Motion to Approve Loan Modification Agreement*. The pleading shall also be uploaded to the Portal.

K. The LMM Parties may also file a motion or other appropriate pleading to have the Court approve any other Loss Mitigation solution to the LMM. Any such pleading must be served on all LMM Parties and the Trustee and provide each party with no less than fourteen days to object to the relief sought.

## **17. DENIAL.**

A. In the event the Lender denies the request for a modification of the repayment terms of an Eligible Loan and the Debtor requests an audit of the LMM, the Program Manager will appoint an Auditor from its list of approved Auditors to review the LMM for the purpose of determining whether the Lender considered all possible loan modification programs available to the Debtor and considered all relevant information in making its decision on the requested loan modification. The Auditor will also discuss the reasons for the denial with the Debtor.

B. If a plan modification is required following the denial of a loan modification request, that plan modification shall be filed no later than thirty (30) days from the date the Lender posts the denial on the Portal. The Trustee may move to modify the Debtor's Plan at any time if, in the discretion of the Trustee, such modification is warranted.

C. In the event the Court denies the *Motion to Approve Loan Modification Agreement*, the Court shall enter an *Order Denying Approval of Loan Modification Agreement*.

D. Following the filing of a Final LMM Report which states that the Lender denied the requested loan modification or the entry of a Court order denying the *Motion to Approve Loan Modification Agreement*, the Trustee shall disburse any Reserved Funds to the Lender.

#### **18. PLAN MODIFICATION IF AN AGREEMENT REGARDING LOSS MITIGATION IS APPROVED.**

A. A plan modification is not required if the loan modification or Loss Mitigation solution does not create a material adverse impact on the treatment of any creditor's claims under the Plan, other than the Lender's; does not render the Plan unfeasible or insufficient; and does not increase or decrease the Plan payment to the Trustee.

B. If a plan modification is required, the Debtor shall file that plan modification which shall be served on any Party-in-Interest pursuant to the Rules and Procedures. The plan modification shall be filed and served within thirty (30) days of the entry of an *Order Approving Loan Modification Agreement* or and order approving another Loss Mitigation solution.

C. The Trustee may move to modify the Debtor's Plan at any time if, in the discretion of the Trustee, such modification is warranted.

#### **19. ATTORNEY FEES.**

A. No Look Standard Fee – The standard, “presumed reasonable and necessary” fee for counsel for the Debtor for representation of the Debtor in an LMM is \$2500.00 plus \$100.00 in costs, in addition to the fees and costs incurred in the representation of the Debtor in the Case. Such fees and costs shall be disclosed in the *Initial Notice of Loan Modification Matter*, which disclosure shall be deemed to fulfill the requirements of Rule 2016 of the Federal Rules of Bankruptcy Procedure. The following will be included in the standard “no-look” fee:

1. Determining the Debtor's eligibility to participate in the LMP;
2. Preparing the Initial LMM Package for the Debtor through the Document Preparation Software;
3. Filing amended Schedules I and J, if required;
4. Preparing, filing, and serving the *Initial Notice of Loan Modification Matter*;
5. Assisting the Debtor in completing any forms or providing any other information or counsel in connection with the LMM;
6. Submitting all required documents and information through the Portal;

7. Filing all required pleadings;
  8. Preparation of proposed orders and settlement documents;
  9. Communicating with other LMM Parties and the Portal Provider, Program Manager and/or Auditor, as required;
  10. Participating in any LMM conferences and/or Court hearings;
  11. Reviewing all documents regarding a modification of the repayment terms of the Eligible Loan or other Loss Mitigation solution.
- B. The standard “no-look” fee does not include preparation of or representation of the Debtor regarding the modification of the Plan.
- C. Debtor’s counsel may elect to file a fee application for reasonable compensation in connection with an LMM, including costs, rather than accept the standard “no-look” fee. If Debtor’s counsel files a fee application, it shall be served pursuant to the Rules and Procedures.
- D. The Trustee and any other Party-in-Interest retain their rights to object to any request by Debtor’s counsel for the payment of any fees or the reimbursement of any costs.
- E. Any attorney’s fees and costs payable to the Debtor’s counsel will be paid in accordance with the procedures established by the Court for the payment of compensation and the reimbursement of costs to Debtor’s counsel.

## **20. NO PROHIBITION.**

The pendency of an LMM shall not prohibit or preclude any LMM Party from taking whatever lawful action that party deems necessary to protect its interests during the pendency of the LMM, including moving for relief from the automatic stay, moving for the dismissal of the Case, objecting to confirmation of a Plan or any similar pleading, objecting to a proof of claim, or filing an adversary proceeding which names any LMM Party as a plaintiff or defendant.

## **21. REMEDIES.**

A. Any LMM Party may file a *Motion to Terminate Loan Modification Matter* which must detail the basis for the requested termination and must be served on all LMM Parties and the Trustee and uploaded to the Portal. All LMM Parties shall have fourteen (14) days following the service of the motion to file a written objection. Each non-objecting party shall be deemed to have waived its objection to the relief sought and the Court may enter an order awarding appropriate relief without a hearing. If a written objection is filed, the motion will be set on the

Court's docket for hearing. The filing party is responsible for filing and serving a notice of the hearing on all other LMM Parties and the Trustee.

B. The Court may order any remedy, including sanctions, dismissal of the LMM, or any other remedy that the Court deems appropriate to protect the interests and rights of the LMM Parties.

## **22. VENUE AND CHOICE OF LAW.**

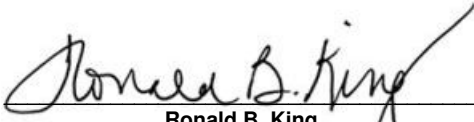
All disputes in connection with the LMM shall be governed by the provisions of the United States Bankruptcy Code; the law of the state of Texas, irrespective of the conflict of law principles of that state; the Rules and Procedures; and this LMP. Any action or proceeding arising from a dispute concerning a LMM or this LMP shall be brought in the Court.

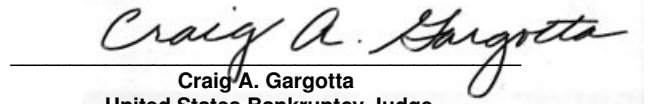
## LIST OF MANDATORY FORMS

LMP Form 1	<i>Initial Notice of Loan Modification Matter</i>
LMP Form 2	<i>Motion to Add an Additional Party to Loan Modification Matter</i>
LMP Form 3	<i>Consent to Participate in Loan Modification Matter by Additional Party</i>
LMP Form 4	<i>Notice of Extension of Loan Modification Matter</i>
LMP Form 5	<i>Motion to Extend the Duration of Loan Modification Matter</i>
LMP Form 6	<i>Motion to Terminate Loan Modification Matter</i>
LMP Form 7	<i>Notice of Non-Compliance Regarding Loan Modification Matter</i>
LMP Form 8	<i>Notice Substituting Servicer Regarding Loan Modification Matter</i>
LMP Form 9	<i>Notice of Trial Period Payments Regarding Loan Modification Matter</i>
LMP Form 10	<i>Order Approving Trial Period Payments</i>
LMP Form 11	<i>Motion to Approve Loan Modification Agreement</i>
LMP Form 12	<i>Order Approving Loan Modification Agreement</i>
LMP Form 13	<i>Order Denying Approval of Loan Modification Agreement</i>

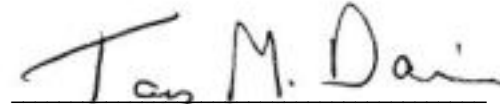
SIGNED this 18th day of September, 2018.



  
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

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS**

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**STANDING ORDER RELATING TO  
NON-ATTORNEY PROFESSIONAL ELECTRONIC FILER ACCOUNTS**

This Standing Order authorizes a non-attorney professional to register as a limited CM/ECF Electronic Filer in the United States Bankruptcy Court for the Western District of Texas. Accordingly, it is ORDERED that:

A non-attorney professional when authorized by the Court to provide services to a bankruptcy estate may register to become a limited CM/ECF Electronic Filer.

The Electronic Filer category “non-attorney professional” includes but is not limited to individuals such as non-attorney trustees, receivers, accountants, tax return preparers, real estate professionals, and auctioneers. CM/ECF filing accounts shall be issued under this category at the discretion of the Clerk of Court. The Court shall determine the precise scope of documents which may be filed.

Attorneys shall continue to register for electronic filing using the “Attorney” Electronic Filer category.

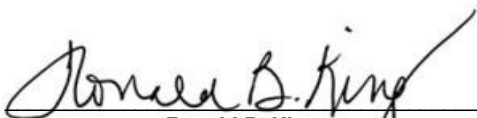
Information on registering to become an Electronic Filer may be found on the Court's website at [www.txwb.uscourts.gov](http://www.txwb.uscourts.gov).

This Standing Order is effective immediately upon the date of entry. This Standing Order is applicable to all cases in all Divisions of the United States Bankruptcy Court for the Western District of Texas and shall supersede and control to the extent that it conflicts with Bankruptcy Local Rule 5005 and the Administrative Procedures for Electronic Filing as related to parties that may become electronic filers.

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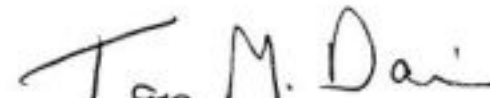
SIGNED this 21st day of February, 2018.



  
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

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS**

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**STANDING ORDER  
RELATING TO DECLARATIONS FOR ELECTRONIC FILING**

This Standing Order relates to the filing of “Declarations for Electronic Filing” (commonly known as Declaration(s), eDec or DEF) electronically into the Court’s CM/ECF system. It also sets forth the document retention requirements for electronically filed Declarations.

**IT IS HEREBY ORDERED:**

**I. Filing of Declaration by Electronic Filers.**

- A. Contemporaneous with the filing by electronic means of a bankruptcy petition, list, schedule, or statement that requires verification or an unsworn declaration under Fed. R. Bankr. P. 1008, the Electronic Filer shall file with the Court in electronic format the appropriate Declaration which has been executed by any individual debtor or by the authorized representative of any corporate or partnership debtor.

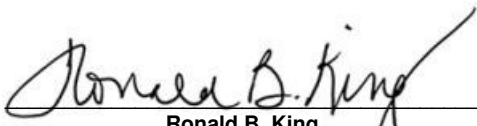


- B. Such Declaration shall substantially conform to either Exhibit B-1, B-2, or B-3 to Appendix 5005, as set forth in Bankruptcy Local Rule 5005 and the Administrative Procedures for Electronic Filing.
  - C. Such Declaration shall be an exact image of the original containing the ink signature of any individual debtor or the ink signature of the authorized representative of any corporate or partnership debtor.
  - D. Since a Declaration contains personally identifiable information it must not be attached to the petition, list, schedule, or statement. Rather, the Declaration must be electronically filed as a separate document using the specific CM/ECF docketing event “Declaration for Electronic Filing (Restricted Document)” and linked to the petition, list, schedule, or statement to which the Declaration pertains. Filing the Declaration in this precise manner ensures that the document is restricted from public view upon filing.
- II. Document Retention.** An executed Declaration containing the original ink signature of the debtor(s) or authorized representative of any corporate or partnership debtor shall be retained by the Electronic Filer for a period of not less than five (5) years after the case or adversary proceeding is closed. Upon request, the original Declaration must be provided to the Court or other parties for review.
- III. Effective Date and Scope.** This Standing Order is effective as of **March 1, 2018** and is applicable to all cases in all Divisions of the United States Bankruptcy Court for the Western District of Texas. This Standing Order shall control to the extent that it conflicts with Bankruptcy Local Rule 5005 and the Administrative Procedures for Electronic Filing as related to “Declarations for Electronic Filing.”

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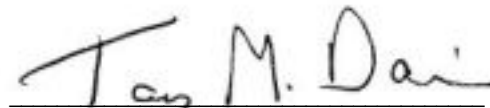
SIGNED this 27th day of December, 2017.



  
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

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS

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**AMENDED STANDING ORDER RELATING TO DIVISIONAL VENUE ASSIGNMENT  
FOR CHAPTER 7, 12 AND 13 CASES**

This Standing Order is effective immediately and relates to divisional venue assignment for all chapter 7, 12 and 13 cases and proceedings in the United States Bankruptcy Court for the Western District of Texas. Accordingly, it is ORDERED that:

**Assignment of Cases – In District Filers.** Divisional venue for chapter 7, 12 and 13 cases and proceedings shall be assigned based on the county in which the debtor's domicile, residence, principal place of business, or principal assets were located for the greater part of the 180-day period preceding commencement of the case as follows:

**Division 1 – Austin:** *Bastrop, Blanco, Burleson, Burnet, Caldwell, Gillespie, Hays, Kimble, Lampasas, Lee, Llano, Mason, McCulloch, San Saba, Travis, Washington, and Williamson.*

**Division 3 – El Paso:** *El Paso.*

**5 – San Antonio (and Del Rio):** *Atascosa, Bandera, Bexar, Comal, Dimmit, Edwards, Frio, Gonzales, Guadalupe, Karnes, Kendall, Kenney, Kerr, Maverick, Medina, Real, Terrell, Uvalde, Val Verde, Wilson, and Zavala.*

**Division 6 – Waco:** *Bell, Bosque, Coryell, Falls, Freestone, Hamilton, Hill, Leon, Limestone, McLennan, Milam, Robertson, and Somervell.*

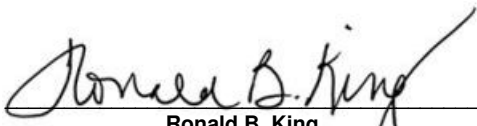
**Division 7 – Midland-Odessa (and Pecos):** *Andrews, Brewster, Crane, Culberson, Ector, Jeff Davis, Hudspeth, Loving, Martin, Midland, Pecos, Presidio, Reeves, Upton, Ward, and Winkler.*

**Assignment of Cases – Out of District Filers.** Out of district filers may select any appropriate division subject to the requirements of Sections 1408 and 1410 of Title 28 of the United States Code, Rule 1014 of the Federal Rules of Bankruptcy Procedure, and any other applicable law.

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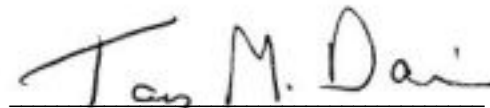
SIGNED this 19th day of December, 2017.



  
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**

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**STANDING ORDER  
REGARDING OBJECTIONS TO PROOFS OF CLAIM**

To implement Rule 3007(a) of the Federal Rules of Bankruptcy Procedure, as amended effective December 1, 2017, this Standing Order is hereby adopted by the United States Bankruptcy Court for the Western District of Texas.

**IT IS HEREBY ORDERED:**

**1. OBJECTIONS TO CLAIM**

**A.** An objection to a proof of claim shall be titled “OBJECTION TO CLAIM # (CLAIMS DOCKET NUMBER) OF (NAME OF CLAIMANT), WITH NOTICE THEREOF.”

**B.** An objection to a proof of claim must state, in bold print immediately below the title:

**This is an objection to your claim in this bankruptcy case. This objection asks the Court to disallow (eliminate), reduce, or modify your claim as set forth in this objection. If you do not file a written response to this objection within 30 days from the date of mailing of this objection, the Court may disallow (eliminate), reduce, or modify your claim as set forth in this objection, without a hearing being held.**

**Any response to this objection must explain your position and be timely filed with the United States Bankruptcy Clerk, Western District of Texas, mailing address of applicable Clerk's office. If a timely response is filed, the Court will then set a hearing on the objection and you will be provided with notice of the date, time, and place of the hearing. If you do not attend the hearing, the Court may decide that you do not oppose the objection to your claim.**

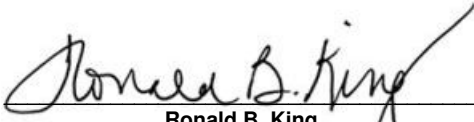
**C.** Unless otherwise ordered by the Court in a particular case: (1) if a timely response is filed to an objection to a proof of claim, then the objecting party and the claimant will be provided with at least 30 days notice of the hearing on the objection; and (2) a hearing will not be automatically set on an objection to claim unless a timely response is filed to the objection.

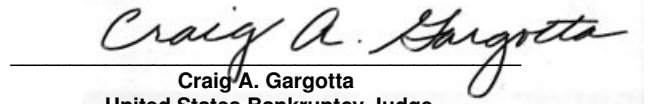
## **2. EFFECTIVE DATE AND APPLICABILITY**

This Standing Order is effective immediately upon the date of its entry. This Standing Order is applicable to all cases in all Divisions of the United States Bankruptcy Court for the Western District of Texas. This Standing Order supersedes and replaces Bankruptcy Local Rule 3007(a).

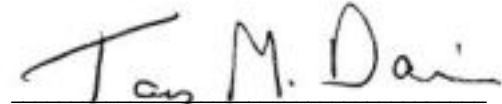
SIGNED this 08th day of November, 2017.



  
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

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS**

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**STANDING ORDER RELATING TO PAYMENT OF FILING  
FEES IN INSTALLMENTS**

This Standing Order supersedes the Standing Order Relating to Payment of Filing Fees in Installments dated November 8, 2013 and is effective as to all cases filed on and after December 1, 2017.

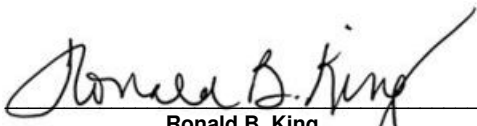
Section 1930(a)(7) of Title 28 of the United States Code allows an individual to pay the filing fee in installments. Bankruptcy Rule 1006(b) permits an individual to file a signed application, along with the petition, stating that the Debtor is unable to pay the filing fee except in installments. Accordingly, it is ORDERED that:

At least fifty percent of the filing fee must be paid within seven days of the filing of the petition for debtors applying to pay the filing fee in installments. Noncompliance may result in dismissal of the bankruptcy case without further notice or hearing.

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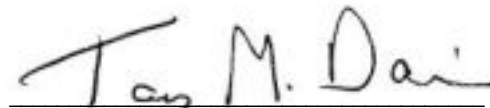
SIGNED this 02nd day of November, 2017.



  
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

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

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IT IS HEREBY ORDERED:

1. **EFFECTIVE DATE AND NOTICES HEREOF:**

Unless otherwise provided herein or ordered by the Court in an individual case, this Standing Order governs and supersedes prior Standing Orders relating to Chapter 13 Case Administration in the Waco Division of the Western District of Texas in all cases filed on or after November 1, 2017.

2. **ADOPTION OF CHAPTER 13 FORM PLAN FORMAT:**

Attached as **Exhibit # 1** to this Standing Order is the Form Chapter 13 Plan and Motions for Valuation and Lien Avoidance (hereinafter "Form Plan") dated November 1, 2017, that shall be used by all Chapter 13 Debtors in cases filed on or after that date. This Form Plan also includes a motion to value collateral and a motion to avoid liens under 11 U.S.C. § 522. ***The Form Plan may be revised periodically, by amendment or supplement to this Order.*** The Clerk shall make available to the public the then applicable District Wide Form Plan at the court's website at <http://www.txwb.uscourts.gov>.

**3. ADOPTION OF FORMS:**

a. Attached as **Exhibit # 2** to this Standing Order is a Supplement to the Confirmation Order. Such form may be used in cases where the Debtor has not filed all required tax returns (of whatever kind). Use of this form will allow the Court to confirm plans where the Debtor has not filed the required tax returns. The Debtor may request an extension of the time allowed in the Supplement by filing with the Court a “Motion to Extend Time to File Returns,” which the Court, upon notice and hearing, may grant. Such motion should be filed prior to the date the returns first come due under the Supplement to the Confirmation Order. In no case shall such extension exceed 120 days after the completion of the Section 341 Meeting of Creditors.

b. Attached as **Exhibit # 3** to this Standing Order is a Declaration of the Debtor Concerning Confirmation Requirements. Such Declaration shall be completed by the Debtor and presented to the person presiding at the Section 341 Meeting of Creditors. If the case can be confirmed no later than fourteen (14) days after completion of the Section 341 Meeting, this completed form will satisfy the confirmation requirements of §§ 1325(a)(8) and (9) regarding domestic support obligations, as that term is defined in 11 U.S.C. § 101(14A), and tax returns.

c. Attached as **Exhibit # 4** to this Standing Order is a Questionnaire for Debtors. Such Questionnaire shall be sent to all Debtors by the Trustee and completed by all Debtors and returned to the Trustee within 28 days of receipt. If not returned to the Trustee within the 28-day period, the Trustee may file a motion to compel the Debtor to appear and show cause why he or she has not cooperated. Upon the Trustee’s receipt of the completed Questionnaire, the Trustee shall file a motion, with 21-day negative notice, for issuance of a discharge. The Trustee in filing the motion, and the Court in ruling on it, may rely on the factual representations of the Debtor made in the Questionnaire, for purposes of satisfying the discharge requirements of 11 U.S.C. § 1328(a). The Trustee’s motion shall be served on all creditors, all holders of domestic support obligations, and any state child support enforcement agency required to receive notice under the Bankruptcy Code. Service of this motion shall satisfy the Trustee’s notice requirements of 11 U.S.C. § 1302(d)(1)(C). If no objection to the Trustee’s Motion is timely filed, the discharge hearing shall be deemed to have been waived, and an order discharging the Debtor shall be entered.

**4. DEBTOR’S DUTY TO FACILITATE NOTICE REGARDING DOMESTIC SUPPORT OBLIGATIONS:**

In order to facilitate the expeditious notice to domestic support obligation claim holders and the applicable state agencies required by 11 U.S.C. § 1302(d)(1)(A) and (B), the Debtor shall, at the time the schedules are filed, provide to the Trustee: (1) the names and current addresses and telephone numbers of all persons to whom the Debtor owes a domestic support obligation; and (2) the name, address, and telephone number of the state child support enforcement agency in each state where a person described in clause (1) above resides. For purposes of this paragraph, a domestic support obligation claim holder must be listed even if the Debtor is current on the obligation.

**5. SERVICE OF THE PLAN AND PRE-CONFIRMATION AMENDMENTS:**

a. Whether or not the plan is filed with the Chapter 13 petition at the commencement



of the case, the Debtor shall be responsible for serving the plan on all creditors.

**b.** Whenever a Chapter 13 plan is amended prior to confirmation, the Debtor shall serve the amended plan on all creditors, parties in interest, and the Chapter 13 Trustee within two (2) business days after the filing with the court.

**c.** Absent leave of court, the last date that a Debtor may file a pre-confirmation amended plan is twenty-eight (28) days prior to the confirmation hearing date. The court will only consider de minimis, nonsubstantive, or technical amendments to the plan at the confirmation hearing.

**d.** 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 on the Chapter 13 Trustee.

**6. PRE-CONFIRMATION DISBURSEMENTS BY THE CHAPTER 13 TRUSTEE:**

**a.** The Court hereby orders that all pre-confirmation adequate protection payments to those secured claimants that the Debtor proposes to pay through the plan shall be made by the Trustee in the form of pre-confirmation, or “interim” disbursements made monthly, on the same dates the Trustee makes post-confirmation disbursements in other cases. Provided all conditions for disbursement are met, the Trustee shall begin disbursing to creditors under this paragraph on the first regularly scheduled disbursement with the month following the month in which the claim is filed, unless otherwise provided herein or by separate order. Such interim disbursements by the Chapter 13 Trustee shall be in lieu of direct adequate protection payments by Debtors to those secured claimants that the Debtor proposes to pay through the plan, as provided in 11 U.S.C. § 1326(a)(1)(C), and no direct adequate protection payments by Debtors to those creditors shall be required unless otherwise ordered by the Court.

**b.** The Trustee shall retain the statutory fee allowed pursuant to 28 U.S.C. § 586(e)(2) at the time payments are received (“a fee on receipts”).

**c.** All pre-confirmation payments if required by § 1326(c) will be made by the Chapter 13 Trustee without further order of the Court. Such payments shall be considered payments pursuant to § 1326(a) and 28 U.S.C. § 586(e). If the Debtor fails to make the required plan payments and funds on hand are not sufficient to pay all pre-confirmation adequate protection payments due, then such payments shall be paid on a pro rata basis, with the exception of ongoing monthly mortgage payments made by the Trustee. Monthly pre-confirmation adequate protection payments will be calculated from the date the first plan payment is due. To receive adequate protection payments, a secured creditor must have on file with the Clerk of the Court a timely filed proof of claim. The proof of claim must include proof of the creditor’s security interest and shall be served on the Chapter 13 Trustee, the Debtor, and Debtor’s attorney. The Trustee will thereafter commence disbursement of pre-confirmation adequate protection payments in the next regularly scheduled monthly disbursement following the filing of the claim, subject to normal operating procedures. The Trustee shall apply pre-confirmation adequate protection payments to accrued interest, if applicable, and then to principal. AP payments shall cease upon confirmation of the Plan.

**d.** With respect to interim disbursement payments made to priority or secured claimants other than the Trustee and Debtor’s counsel, the following conditions must be met: (a) the claim must

be listed in the Debtor's Schedules and must not be listed as contingent, unliquidated or disputed; (b) the claimant must have a timely proof of claim on file; and (c) the classification of the claim as filed must agree with its classification in the Debtor's Schedules. If there is a difference between the amount of the claim set out in the proof of claim and the amount scheduled by the Debtor, for purposes of interim disbursements, the Trustee will use the lower amount.

**7. ADDITIONAL ADEQUATE PROTECTION TO VEHICLE LENDERS:**

Pursuant to 11 U.S.C. § 363, the Debtor shall not use a vehicle post-petition unless the Debtor: (i) maintains insurance on the vehicle in the amount required by the Debtor's pre-petition contract; (ii) provides proof of insurance to the lienholder upon request; and (iii) provides the Trustee with all necessary information for a wage order not later than the date of the initial Section 341 Meeting of Creditors (if the Debtor is a wage or salaried employee and the Court has not ordered otherwise).

**8. MORTGAGE CREDITORS: ONGOING MORTGAGE PAYMENTS & DIRECT MORTGAGE PAYMENTS ON DEBTOR'S PRINCIPAL RESIDENCE:**

Unless the Debtor is current on the mortgage on the petition date, or otherwise provided for under PLAN PROVISIONS 8. **Nonstandard Plan Provisions**, the Trustee shall pay all post-petition monthly mortgage payments to the mortgagee. Further, specific provisions regarding treatment of mortgage payments through the Plan are set out in the Consolidated Standing Order for the Adoption of a District Wide Form Chapter 13 Plan and the Chapter 13 Plan.

**9. DEADLINE FOR FILING OBJECTIONS TO CLAIMS; LATE-FILED CLAIMS:**

**a.** Objections to proofs of claim must be in writing and filed pursuant to L.Rule 9014. CONTESTED MATTERS.

**b.** No objection to a late-filed claim shall be necessary; such claims are deemed disallowed unless otherwise ordered by the Court. The burden is on the claimant to request, by motion, allowance of a late-filed claim.

**10. DEADLINE FOR FILING RESPONSES TO OBJECTIONS TO CLAIMS:**

Responses to objections to claims must be filed by the deadline provided in the notice included in the particular objection, pursuant to Local Bankruptcy Rule 9014. CONTESTED MATTERS. If no such notice is included in the objection to claim, no response is necessary and the objection to claim shall be set for hearing.

**11. ALLOWANCE OF CLAIM FOR PURPOSES OF TRUSTEE'S DISBURSEMENTS ON CLAIM:**

For purposes of the Trustee's disbursements on a claim under the plan, as soon as the deadline (as established herein) for filing an objection to a particular claim has passed, if no objection to the claim is then pending, the Trustee is authorized to rely on the most recent order determining the

allowance of the claim or, if no such order has been entered, on the Court's official record of filed claims in the case.

**12. MOTIONS TO VALUE COLLATERAL OR TO AVOID LIENS INDEPENDENT OF THE PLAN, AND RESPONSES THERETO:**

**a.** While some motions under 11 U.S.C. § 506 to value collateral or under 11 U.S.C. § 522(f) to avoid lien may be contained within the debtor's plan as provided in Form Plan, the debtors may elect to separately file a motion to value collateral or to avoid a lien, independent of the plan. Any such independent motion must be in writing.

**b.** Responses or objections to motions to value collateral or to avoid liens that are filed separately from the plan must be in writing and filed by the deadline provided in the notice included in such motion, pursuant to Local Bankruptcy Rule 9014. If no such notice is included, no response is necessary, and the motion shall be set for hearing.

**13. DEADLINE FOR FILING OTHER OBJECTIONS TO THE DEBTOR'S PLAN:**

Any objection to the confirmation of the Debtor's plan, including responses and objections to the motions to value collateral and to avoid liens that are contained in the plan, must be in writing and shall be filed no later than fourteen (14) days prior to the confirmation hearing date. All objections to a plan, including responses and objections to the motions to value collateral and to avoid liens that are contained in the plan, will be considered at the confirmation hearing.

**14. AMENDMENTS TO THE CHAPTER 13 PLAN, MOTIONS TO CURE PLAN ARREARAGE AND MOTIONS TO INCUR DEBT:**

**a.** All motions to modify Chapter 13 plans must:

(1) be noticed to all creditors and parties in interest, including the Chapter 13 Trustee, within two days of filing;

(2) contain negative notice language affording creditors a twenty-one-day opportunity to file objections to the proposed relief;

(3) specifically indicate the number of months (if any) which the motion proposes to extend the term of the plan from the date of confirmation through completion; and

(4) include separately filed amended Schedules I & J to indicate what material changes have occurred, if any.

**b.** PROCEDURE FOR TRUSTEE'S APPROVAL TO INCUR DEBT ONLY (NOT PROCEDURE OF APPROVAL BY THE COURT) Trustee's approval shall be sought by the submission of a written request to the Trustee by the Debtor's attorney (or the Debtor, if not represented by counsel), and such request shall not be filed with the Clerk. At the time the request is submitted to the Trustee, however, the Debtor shall also file with the Clerk Amended Schedules I

& J. In the written request to the Trustee, the Debtor shall state:

- (1) the reason or need for the incurring of the debt; and
- (2) the item to be purchased or refinanced, the amount of the debt, and other relevant financing terms.

If the Trustee approves the request, the Trustee shall file such approval with the Clerk. If the application is not approved by the Trustee within fourteen (14) days of submission, a motion to incur debt, which shall contain the same information as the request to the Trustee and shall also reference the Trustee's lack of approval of the request, may then be filed with the Clerk. In addition, refer to the Consolidated Standing Order for the Adoption of a District Form Chapter Plan or any other Order entered by the Court for this division or additional Court ordered procedures.

**15. TRANSFER OF ASSETS POST-PETITION:**

Refer to the Consolidated Standing Order for the Adoption of a District Form Chapter Plan for cases filed after November 1, 2017 or any other Order entered by the Court for this procedure.

**16. PLAN PROVISIONS FOR "SURRENDER" OF PROPERTY AND IMPACT ON THE AUTOMATIC STAY; PLAN DISBURSEMENTS AFTER TERMINATION OF THE AUTOMATIC STAY:**

a. Entry of an order confirming a plan that provides for surrender of property as treatment of a secured claim shall operate to modify the automatic stay imposed pursuant to 11 U.S.C. § 362(a) or 1301(a) to permit the holder of the claim to exercise its rights with respect to obtaining possession and title to the property. Unless otherwise provided by the plan or confirmation order, this modification of the automatic stay becomes effective fourteen (14) days after entry of an order of confirmation and no separate motion for relief from the automatic stay need be filed by the affected secured creditor.

b. Unless the Court orders otherwise, the Trustee will cease disbursements on a claim after the earlier of (a) sixty (60) days after an order for relief from the stay is entered or a notice of termination of stay is filed, or (b) the date the Trustee receives a Notice of Repossession or Foreclosure. For the purposes of this paragraph, the "modification" described in the paragraph above is considered to be an order granting relief from the stay.

c. The creditor retains the right to file an amended unsecured deficiency claim after the foreclosure has occurred except to the extent otherwise provided in any confirmed plan. Unless otherwise provided by an order of the court, any such deficiency claim shall be filed no later than ninety (90) days after the automatic stay is terminated, as determined by the order granting relief from the stay or the Notice of Termination of Stay.

**17. TAX RETURNS AND ANNUAL TAX REFUNDS:**

- a. Tax Refunds.

(1) All tax refunds received by the Debtor (or either Debtor if a joint case) while the chapter 13 case is pending shall be allocated as set forth below:

(i) The total amount of the aggregate tax refund(s) received for any tax period that exceeds \$2,000.00 shall, upon receipt, be paid and turned over to the Trustee as additional disposable income and such amount shall increase the base amount of the Plan. The Plan shall be deemed modified accordingly, and the Trustee will file a notice of plan modification within 21 days of receipt of the tax refund;

(ii) This \$2,000.00 annual limit shall apply to both joint-Debtor and single-Debtor cases;

(iii) The \$2,000.00 otherwise retained by Debtor must first be applied to any Plan arrearages;

(iv) Notwithstanding subparagraph (1) above, the Debtor may file a request to retain the portion of the tax refund otherwise payable to the Plan under subparagraph (1) with twenty-one (21) day negative notice language as set forth in Local Rule 9014(a) if, at the time of receipt of a refund, Debtor's Plan provides for the payment of 100% of allowed general unsecured claims within the term of this Plan. If the Trustee does not object within the twenty-one (21) day negative notice period, the Debtor may retain that portion of the tax refund.

(2) The Trustee is hereby authorized to endorse a tax refund check if the check is made payable to Debtor.

**b. Annual Tax Returns.**

The Debtor shall provide a copy of the annual post-petition income tax return to the Trustee if requested to do so or if required to do so pursuant to the Standing Order for Chapter 13 Administration for the division in which this case is pending. If this is a joint case, each Debtor shall comply with this provision if separate returns are filed.

**18. DUTIES OF TRUSTEE:**

It is sufficient for the purposes of Local Bankruptcy Rules 2016(c)(1) and 3015(e)(3) that the Trustee note his or her recommendation concerning confirmation of the Debtor's Chapter 13 plan by signing off on the confirmation order.

**19. DEBTOR'S COUNSEL: SCOPE OF REPRESENTATION AND COMPENSATION:**

**a. Scope of Representation; Benchmark Fee:**

(1) An attorney representing the Debtor in a Chapter 13 case shall represent the Debtor in *all* matters in or related to that case, from the earlier of the filing of the petition (if the attorney signs the petition) or the filing of a notice of appearance by the attorney (if the Debtor originally filed the petition pro se) until the case is

dismissed or otherwise closed (including disposition of any motion to reinstate the case), absent court approval of counsel's withdrawal from representation.

(2) The Bankruptcy Court for the Western District of Texas may from time to time establish a standard benchmark fee for Debtor's counsel in a routine non- business Chapter 13 case, and a standard benchmark fee for Debtor's counsel in a routine business case (see subparagraphs (3) and (4) below). An attorney may not receive a post-petition retainer or payment from the Debtor other than as specified in this Standing Order without leave of court. As guidelines, the Court contemplates that the following matters will be included in the standard benchmark fee:

- (a) all conferences with the Debtor, including budget consultations and timely responses to Debtor inquiries, whether by telephone or in writing;
- (b) preparation of the bankruptcy petition, schedules, statement of affairs, plan and pre-confirmation amendments thereto;
- (c) representation of the Debtor at the § 341 meeting of creditors, including any continuances thereof;
- (d) representation of the Debtor at confirmation and discharge hearings (including reset confirmation hearings);
- (e) representation of the Debtor in connection with two motions under 11 U.S.C. § 362;
- (f) representation of the Debtor on motions to dismiss, including Trustee motions to dismiss with or without prejudice;
- (g) preparation of and representation of the Debtor on routine motions, which include the following:
  - (i) motions for moratorium;
  - (ii) motions to waive pay order;
  - (iii) motions to pay filing fees in installments;
  - (iv) a first motion to reinstate the case;
  - (v) objections to claims and motions to value collateral and to avoid liens;
  - (vi) motions to extend time to file paperwork; and
  - (vii) motions to convert or dismiss the case;
- (h) providing notices to creditors, where appropriate, such as explaining the automatic stay;
- (i) making and performing, or assisting the Debtor in making or performing, the disclosures and duties required by 11 U.S.C. §§ 521, 527, 528 and 1308 including completion of the Questionnaire required at the end of the

case (see Paragraph 3c above); and

(j) other miscellaneous normal, customary services including correspondence with clients, review of correspondence from clients, communication with the Trustee, Trustee's office, and Clerk's office.

(3) In an individual non-business case, the Court deems \$3,600.00 ("the Individual Standard Fee") as reasonable compensation and reimbursement of expenses for an attorney representing the Debtor in accordance with 11 U.S.C. § 330(a)(3)(B).

(4) In an individual business case, the Court deems \$4,900.00 ("the Business Standard Fee") as reasonable compensation and reimbursement of expenses for an attorney representing the Debtor in accordance with 11 U.S.C. § 330(a)(3)(B).

(5) The Court will therefore allow an Individual Standard Fee or a Business Standard Fee and the Bankruptcy Clerk filing fees without the requirement of an application for compensation under 11 U.S.C. § 330 and Fed.R.Bankr.P. 2016(a).

**b. Additional Compensation:**

(1) Notwithstanding the foregoing, an attorney may for cause shown request additional fees for the services listed. Such request may be made through the filing of a formal application for compensation and following the National and Local Rules for such procedure. Alternatively, Debtor's counsel may follow the expedited procedure provided hereafter. In no event, however, shall counsel condition representation upon payment of an additional fee prior to undertaking a task. Counsel's choice is to undertake the work and then seek compensation or to decline the work and file an application for permission to withdraw from further representation in the case.

**(2) Expedited Application for Additional Compensation:**

(a) If (and only if) Debtor's counsel's employment agreement with the Debtor regarding attorney's fees and scope of employment authorizes fees and expenses to be charged beyond the amount originally agreed to be paid, as disclosed by counsel pursuant to Fed.R.Bankr.P. 2016(b), and only if and when the fee for filing the case has been paid in full, counsel may seek the allowance and payment of additional fees and expenses. In the interest of establishing *a simpler, more expeditious, and less expensive process* for requesting and obtaining allowance of such additional attorneys' fees and expenses in Chapter 13 cases, as an alternative to the procedure established under Local Rule 2016(4), the following procedure may be used. This abbreviated procedure may be used not more than three times in any case, and the total additional fees and expenses that are requested in a case using this abbreviated procedure may not be more than the amount originally charged.

(b) Except as provided below in subsection (b)(2), such additional fees may only be requested by the filing by counsel of a **“Motion for Additional Fees.”** If previous motions for additional fees have been filed, then subsequent motions shall be identified numerically as “Second Motion for Additional Fees,” etc. The content of the motion shall:

(i) include the 21-day negative notice language of Local Bankruptcy Rule 9014(a) and be served on all creditors with allowed claims, the Debtor and the Trustee;

(ii) state the amount agreed to be paid under the original fee agreement, and the amount of any pre-petition retainer;

(iii) state the dates and amounts of all previous requests for additional fees and expenses, and the amount awarded on each;

(iv) briefly describe the services performed for the current request;

(v) state the proposed source of payment of the fees and expenses requested (e.g., directly by the Debtor, through the plan, by a third party, from sales proceeds, etc.);

(vi) briefly describe the anticipated effect of the allowance of the additional fees and expenses on the plan (i.e., on its feasibility, the amount of any reduction in the dividend to unsecured creditors, etc.); and

(vii) contain a certificate of service indicating service on the trustee, Debtor, and all other parties in interest in the case.

(3) **Exceptions:** In the few limited instances listed below, a request for additional attorney’s fees and expenses may be included in a pleading that requests other relief. That a request for additional fees and expenses is included shall be noted in the caption of the pleading (and in the caption of the form of the order submitted with the pleading), which caption shall also indicate how many such requests have preceded the current request (e.g., **“. . . and Fourth Request for Additional Debtor’s Attorney’s Fees”**). The pleading shall comply with the requirements of subsection 2(b)(i) through (vii), above, and may include 21-day negative notice. If 21-day negative notice is included, and if no party in interest files a timely response, the court may approve the request for additional attorney’s fees and expenses, in addition to the other relief requested, without further notice or hearing.

The *only* pleadings which may include such requests for additional attorney’s fees and expenses are:

(a) applications to sell property where the proceeds of the sale will be the source of payment of any authorized additional fees and expenses; and



(b) motions or other pleadings where a third party, not the bankruptcy estate or the Debtor, will be the source of payment of any authorized additional fees and expenses.

Notwithstanding the foregoing, responsive pleadings may not include requests for additional attorney's fees and expenses of counsel for the Debtor.

**20. 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:

- a. failure of the Debtor to timely pay the filing fee;
- b. failure of the Debtor to timely file a plan or use the applicable Form Plan;
- c. failure of the Debtor to timely file Schedules;
- d. unexcused failure of the Debtor to appear at the scheduled Meeting of Creditors (Section 341 Meeting);
- e. delinquency of the Debtor of sixty (60) days or more days on payments under a proposed or confirmed plan;
- f. failure of the Debtor to comply with the provisions of a prior order which provides for such relief;
- g. failure of the Debtor to submit tax returns pursuant to § 521(e)(2);
- h. or failure of the Debtor to submit payment advices pursuant to § 521(a)(1)(B)(iv).

**21. EFFECTIVE DATE AND APPLICABILITY:**

The Effective Date of this Order is November 1, 2017. The Form Plan shall be used in every case filed in this Division on and after November 1, 2017.

IT IS FURTHER ORDERED that the Clerk of the Court shall give notice of this Order by serving a copy on the Chapter 13 Trustee for the Waco Division of the Western District of Texas, and by posting a copy on the Court's official web site at <http://www.txwb.uscourts.gov>.

# # #

**UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
\_\_\_\_\_ DIVISION**

**IN RE:**

**Debtor(s)**

§  
§  
§  
§

**CASE NO.**

**Chapter 13**

**CHAPTER 13 PLAN AND MOTIONS FOR  
VALUATION AND LIEN AVOIDANCE**

**☐ AMENDED**

If you oppose the Plan's treatment of your claim or any provisions of this Plan, YOU MUST FILE AN OBJECTION to confirmation no later than fourteen (14) days before the confirmation hearing date.

Use of the singular word "Debtor" in this Plan includes the plural where appropriate. All section references ("§") are to the Bankruptcy Code unless otherwise noted.

The following matters may be of particular importance. *Debtors must check one box on each line to state whether or not the Plan includes each of the following items.* If an item is checked as "Not Included" or if both boxes are checked, the provision will be ineffective if set out later in the Plan.

**1. Plan Overview**

<b>1.1</b>	A limit on the amount of secured claim based on valuation of collateral for the claim, set out in Sections 7.8 and 7.9, which may result in a partial payment or no payment at all to the secured creditor	<input type="checkbox"/> Included	<input type="checkbox"/> Not Included
<b>1.2</b>	Avoidance of a wholly unsecured lien or judicial lien or nonpossessory, nonpurchase-money security interest, set out in Sections 7.9 and 7.10	<input type="checkbox"/> Included	<input type="checkbox"/> Not Included
<b>1.3</b>	Nonstandard provisions, set out in Section 8	<input type="checkbox"/> Included	<input type="checkbox"/> Not Included

**2. Plan Summary**

- 2.1** Debtor's Plan payment will be \$\_\_\_\_\_ per month, paid by ☐ 3<sup>rd</sup> Party Epay (if accepted by Trustee), ☐ Payroll Order, or ☐ Direct (Money Order or Cashier's Check). Variable payments, if applicable, are proposed as follows:

**EXAMPLE:**

Months	Amount of Monthly Payment
1–24	\$500
25–60	\$750

The term of the Plan is \_\_\_\_\_ months. The gross amount to be paid to the Trustee (sometimes, the “base amount”) is \$\_\_\_\_\_.

- 2.2** Under this Plan, the Trustee will pay all allowed priority claims in full; all allowed secured claims to the extent of the value of the collateral or the amount of the claim, whichever amount is provided for in Sections 7.7 and 7.8; and approximately \_\_\_\_\_% to allowed general unsecured claims. The specific treatment for each class of creditors is set forth below in the Plan.

**This Plan does not allow claims. A creditor must file a proof of claim by the applicable deadline to receive distributions under the plan as confirmed. Creditors are referred to the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules for the Western District of Texas, and the Standing Order for Chapter 13 Administration for this Division for information on procedures and deadlines.**

- 2.3** The aggregate value of Debtor’s non-exempt assets is: \$\_\_\_\_\_.

### **3. Vesting of Estate Property**

- ☐ Upon confirmation of the Plan, all property of the estate **shall** vest in the Debtor, shall not remain property of the estate, and shall not be subject to the automatic stay of § 362; provided however, in the event of conversion of this case to chapter 7 the property of the Debtor as of the petition date should revert in the estate.
- ☐ Upon confirmation of the Plan, all property of the estate **shall not** vest in the Debtor, shall remain property of the estate, and shall remain subject to the automatic stay of § 362.

### **4. Tax Refunds and Annual Tax Returns**

#### **4.1 Tax Refunds.**

All tax refunds received by Debtor (or either Debtor if a joint case) while the chapter 13 case is pending shall be allocated as set forth below:

- 1) The total amount of the aggregate tax refund(s) received for any tax period that exceeds \$2,000.00 shall, upon receipt, be paid and turned over to the Trustee as additional disposable income and such amount shall increase the base amount of the Plan. The Plan shall be deemed modified accordingly, and the Trustee will file a notice of plan modification within 21 days of receipt of the tax refund;
- 2) This \$2,000.00 annual limit shall apply to both joint-debtor and single-debtor cases;
- 3) The \$2,000.00 otherwise retained by Debtor must first be applied to any Plan arrearages;

- 4) Notwithstanding subparagraph (1) above, Debtor may file a notice to retain the portion of the tax refund otherwise payable to the Plan under subparagraph (1) with twenty-one (21) day negative notice as set forth in Local Rule 9014(a) if, at the time of receipt of a refund, Debtor's Plan provides for the payment of 100% of allowed general unsecured claims within the term of this Plan. If the Trustee does not object within the twenty-one (21) day negative notice period, Debtor may retain that portion of the tax refund.

The Trustee is hereby authorized to endorse a tax refund check if the check is made payable to Debtor.

#### **4.2 Annual Tax Returns.**

Debtor shall provide a copy of the annual post-petition income tax return to the Trustee if requested to do so or if required to do so pursuant to the Standing Order for Chapter 13 Administration for the division in which this case is pending. If this is a joint case, each Debtor shall comply with this provision if separate returns are filed.

### **5. Pre-Confirmation Adequate Protection Payments**

Pre-confirmation adequate protection payments under § 1326(a)(1) and § 502(b) shall be made as provided below, and pursuant to the Standing Order for Chapter 13 Administration for the division in which this case is pending:

- A. All pre-confirmation payments if required by § 1326(c) and proposed below will be made by the Chapter 13 Trustee without further order of the Court. Such payments shall be considered payments pursuant to § 1326(a) and 28 U.S.C. § 586(e).
- B. If the Debtor fails to make the required plan payments and funds on hand are not sufficient to pay all pre-confirmation adequate protection payments due, then such payments shall be paid on a pro rata basis, with the exception of ongoing monthly mortgage payments made by the Trustee.
- C. Monthly pre-confirmation adequate protection payments will be calculated from the date the first plan payment is due. To receive adequate protection payments, a secured creditor must have on file with the Clerk of the Court a timely filed and allowed proof of claim. The proof of claim must include proof of the creditor's security interest and shall be served on the Chapter 13 Trustee, the Debtor and Debtor's attorney. The Trustee will thereafter commence disbursement of pre-confirmation adequate protection payments in the next regularly scheduled monthly disbursement following the filing of the claim, subject to normal operating procedures.
- D. The Debtor proposes the following pre-confirmation adequate protection ("AP") payments. The Trustee shall apply pre-confirmation adequate protection payments to accrued interest, if applicable, and then to principal. AP payments shall cease upon confirmation of the Plan.

<b>Creditor &amp; Collateral</b>	<b>Monthly AP Payment</b>	<b>Interest Rate, If Claim is Over Secured</b>	<b>Other Treatment Remarks</b>

## **6. Executory Contracts / Unexpired Leases / Contracts for Deed**

**6.1 Pursuant to § 1322(b)(7) and § 365, Debtor hereby elects to assume the following executory contracts, unexpired leases, and/or contracts for deed as follows:**

<b>Creditor</b>	<b>Property or Contract Description</b>	<b>Current Monthly Payment to be Paid Directly by the Debtor</b>

**6.2 Pursuant to § 1322(b)(7) and § 365, Debtor hereby elects to reject the following executory contracts, unexpired leases, and/or contracts for deed:**

<b>Creditor</b>	<b>Property</b>

## **7. Treatment of Claims**

**7.1 Administrative Claims & Request for Attorney Fees.**

The Trustee shall collect the allowed statutory Trustee fee upon receipt of all monies paid by or on behalf of Debtor. All other administrative claims, including Debtor's attorney fees, shall be paid according to the terms of this Plan.

Upon confirmation of the Plan, the Court approves and awards \$\_\_\_\_\_ to Debtor's attorney as an administrative claim for legal services performed in this case in accordance with the applicable benchmark. Debtor's attorney may file applications for an additional award of attorney fees pursuant to the Bankruptcy Code, Local Bankruptcy Rules for the Western District of Texas, and the Standing Order for Chapter 13 Administration for the division in which this case is pending. If additional monies are available, the Trustee may, within his or her discretion, disburse such funds to this class on a pro rata basis. The Trustee shall disburse payments to the attorney as follows:

<b>Debtor's Attorney</b>	<b>Amount of Fee Paid Through the Plan</b>	<b>Payment Method:</b>	<b>Additional Provisions</b>
		<input type="checkbox"/> Standing Order <input type="checkbox"/> Other	

## 7.2 Priority Claims.

All allowed claims entitled to priority under § 507(a), except § 507(a)(2), shall be paid in full in deferred distributions by the Trustee, unless: (1) the holder of a particular claim agrees to a different treatment of such claim; or (2) such claim is provided for under § 1322(a)(4). Unless the Plan provides otherwise, the distributions shall be made by the Trustee. If the Plan identifies a creditor's claim as a priority claim and the creditor files the claim as a general unsecured claim, the claim shall be treated as a general unsecured claim unless otherwise ordered by the Court. If any priority claim is filed for a debt that was either not scheduled or scheduled as a general unsecured claim, the claim shall be allowed as a priority claim unless otherwise ordered by the Court. Allowed priority claim(s) shall be paid without interest, unless otherwise ordered by the Court or unless specifically allowed under § 1322(b)(10) and provided for below.

The amount set forth in the Plan is an estimate and if the actual allowed claim is in a different amount, the amount to be paid pursuant to the Plan shall be the amount due on the allowed claim.

Domestic Support Obligations ("DSO"). The Trustee shall pay all pre-petition DSO claims through the Plan unless the Court orders otherwise. Debtor shall pay all DSO payments that accrue post-petition directly to the holder, or the holder's agent, pursuant to the terms of the DSO.

The Trustee shall disburse payments to the following creditors holding priority claims:

### EXAMPLE:

<b>Creditor</b>	<b>Description</b>	<b>Est. Claim Amount</b>	<b>Est. Monthly Payment</b>
Attorney General	Child Support	\$5,000	Pro Rata
IRS	Income Tax (2013)	\$5,000	Pro Rata

If additional monies are available, the Trustee may, within his or her discretion, disburse such funds to this class on a pro rata basis.

## 7.3 Arrears on Assumed Executory Contracts/Leases/Contracts for Deed.

The Trustee shall disburse payments for arrears to creditors holding assumed executory contracts, leases, and/or contracts for deeds. The amounts listed below by Debtor are estimates. If a creditor files a proof of claim and the claim for arrears or the ongoing monthly

payment is in a different amount than stated below, the payments under the Plan shall be based on the creditor's claim unless a different amount is established by court order.

Those creditors holding claims within this class are as follows:

<b>Creditor &amp; Collateral</b>	<b>Arrears &amp; Treatment of Arrears Through the Plan</b>	<b>Amount of Ongoing Monthly Payment Through the Plan</b>

#### **7.4 Collateral to be Surrendered.**

Upon the entry of an order confirming the Plan or an order modifying the Plan, the stay shall automatically terminate with regard to the collateral surrendered. Upon the entry of such order, the creditor shall have ninety (90) days from the date of the order to file a claim or amended claim as to any deficiency balance that may remain, and such deficiency balance will be paid as a general unsecured claim. Any such claim is subject to objection.

Debtor surrenders the following collateral:

<b>Creditor</b>	<b>Collateral</b>	<b>Location of Collateral</b>

#### **7.5 Creditors to be Paid Directly by Debtor (Other Than Mortgage Creditors), by a Third Party, or by a Co-Debtor. [USE ONLY IF THERE IS NO DEFAULT]**

Creditors within this class shall retain their liens on the collateral that is security for the claim until the claim has been paid in full as determined by the note and/or applicable non-bankruptcy law.

If certain claims are paid directly by Debtor to creditor, Debtor shall be deemed acting as a disbursing agent under the Plan for payment of such claim. Such payments shall be made in addition to the payments by Debtor to the Trustee and are deemed to be payments made pursuant to the Plan.

The following creditors shall be paid directly by Debtor, a Third Party, or a Co-Debtor:

<b>Creditor</b>	<b>Collateral</b>	<b>Debt Owed</b>	<b>Monthly Payment</b>	<b>Remarks</b>	<b>Identify Payer</b>

## **7.6 Mortgage Creditors: Ongoing Mortgage Payments & Direct Mortgage Payments on Debtor's Principal Residence.**

Unless the Debtor is current on the mortgage on the petition date, or otherwise provided for under PLAN PROVISIONS 8. Nonstandard Plan Provisions, the Trustee shall pay all post-petition monthly mortgage payments to the mortgagee. Ongoing mortgage payments will be in the amount stated in the allowed proof of claim or pursuant to a Court Order. If Debtor makes a Plan payment that is insufficient for the Trustee to disburse all ongoing mortgage payments required below, the Trustee shall hold plan payments until a sufficient amount is received to make a full ongoing mortgage payment. Debtor shall provide to the Trustee all notices received from Mortgage Creditors including, statements, escrow notices, default notifications, and notices concerning changes of the interest rate if a variable rate mortgage. The automatic stay is modified to permit Mortgage Creditors to issue such notices.

The Trustee shall be authorized to make changes to the ongoing monthly mortgage payments based on Notice filed pursuant to Bankruptcy Rule 3002.1(b) and to pay fees, expenses, and charges based on Notice filed pursuant to Bankruptcy Rule 3002.1(c). The Trustee may request that the Debtor file amended Schedules I and J, and the Debtor shall do so on or within thirty (30) days after receiving such a request from the Trustee. If Debtor lacks the disposable income to pay the ongoing mortgage payment, the Trustee may seek dismissal. The Debtor or the Trustee may seek to modify the Plan based on Debtor's current income, Debtor's ongoing mortgage payment obligations, or as otherwise provided in § 1329.

Alternatively, upon the filing by a Mortgage Creditor of a Notice pursuant to Bankruptcy Rule 3002.1(b) or 3002.1(c), the Trustee may file a Notice of Increase of Plan Payment with the Court if the Trustee reasonably believes that, under the circumstances, the increased payment should be Debtor's responsibility. The Trustee shall serve the Notice of Increase of Plan Payment on Debtor and Debtor's counsel. Such circumstances include but are not limited to: (1) increase in the mortgage payment or claim for expense is caused by Debtor's failure to pay tax, insurance or other obligations to the mortgagee that the Debtor was required to pay directly; (2) cases in which the Debtor is paying less than the Debtor's full disposable income because the Debtor has agreed to pay a 100% dividend to general unsecured creditors; and (3) cases where, because of the increase due the Mortgage Creditor, the current Plan would fail to pay fully the amount provided under the Plan to allowed secured, priority, and administrative claims and any required amount to be paid to general unsecured claims under the terms of the confirmed Plan by reason of § 1325(a)(4) or otherwise.

The amount set forth in a Notice of Increase of Plan Payment shall become the modified Plan payment, and the Plan base shall be correspondingly increased. The Debtor must file a motion to modify Plan, supported by amended Schedules I and J as well as income verification, if the Debtor believes there is not, at that time, sufficient disposable income to pay the increased Plan payment or there is otherwise basis to amend the Plan rather than pay the increased Plan payment. The Debtor's motion to modify Plan shall be filed no later than thirty (30) days after Trustee's Notice of Increase in Plan Payment is filed.



**It is possible that a change in the ongoing mortgage payment will affect the distribution to the unsecured creditors, and this provision of the Plan shall serve as adequate notice of the possibility.**

If Debtor is current as of the petition date and elects to pay the ongoing mortgage directly but subsequently defaults, Debtor should file a motion to modify the Plan within thirty (30) days of receiving notice of the default to provide for the payment of the post-petition mortgage arrears. The future ongoing mortgage payments shall be paid by the Trustee. The motion to modify the Plan must state the name, address, and account number of the Mortgage Creditor to whom payments are to be made; the date the Trustee is to commence the ongoing mortgage payments; and the treatment of the post-petition delinquency including the gap between the date when Debtor modified the Plan and the date on which the Trustee is to commence the ongoing mortgage payments. The Trustee may also file a motion to modify the Plan in the event of a post-petition default.

The Standing Order for Chapter 13 Administration for the division in which this case is pending as to ongoing mortgage payments shall also apply.

For cause shown, Debtor may deviate from the procedures set forth in this provision of the Plan provided that Debtor sets forth cause, with specificity, in PLAN PROVISIONS 8. Nonstandard Plan Provisions. The Trustee and any party in interest may object. Debtor shall have the burden of proving at any hearing on confirmation of the Plan cause for such deviation. Avoidance of administrative fees alone shall not be considered cause.

The amounts set forth below are Debtor's estimate and the allowed claim shall control as to the amounts. Those creditors holding a secured claim with ongoing mortgage payments are as follows:

<b>Creditor</b>	<b>Property Address</b>	<b>Monthly Mortgage Payment</b>	<b>Interest Rate (for informational purposes only)</b>	<b>Payment Due Date (per contract)</b>	<b>Paid By:</b>
					<input type="checkbox"/> Trustee (Conduit) <input type="checkbox"/> Debtor (Direct)

#### **7.7 Secured Claims: Cure Arrears on Long Term Debt and Mortgage Arrears on Debtor's Principal Residence.**

Arrears on long term debt and pre-petition mortgage arrearage claims shall be paid pursuant to the payment schedule set forth below. Upon discharge, if the pre-petition arrears and the post-petition ongoing payments are current on Debtor's Principal Residence, the default will be deemed cured and the note reinstated according to its original terms, including the retention of any security interest. The pre-petition arrears set forth below is an estimate only and the Trustee shall pay the pre-petition arrears based on the proof of claim as filed by the creditor, unless a different amount is allowed pursuant to a court order.

If there are insufficient funds to pay the monthly payment to claims within this class, creditors in this class shall be paid on a pro rata basis. If additional monies are available, the Trustee may, within his or her discretion, disburse such funds to this class on a pro rata basis.

The following secured creditors hold claims for arrears in this class:

Creditor	Collateral Description	Estimated Arrearage	Monthly Payment or Method of Distribution	Interest Rate (If applicable)	Remarks

## 7.8 Secured Claims: Treatment of Claim and Motion to Value Collateral Pursuant to § 506; and 910 Day Claims/1 Year Claims.

Creditors within this class shall retain their liens on the collateral that is security for their claims until the earlier of: (1) the date the underlying debt, as determined by non-bankruptcy law, has been paid in full; or (2) the date discharge is entered under § 1328. If the case is dismissed or converted without completion of all Plan payments, the liens shall be retained by the creditors pursuant to applicable non-bankruptcy law.

Debtor moves to value the collateral described below in the amounts indicated. The values as stated below represent the fair market value of the collateral pursuant to § 506(a)(2). Objections to the valuation of collateral proposed by this Motion and the Plan must be filed no later than fourteen (14) days before the confirmation hearing date. If no timely objection is filed, the relief requested may be granted in conjunction with the confirmation of the Plan.

The Trustee shall pay the allowed secured claims, which require the filing of a proof of claim, to the extent of the value of the collateral or the full payment of the claim as specified below, plus interest thereon at the rate specified in this Plan. **Failure of the secured creditor to object will be deemed acceptance of the plan under § 1325(a)(5)(A)** Except for secured claims for which provision is made to pay the full amount of the claim notwithstanding the value of the collateral, the portion of any allowed claim that exceeds the value of the collateral shall be treated as an unsecured claim under Section 7.11 below.

Creditor	Collateral Description	Amount of Debt (Est)	Fair Market Value	Interest Rate	Equal Monthly Payment	Unsecured Claim	910 Claim? ***
							<input type="checkbox"/>

\*\*\* Debtor indicates, by notation (☒) that the collateral which secures the claim was purchased within 910 days if a vehicle or within 1 year if personal property pursuant to § 1325(a) (hanging paragraph).

If additional monies are available, the Trustee may, within his or her discretion, disburse such funds to this class on a pro rata basis.

If any secured proof of claim is timely filed for a debt that was either not scheduled or scheduled as unsecured, the claim shall be allowed as secured unless otherwise ordered by the Court. Said claim shall be paid under the Plan with interest at \_\_\_\_% per annum and shall be paid on a pro rata basis as funds become available after payment of any fixed equal monthly payments payable to other secured creditors listed above.

## **7.9 Wholly Unsecured Claims.**

### **NOTICE OF DEBTOR'S INTENTION TO STRIP A WHOLLY UNSECURED LIEN**

**Debtor proposes a Chapter 13 plan that strips your lien secured by real property to a wholly unsecured claim. The Plan alleges that the value of the real property is less than the amount owed on all liens that are senior in priority to your lien. Your claim will receive no distributions as a secured claim but will receive distributions as a general unsecured claim.**

**If you disagree with the treatment proposed by the Plan that will terminate your lien and that will pay your claim as a general unsecured claim, you must file an objection to the Plan no later than fourteen (14) days before the confirmation hearing date. If you fail to object, the Bankruptcy Court may approve the Plan without further notice.**

**Upon entry of a Discharge Order, 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 real property and to provide a copy of the release to the Trustee, Debtor, and Debtor's 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 post-petition amounts are incurred with respect to post-petition fees and assessments, and are approved by the Court, if incurred during the pendency of the bankruptcy case.**

**This provision does not apply if a secured creditor does not file a proof of claim.**

Notice of this Plan provision must be provided by the Debtor to the secured creditor in accordance with Fed. R. Bankr. P. 7004.

The following claims shall be paid as a general unsecured claim as there is no equity in the collateral to secure the claim.

If the case is dismissed or converted without completion of all Plan payments, the liens shall be retained by the creditors pursuant to applicable non-bankruptcy law.

Those creditors holding secured claims that are wholly unsecured and are within this class are as follows:

<b>Creditor</b>	<b>Collateral</b>	<b>Fair Market Value</b>	<b>Amount of Senior Lien(s)</b>

#### **7.10 Motions to Avoid Lien Pursuant to § 522(f).**

The Bankruptcy Code allows certain liens to be avoided. If a lien is avoided, the creditor's claim, to the extent allowed, will be treated as a general unsecured claim under Section 7.11. The amount of the debt set forth in the Plan is Debtor's estimate and if the actual allowed claim is in a different amount, the unsecured amount to be treated pursuant to the Plan shall be the amount due on the allowed claim.

If the case is dismissed or converted without completion of all Plan payments, the liens shall be retained by the creditors pursuant to applicable non-bankruptcy law.

Debtor moves under § 522(f) to avoid the following liens that impair exemptions. Objections to this treatment must be filed no later than fourteen (14) days before the confirmation hearing date. If no timely objection is filed, the relief requested may be granted in conjunction with the confirmation of the Plan. (Debtor must list the specific exempt property that the lien impairs and the basis of the lien—e.g. judicial lien, non-PMSI, etc.).

<b>Creditor</b>	<b>Property Subject to Lien</b>	<b>Lien Amount to be Avoided</b>	<b>Secured Amount Remaining</b>	<b>Type of Lien</b>

#### **7.11 General Unsecured Claims.**

Creditors within this class hold general unsecured claims that are not otherwise provided for in the Plan, including but not limited to creditors' unsecured claims arising by reason of lien avoidance or lien strip, rejection of executory contracts or leases, or bifurcation of a claim. Payments to holders of allowed claims within this class shall be disbursed on a pro rata basis and shall be disbursed after payment of other creditors. The amounts set forth as unsecured claims in Debtor's schedules are estimates only, and payments to holders of allowed general unsecured claims shall be based upon allowed claim amounts.

## 8. Nonstandard Plan Provisions

### Nonstandard Plan Provisions.

The following Plan provisions will be effective only if there is a check in the box in Section 1.3 of the Plan.

**Failure to place any nonstandard provision in this section results in the nonstandard provision being void.**

I certify that all nonstandard plan provisions are contained in this section of the Plan.

\_\_\_\_\_  
Debtor's Attorney or Pro Se Debtor  
State Bar No. \_\_\_\_\_

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

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Joint Debtor

### **Certificate of Service**

Debtor shall be responsible for service of the Plan on the Trustee and all parties in interest.

**Exhibit # 2**

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

**IN RE:**

**Debtor(s)**

§  
§  
§  
§  
§

**CASE NO.**

**Chapter 13 Proceeding**

**SUPPLEMENT TO CONFIRMATION ORDER**

If the following tax returns are not filed with the Internal Revenue Service by the deadline indicated below, the Trustee may orally request Summary Dismissal of the case at any scheduled hearing on confirmation of the Debtor's(s') Plan.

- ☐ Form 1040 for the following periods: \_\_\_\_\_
- ☐ Form 940 for the following periods: \_\_\_\_\_
- ☐ Form 941 for the following periods: \_\_\_\_\_
- ☐ Other: \_\_\_\_\_

The deadline for filing all of the above is: \_\_\_\_\_

For purposes of this Supplement, a return is considered "filed" if any of the following are provided to the Trustee:

- (1) a Receipt of Tax Return form from the IRS, or a receipt from the Presiding Officer at the Section 341 Meeting of Creditors stating that the return(s) were provided at that Meeting;
- (2) a file-stamped copy of the return from the local IRS Office; or
- (3) the "green card" return receipt requested, showing the return(s) were mailed to the following address:  
  
Internal Revenue Service  
Special Procedures Staff  
300 E. 8th Street  
Stop 5026 AUS  
Austin, Texas 78701
- (4) An affidavit of the Debtor, swearing that the return has been mailed on a stated date to the IRS at the above address, with a copy of the mailed return attached.

Approved:

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Chapter 13 Trustee

Exhibit # 3

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
WACO DIVISION

IN RE:

Debtor(s)

§  
§  
§  
§  
§

CASE NO.

Chapter 13 Proceeding

**DECLARATION OF THE DEBTOR(S)**  
**CONCERNING CONFIRMATION REQUIREMENTS**

The Debtor(s) in the above captioned case, \_\_\_\_\_,  
\_\_\_\_\_, being duly sworn upon oath, state as follows (check all applicable statements):

1. ☐ Since the filing of this bankruptcy case, I/we have not been required by a judicial or administrative order or by statute to pay any domestic support obligation as defined in 11 U.S.C. § 101(14A).

**OR**

- ☐ I/We have paid all amounts that first became due and payable under a domestic support obligation (as defined in 11 U.S.C. § 101(14A)) after the filing of this bankruptcy case that I/we am/are required by a judicial or administrative order or by statute to pay.

2. ☐ I/We have filed all federal, state and local tax returns required by law to be filed for all taxable periods ending during the four year period prior to the filing of this bankruptcy case.

**OR**

- ☐ I/We have signed a Supplement to the Confirmation Order certifying that all required tax returns will be filed no later than \_\_\_\_\_.

**By signing this Affidavit, I/we acknowledge that all statements contained herein are true and accurate and that the Court may rely on the truth of each of these statements in determining whether to confirm my/our Chapter 13 Plan. The Court may revoke confirmation of the Chapter 13 Plan if the statements herein are not accurate. Debtor(s) understand that, should any of the above declarations change prior to entry of a confirmation order, Debtor(s) will have to present an updated Declaration to the Chapter 13 Trustee.**

*I/We declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on \_\_\_\_\_, 201\_\_.*

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Debtor

**Exhibit # 4**

**DEBTOR QUESTIONNAIRE UPON COMPLETION  
OF PLAN PAYMENTS IN BANKRUPTCY CASE NO. \_\_\_\_\_**

**CIRCLE THE CORRECT ANSWERS:**

1. YES / NO I/We have completed an instructional course concerning personal financial management, as described in 11 U.S.C. § 111, provided by the following entity:  
  
[ Insert Name & Address of Chapter 13 Trustee ] \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
2. YES / NO I/We have not received a discharge in a Chapter 7, 11 or 12 bankruptcy case within four years of the date I/we filed this bankruptcy case.
3. YES / NO I/We have not received a discharge in another Chapter 13 bankruptcy case within two years of the date I/we filed this bankruptcy case.
4. YES / NO Did you elect to use State exemptions? If yes, then the following two questions must be answered.
  - a. YES / NO I/We did not have, either at the time of the filing of this bankruptcy case, or at the present time, equity in excess of \$125,000 (\$250,000 if married and filing this case jointly) in the type of property described in 11 U.S.C. § 522(p)(1). [*generally, your homestead*]
  - b. YES / NO There is not currently pending any proceeding in which I [in an individual case] or either of us [in a joint case] may be found guilty of a felony [a felony is an offense punishable by a minimum term of imprisonment of more than one year] of the kind described in 11 U.S.C. § 522(q)(1)(A) [one where the circumstances of the felony demonstrated that the filing of this case was an abuse of the Bankruptcy Code] or liable for a debt of the kind described in 11 U.S.C. § 522(q)(1)(B) [violation of federal or state securities laws or regulations or orders issued thereunder; fraud, deceit or manipulation in a position of trust in connection with the purchase or sale of certain registered securities; civil remedies under the racketeering statute; or criminal acts, intentional civil injuries, or willful or reckless misconduct causing serious physical injury or death to another in the preceding five years].



5. a. YES / NO I/We have been required by a judicial or administrative order or by statute to pay any domestic support obligation, as defined in 11 U.S.C. § 101(14A) [a debt owed to or recoverable by a spouse, former spouse, or child or the child's parent or legal guardian, or a government unit, for alimony, maintenance or support of those persons, that was established by a separation agreement, divorce decree, property settlement, or order of the court or, where applicable, a determination of a governmental unit] either before this bankruptcy case was filed, or at any time after the filing of this bankruptcy case.

**IF THE ANSWER TO QUESTION 5a IS "YES," THEN ALL OF THE FOLLOWING QUESTIONS MUST BE COMPLETED/ANSWERED:**

- b. YES / NO I/We certify that, prior to the date of this Questionnaire, I/we have paid all amounts due under any domestic support obligation [as defined in 11 U.S.C. § 101(14A)] required by a judicial or administrative order or by statute, including amounts due before this bankruptcy case was filed, to the extent provided for by my/our Plan. The name and address of each holder of a domestic support obligation is as follows:

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- c. My/Our most recent address is:

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- d. The name and address of my/our most recent employer(s) is:

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- e. The following creditors hold a claim that is not discharged under 11 U.S.C. § 523(a)(2) or

(a)(4), or a claim that was reaffirmed under 11 U.S.C. § 524(c):

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**I/we acknowledge that all statements contained herein are true and accurate. The Court may rely on the truth of each of these statements in determining whether to grant me/us a discharge in this Chapter 13 bankruptcy case. The Court may revoke my discharge if the statements herein are not accurate.**

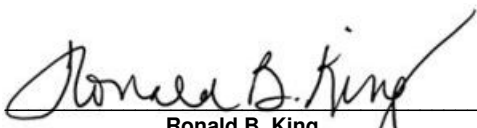
**I/We declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on \_\_\_\_\_, 200\_\_.**

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Debtor

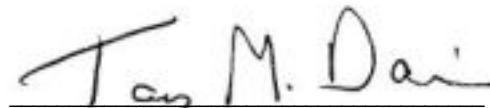
SIGNED this 30th day of October, 2017.



  
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  
MIDLAND-ODESSA DIVISION**

**STANDING ORDER FOR CHAPTER 13 CASE  
ADMINISTRATION FOR THE MIDLAND-ODESSA 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 Midland-Odessa 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 Midland-Odessa 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 Midland-Odessa 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 Midland-Odessa Division on and after November 1, 2017. For all cases filed before November 1, 2017, the form Chapter 13 Plan adopted by the Standing Order for Chapter 13 Case Administration for the Midland-Odessa Division dated November 17, 2005, as supplemented by the Supplemental Standing Order Relating to Chapter 13 Case Administration dated November 19, 2012 (“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.

**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 Claim 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 Objections to Claim or Motions 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, as determined by the Court, before the hearing can be held and concluded.

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 and Other Non-Dischargeable 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:

- a) 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;
- b) No later than 7 days after the filing of any request for discharge in the chapter 13 case, provide to the Trustee:
  1. the current address of the Debtor;
  2. the current name and address of the Debtor's employer (or most recent employer, if not currently employed); and
  3. the name of each creditor that holds a claim that:
    - i. is not (or will not be) discharged under 11 U.S.C. § 523(a)(2) or (4); or
    - ii. was reaffirmed by the Debtor under 11 U.S.C. § 524(c).

#### **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 for:

- a) the allowed ongoing mortgage payment;
- b) adequate protection payments as provided for in the plan; and
- c) Trustee fees.

Unless the plan states otherwise, the Trustee shall disburse the funds received in accordance with the District-Wide Standing Order, as it may be amended. The Trustee is authorized to make such payments monthly on the Trustee's regular monthly disbursement dates, or such other monthly date as the Trustee determines appropriate in a particular case.

## **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.

## **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. The benchmark fee for business chapter 13 cases shall be \$4,100.

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. Unless the confirmed plan states otherwise, attorney's fees shall be payable from available funds after payment of Trustee fees, ongoing mortgage payments, adequate protection payments, and other court-ordered payments.

For an attorney representing a debtor in a routine chapter 13 case, a fee not exceeding the applicable benchmark fee is presumed to be reasonable compensation (subject to rebuttal for cause shown) for those services rendered and reimbursement of those expenses considered included in the benchmark fee as set forth below.

In a routine chapter 13 case, the following services are presumed included in the benchmark fee:

- a) All conferences with the Debtor and all conferences with the Debtor after confirmation that pertain to the services listed below;
- b) Preparation (and service, if applicable) of the petition and its associated forms, schedules, statement of financial affairs, plan, all pre-confirmation amendments to all such documents, and any motion to extend time to file such documents;
- c) Attendance at the 341 meeting of creditors (including reset meetings);
- d) Attendance at confirmation and discharge hearings (including reset confirmation and discharge hearings);
- e) Preparation, service, and representation of the Debtor in connection with routine motions, which shall be deemed to include the following:
  - 1. Requests for moratorium (whether by motion or by administrative procedure);
  - 2. Motions to Waive Pay Order;
  - 3. Motions to Pay Filing Fees in Installments;
  - 4. Motions to Waive Credit Counseling;
  - 5. Motions for Continuance of the Stay under 11 U.S.C. § 362(c)(3);
  - 6. Objections to Claim and Motions to Value or Avoid Lien;
  - 7. Responses concerning pre-confirmation lift stay motions under 11 U.S.C. § 362; and
  - 8. Motions and affidavits requesting issuance of the Discharge Order.
- f) Making and performing the disclosures and duties required by 11 U.S.C. §§ 527 and 528, and assisting the Debtor in complying with the requirements of 11 U.S.C. § 521, and in a business case, assisting the Debtor in complying with the requirements of 11 U.S.C. § 1304; and
- g) Other miscellaneous normal and customary services including correspondence and communication with the Debtor, review of correspondence from the Debtor, and communication with the Trustee, the Trustee's office, and the Clerk's office.

Notwithstanding the foregoing, an attorney may, for cause shown, request the allowance of fees in excess of the benchmark fee for the routine services and reimbursement of expenses as set out above. Any such request must be made by motion, on notice and opportunity for a hearing, in the manner provided below.

Debtor's attorney may request an award of fees for additional services and reimbursement of expenses beyond those specified above, on motion with notice and opportunity



for a hearing. Such request may be by separate motion or in the motion that constitutes the additional services. However, any such request for the payment of fees and reimbursement of expenses from the Debtor may not be included in a responsive pleading (such as a response to a motion filed by another party), but instead must be made by separate motion.

Any motion requesting fees and reimbursement of expenses in relation to representing the Debtor shall set forth in the caption of the motion, in the body of the motion, and in the form of order submitted to approve the award of fees, the ordinal number of the request for fees. The body of the motion shall state the total of fees requested to date (including the initial fee and any other additional fee awards), the specific basis for the fee request, the proposed source of payment of the fees and expenses requested (e.g. directly by the Debtor, through the plan, from sales proceeds, etc.), and the anticipated effect of the allowance of the additional fees and expenses on the plan (including without limitation its feasibility and the amount of any reduction in the percentage payment of unsecured creditors' claims). Such motion shall be served on all parties in interest in the case.

After confirmation, any additional attorney's fees and reimbursement of expenses awarded that are to be paid through the plan shall be paid only after all fees awarded in the confirmation order have been paid in full. Such additional fees and expenses shall then be paid at a total rate of not more than \$350.00 per month, or if greater, in the amount necessary to complete payment within the remaining term of the plan. An attorney may request payment at a different rate only upon a showing of unusual circumstances, which shall be specifically set forth in the motion requesting such fees and expenses.

An attorney representing a chapter 13 debtor shall not demand or receive a post-petition payment from the Debtor without approval by the Court of the fees and expenses for which such payment is to be made. Additionally, the establishment of a benchmark fee and the procedures for requesting approval of additional fees shall not be construed as any basis to demand or receive any fees or reimbursement of expenses in an amount greater than that otherwise allowed for under the attorney's employment agreement with the Debtor.

#### **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. Such affirmation by the Debtor shall be in the form substantially in compliance with Exhibit #7.

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, if any, approved by the Court 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 if necessary to pay the allowed fee.

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

The Trustee is hereby authorized to receive, endorse, and deposit all tax refund checks issued to the Debtor after the petition date and before the Debtor has made the final payment under the plan, or the Debtor's case is converted or dismissed. All such tax refund checks shall be applied in accordance with the provisions of the plan.

The Debtors are directed to maintain the same number of tax exemptions for withholding as when the case was filed, except as required by a change in dependent allowance(s), marital status, or to prevent post-petition income tax liabilities. Should the Debtor change the withholding exemptions, the Debtor must submit Schedules I and J within 30 days, specifically noting the basis for the amendment.

During the term of the Debtor's chapter 13 case, the Debtor shall provide a copy of the Debtor's annual post-petition income tax return to the Trustee. If a joint case, each Debtor shall comply with this provision if separate returns are filed.

### **17. 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 proposed or

- confirmed plan;
5. Failure of the Debtor to comply with the provisions of a prior order which provides for such relief;
  6. Failure of the Debtor to submit tax returns pursuant to 11 U.S.C. § 521(e)(2); and
  7. Failure of the Debtor to file payment advices pursuant to 11 U.S.C. § 521(a)(1)(B)(iv).

Failure or other action or inaction of the Debtor as cause for summary dismissal of a case, as described above, includes that of either Debtor in a joint case.

### **18. 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 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"), which shall be substantially in the form attached as Exhibit #8. 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; and in such instance the Trustee is authorized to file a final report and request case closing notwithstanding that the Debtor has not requested or received 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.

## **19. 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. If the Ongoing Mortgage Payment is to be paid through the Trustee, the Debtor shall include in the chapter 13 plan payment to the Trustee the amount of the Ongoing Mortgage Payment, plus the Trustee fees.

**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 and sufficient funds, the initial disbursement should precede the hearing on plan confirmation. The Trustee is authorized to make disbursements of Ongoing Mortgage Payments and disbursements on arrearage claims on the same regular monthly dates that the Trustee makes disbursements to other creditors in accordance with the Trustee's normal operating procedures.
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) A Mortgage Creditor shall not file any Notice of Mortgage Payment Change unless the change is 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. In the event the Mortgage Creditor or its transferee files a document in a different form that sufficiently gives notice of the transfer of the claim and/or transfer of servicing and/or change of address or

name of payee, the Trustee will change the name and/or address of the Mortgage Creditor payee as soon as practicable after such document is filed with the Court. Any such document shall be served on the Trustee, Debtor, and Debtor's attorney contemporaneously with the filing of the document with the Court.

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

Upon dismissal or conversion of the case, the Trustee will, in the ordinary administration of the case, 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.

**20. 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 Midland-Odessa 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 THIS DOCUMENT 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 THIS DOCUMENT 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 Gary Norwood, Standing Chapter 13 Trustee, or such Trustee's successor in interest. 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 his 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  
MIDLAND-ODESSA DIVISION**

<b>IN RE:</b>	§	<b>CASE NO.</b>
	§	
	§	
<b>DEBTOR(S)</b>	§	<b>CHAPTER 13</b>

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

**NOTICE IS HEREBY GIVEN** that the following is a schedule of payments made on the claim of \_\_\_\_\_ (Mortgage Creditor).

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, Midland-Odessa 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/ Gary Norwood  
Gary Norwood, Trustee  
P.O. Box 2331  
Midland, TX 79702-2331  
Telephone: (432) 686-9452

## 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/ Gary Norwood  
Gary Norwood, Trustee

**EXHIBIT 5**

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
MIDLAND-ODESSA DIVISION**

In re: Debtors.	Case No. Chapter 13 Judge
--------------------	---------------------------------

**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  
MIDLAND-ODESSA DIVISION**

<b>IN RE:</b>	§	
	§	<b>CASE NO.</b>
	§	
<b>DEBTOR(S)</b>	§	<b>CHAPTER 13</b>

**TRUSTEE'S NOTICE DEEMING MORTGAGE CURRENT AND DIRECTING  
DEBTOR(S) 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 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 Gary Norwood, Chapter 13 Trustee (hereinafter "Trustee"), and making this *Notice Deeming Mortgage Current and Directing Debtor(s) to Resume Monthly Mortgage Payments* states as follows:

1. That the Debtor(s) has/have 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)'s mortgage is current through the month of \_\_\_\_\_.
5. The Debtor(s) is/are directed to resume making regular monthly mortgage payments beginning with the payment due for \_\_\_\_\_.

Respectfully Submitted:

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Gary Norwood, Trustee  
P.O. Box 2331  
Midland, TX 79702-2331  
Telephone: (432) 686-9452

CERTIFICATE OF SERVICE

I certify that on \_\_\_\_\_ a copy of the foregoing *Trustee's Notice Deeming Mortgage Current and Directing Debtor(s) 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)'s Counsel and the U.S. Trustee at the addresses indicated below.

---

Gary Norwood, 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]

**EXHIBIT # 7**

**UNITED STATES BANKRUPTCY COURT  
WESTERN DIVISION OF TEXAS  
MIDLAND-ODESSA DIVISION**

**IN RE:**

§  
§  
§  
§

**CASE NO.**

**DEBTOR(S)**

**CHAPTER 13**

**DECLARATION OF THE DEBTOR(S)  
CONCERNING CONFIRMATION REQUIREMENTS**

The Debtor(s) in the above captioned case, \_\_\_\_\_,  
being duly sworn upon oath, state as follows (check all applicable statements):

1. ☐ Since the filing of this bankruptcy case, I/we have not been required by a judicial or administrative order or by statute to pay any domestic support obligation as defined in 11 U.S.C. § 101(14A).

**OR**

- ☐ I/We have paid all amounts that first became due and payable under a domestic support obligation (as defined in 11 U.S.C. § 101(14A)) after the filing of this bankruptcy case that I/we am/are required by a judicial or administrative order or by statute to pay.
2. ☐ I/We have filed all federal, state, and local tax returns required by law to be filed for all taxable periods ending during the four year period prior to the filing of this bankruptcy case.
3. ☐ I/We have made all direct post-petition payments provided for under the plan, and am/are current on all of those direct payments which have become due post-petition.

**By signing this Affidavit, I/we acknowledge that all statements contained herein are true and accurate and that the Court may rely on the truth of each of these statements in determining whether to confirm my/our Chapter 13 Plan. The Court may revoke confirmation of the Chapter 13 Plan if the statements herein are not accurate. Debtor(s) understand that, should any of the above declarations change prior to entry of a confirmation order, Debtor(s) will have to file an updated Declaration.**

*I/We declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on \_\_\_\_\_, 20\_\_\_\_.*

**Debtor:**\_\_\_\_\_

**Debtor:**\_\_\_\_\_

**EXHIBIT # 8**

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
MIDLAND-ODESSA DIVISION**

<b>IN RE:</b>	<b>§</b>	<b>CASE NO.</b>
	<b>§</b>	
	<b>§</b>	
<b>DEBTOR(S)</b>	<b>§</b>	<b>CHAPTER 13</b>

**DEBTOR'S MOTION FOR ENTRY OF DISCHARGE  
AND CERTIFICATION REGARDING PLAN COMPLETION**

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

**If no timely response is filed within 21 days from the date of service, the relief requested herein may be granted without a hearing held.**

**A timely response is necessary for a hearing to be held.**

**TO THE HONORABLE JUDGE OF SAID COURT:**

The Debtor(s) request that the Court issue a Discharge Order in this Chapter 13 bankruptcy case. In furtherance thereof, the Debtor(s) make(s) the following affidavit:

- ☐ 1. The Chapter 13 Trustee has filed a Notice of Completion of Plan Payments. I/We verify that I/We have satisfied all plan requirements.
- ☐ 2. I/We completed an instructional course concerning personal financial management described in 11 U.S.C. Section 111 and have filed with the Court the appropriate form indicating completion of such course.
- ☐ 3.A. I/We have not been required by a judicial or administrative order, or by statute, to pay any domestic support obligation as defined in 11 U.S.C. Section 101(14A) either before this bankruptcy was filed or at any time after the filing of this bankruptcy.

**OR (answer either 3.A or 3.B, whichever is applicable)**

- ☐ 3.B I/We certify that, prior to the date of this affidavit, I/we have paid all amounts due under any domestic support obligation [as defined in 11 U.S.C. Section 101(14A)] required by a judicial or administrative order, or by statute, including amounts due before this bankruptcy was filed, to the extent provided for by the plan.

- \_\_\_ 4. I/We have not received a discharge in a bankruptcy case filed under Chapter 7, 11, or 12 within four (4) years prior to filing this Chapter 13 case.
- \_\_\_ 5. I/We have not received a discharge in another Chapter 13 bankruptcy case filed within two (2) years prior to filing this Chapter 13 case.
- \_\_\_ 6. The provisions of 11 U.S.C. §522(q)(1) are not applicable to me/us.
- \_\_\_ 7. There is not currently pending any proceeding in which I/either of us may be found guilty of a felony of the kind described in 11 U.S.C. §522(q)(1)(A) or liable for a debt of the kind described in 11 U.S.C. §522(q)(1)(B).
- \_\_\_ 8. I am/Each of us are entitled to a discharge under 11 U.S.C. §1328.

**By signing this motion and affidavit, I/we acknowledge that all of the statements contained herein are true and accurate and that the Court may rely on the truth of each of these statements in determining whether to grant me/us a discharge in this Chapter 13 bankruptcy case. The Court may revoke my/our discharge if the statements relied upon are not true and accurate.**

FURTHER AFFIANT(S) SAYETH NOT.

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Debtor

STATE OF \_\_\_\_\_ }  
COUNTY OF \_\_\_\_\_ }

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

State of \_\_\_\_\_

My Commission Expires: \_\_/\_\_/\_\_

WHEREFORE, Debtor(s) pray that this Court enter a Discharge Order in this case and grant such other and further relief to which Debtor(s) may be entitled.

Respectfully submitted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

ATTORNEY for Debtor(s): \_\_\_\_\_

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

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

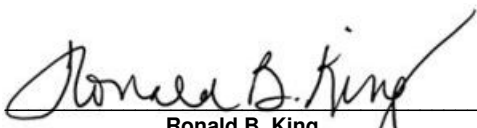
Phone/Fax: \_\_\_\_\_

### CERTIFICATE OF SERVICE

*Debtor(s) shall be responsible for service of this Motion on the Chapter 13 Trustee, the creditors, and all parties-in-interest including all holders of domestic support obligations and applicable state child support enforcement agencies. A certificate of service must be completed, attached and filed with this Motion. The certificate of service must also include the addresses for the persons and entities served.*

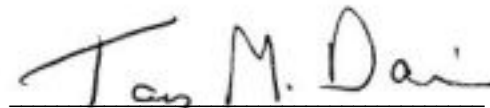
SIGNED this 26th day of October, 2017.



  
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
--------------------	---------------------------------

**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*]

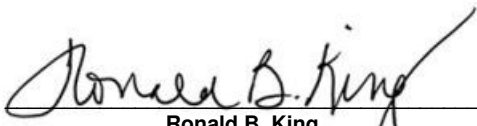
Mortgage Creditor  
[*notice address on proof of claim*]


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

Attorney for Mortgage Creditor  
[*address*]

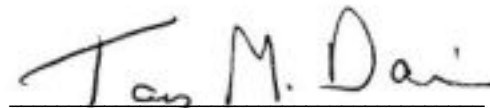
SIGNED this 17th day of October, 2017.



  
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**

§  
§  
§

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

---

**IT IS HEREBY ORDERED:**

**1. EFFECTIVE DATE AND APPLICABILITY**

The Effective Date of this Standing Order is November 1, 2017, and applies to all cases filed in the El Paso 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 El Paso 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 El Paso Division ("Prior Standing Order") 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 FORM PLAN**

Pursuant to the Consolidated Standing Order for the Adoption of a District Form Chapter 13 Plan entered in the Western District of Texas and effective November 1, 2017 ("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 for 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 Debtor(s) in all cases filed in the El Paso Division on and after November 1, 2017. For all cases filed before November 1, 2017, the form chapter 13 Plan adopted by the First Joint Standing Order Relating to the Chapter 13 Case Administration in the El Paso and Waco Divisions dated November 8, 2005, as supplemented by the Supplemental Standing Order Relating to Chapter to Chapter 13 Case Administration in the El Paso, Midland and Waco Divisions dated November 19, 2012 ("Prior Plan Form") must be used by chapter 13 Debtor(s), unless otherwise ordered by the Court in a particular Chapter 13 case.

### **3. ADOPTION OF OTHER FORMS**

A. Attached as Exhibit #1 to this Standing Order is a Declaration of the Debtor(s) Concerning Confirmation Requirements. Such Declaration shall be completed by the Debtor(s) and presented to the person presiding at the Section 341 Meeting of Creditors. If the case can be confirmed no later than ten days after completion of the Section 341 Meeting, this completed form will satisfy the confirmation requirements of 11 U.S.C. § 1325(a)(8) and (9) regarding domestic support obligations, as that term is defined in 11 U.S.C. § 101(14A), and tax returns.

B. Attached as Exhibit #2 to this Standing Order is a Questionnaire Upon Completion of Plan Payments for Debtor(s). Such Questionnaire shall be sent to all Debtor(s) by the Trustee and completed by all Debtor(s) and returned to the Trustee within 30 days of receipt. If not returned to the Trustee within the 30-day period, the Trustee shall file a motion to compel the Debtor(s) to appear and show cause why they have not cooperated. Upon the Trustee's receipt of the completed Questionnaire, the Trustee shall file a motion, with 21 day negative notice, for issuance of a discharge. The Trustee in filing the motion, and the Court in ruling on it, may rely on the factual representations of the Debtor(s) made in the Questionnaire, for purposes of satisfying the discharge requirements of 11 U.S.C. § 1328(a). The Trustee's motion shall be served on all creditors, all holders of domestic support obligations and any state child support enforcement agency required to receive notice under the Bankruptcy Code. Service of this motion shall satisfy the Trustee's notice requirements of 11 U.S.C. § 1302(d)(1)(C). If the Debtor fails to complete Exhibit #2, then an Order Closing the Case Without Discharge may be submitted by the Trustee. If no objection to the Trustee's Motion for issuance of a Discharge is timely filed, the discharge hearing shall be deemed to have been waived and an order discharging the Debtor(s) shall be entered.

### **4. DEBTOR(S) DUTY TO FACILITATE NOTICE REGARDING DOMESTIC SUPPORT OBLIGATIONS**

In order to facilitate the expeditious notice to domestic support obligation claim holders and the applicable state agencies required by 11 U.S.C. § 1302(d)(1)(A) and (B), the Debtor(s) shall, at the time the Bankruptcy Schedules are filed, provide to the Trustee: (1) the

names and current addresses and telephone numbers of all persons to whom the Debtor(s) owe a domestic support obligation; and (2) the name, address and telephone number of the state child support enforcement agency in each state where a person described in clause (1) above resides. For purposes of this paragraph, a domestic support obligation claim holder must be listed even if the Debtor(s) are current on the obligation.

**5. SERVICE OF PLAN AND AMENDED PLANS**

A. Whether or not the Plan is filed with the Chapter 13 petition at the commencement of the case, the Debtor(s) shall be responsible for serving the Plan on all creditors.

B. Whenever a Chapter 13 plan is amended prior to confirmation, the Debtor(s) shall serve the amended Plan on all creditors, parties in interest and the Trustee at the same time the Plan is filed.

C. Absent leave of Court, the last date that Debtor(s) may file a pre-confirmation amended Plan is 21 days prior to the confirmation hearing date. The Court will only consider de minimis, nonsubstantive, or technical amendments to the Plan at the confirmation hearing.

D. 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 on the Trustee.

**6. PRE-CONFIRMATION DISBURSEMENTS BY THE CHAPTER 13 TRUSTEE**

A. The Court hereby orders that all pre-confirmation adequate protection payments to those secured claimants that the Debtor(s) propose to pay through the Plan shall be made by the Trustee in the form of pre-confirmation, or "interim" disbursements made monthly, on the same dates the Trustee makes post-confirmation disbursements in other cases. The Debtor(s) are hereby ordered to remit such payments to the Trustee commencing 15 days after the filing of the petition. Provided all conditions for disbursement are met, the Trustee shall begin disbursing to creditors under this paragraph on the first regularly scheduled disbursement 30 days after the petition is filed, unless otherwise provided herein or by separate order. Such interim disbursements by the Trustee shall be in lieu of direct adequate protection payments by Debtor(s) to those secured claimants that the Debtor(s) propose to pay through the Plan, as provided in 11 U.S.C. § 1326(a)(1)(C), and no direct adequate protection payments by Debtor(s) to those creditors shall be required unless otherwise ordered by the Court.

B. The Trustee shall be authorized to make pre-confirmation disbursements of funds held by the Trustee in the case for Trustee fees and to the allowed ongoing mortgage payment and adequate protection payments provided for in the proposed Plan on a pro-rata or set payment basis on regular monthly disbursement dates. Unless the



Plan states otherwise, the Trustee shall disburse the funds received in accordance with the District-Wide Standing Order, as it may be amended.

**7. ADDITIONAL ADEQUATE PROTECTION TO VEHICLE LENDERS**

Pursuant to 11 U.S.C. § 363, the Debtor(s) shall not use a vehicle post-petition unless the Debtor(s): (i) maintain insurance on the vehicles in the amount required by the Debtor(s)' pre-petition contract; (ii) provide proof of insurance to the lienholder upon request; and (iii) provide the Trustee with all necessary information for a wage order not later than the date of the initial Section 341 Meeting of Creditors (if the Debtor(s) are a wage or salaried employee and the Court has not ordered otherwise).

**8. DEADLINE FOR FILING OBJECTIONS TO CLAIMS: LATE-FILED CLAIMS**

A. Objections to proofs of claim must be in writing and filed no later than 30 days after the later of: (1) the bar date applicable to the particular claim being objected to, or (2) the date the particular amended claim being objected to was amended. However, if a proof of claim is filed within thirty (30) days of the confirmation hearing, parties have thirty (30) days from date of that filing to file any objections to such claim.

B. No objection to a late-filed claim shall be necessary; such claims are deemed disallowed unless otherwise ordered by the Court. The burden is on the claimant to request, by motion, allowance of a late-filed claim.

**9. DEADLINE FOR FILING RESPONSE OBJECTIONS TO CLAIMS**

Responses to objections to claims must be filed by the deadline provided in the notice included in the particular objection, pursuant to Local Bankruptcy Rule 9014. If no such notice is included in the objection to claim, no response is necessary and the objection to claim shall be set for hearing.

**10. ALLOWANCE OF CLAIM FOR PURPOSE OF TRUSTEE'S DISBURSEMENTS ON CLAIM**

For purposes of the Trustee's disbursements on a claim under the Plan, as soon as the deadline (as established herein) for filing an objection to a particular proof of claim has passed, if no objection to the claim is then pending, the Trustee is authorized to rely on the most recent order determining the allowance of the claim or, if no such order has been entered, on the Court's official record of filed proofs of claim in the case.

**11. MOTIONS TO VALUE COLLATERAL OR TO AVOID LIENS INDEPENDENT TO THE PLAN AND RESPONSES THERETO**

A. While some motions under 11 U.S.C. § 506 to value collateral or under 11 U.S.C. § 522(f) to avoid lien may be contained within the District-Wide Form Plan, the

Debtor(s) may elect to separately file a motion to value collateral or to avoid a lien, independent of the Plan. Any such independent motion must be in writing.

B. Responses or objections to motions to value collateral or to avoid liens that are filed separately from the Plan must be in writing and filed by the deadline provided in the notice included in such motion, pursuant to Local Bankruptcy Rule 9014. If no such notice is included, no response is necessary and the motion shall be set for hearing.

**12. DEADLINE FOR FILING OTHER OBJECTIONS TO THE DEBTOR'S PLAN**

Any objection to the confirmation of the Debtor(s)' Plan, including responses and objections to the motions to value collateral and to avoid liens that are contained in the Plan, must be in writing and shall be filed no later than 14 days prior to the confirmation hearing date. All objections to a Plan, including responses and objections to the motions to value collateral and to avoid liens that are contained in the Plan, will be considered at the confirmation hearing.

**13. MOTIONS TO MODIFY PLAN, MOTIONS FOR MORATORIUM, AND MOTIONS TO INCUR DEBT**

A. All motions to modify a Chapter 13 Plan must:

- (1) be noticed to all creditors and parties in interest, including the Trustee, within two days of filing;
- (2) contain negative notice language affording creditors a 21 day opportunity to file objections to the proposed relief;
- (3) specifically indicate the number of months (if any) which the motion proposes to extend the term of the Plan from the date of confirmation through completion; and
- (4) reference the Debtor(s)' Schedules I & J and indicate what material changes have occurred, if any.

B. A "Motion for Moratorium," a "Motion to Cure Plan Arrearage," and a "Motion to Temporarily Suspend Plan Payments" are motions to modify a Chapter 13 Plan within the meaning of this paragraph. Such motions shall state clearly the reasons for such request and indicate if any prior moratorium has been granted and, if so, give the details and time period(s) covered. These motions do not require "pre-approval" from the Trustee. The granting of a moratorium does NOT excuse a Debtor(s)' obligation to make up the missed payments under the Plan.

C. The Debtor(s) shall not incur consumer debt without prior approval of either the Court or the Trustee. The Trustee's approval shall be sought by the submission of a

written request to the Trustee by the Debtor(s)' attorney (or the Debtor(s), if not represented by counsel), and such request shall not be filed with the Clerk. At the time the request is submitted to the Trustee, however, the Debtor(s) shall also file with the Clerk Amended Schedules I & J. In the written request to the Trustee, the Debtor(s) shall state:

- (1) the reason or need for the incurring of the debt; and
- (2) the item to be purchased or refinanced, the amount of the debt, and other relevant financing terms.

If the request is approved by the Trustee, the Debtor(s) shall file such approval with the Clerk. If the request is not approved by the Trustee within ten (10) days, a motion to incur debt, which shall contain the same information as the request to the Trustee and shall also reference the Trustee's lack of approval of the request, may then be filed with the Clerk.

#### **14. PLAN PROVISIONS FOR "SURRENDER" OF PROPERTY**

Entry of an order confirming a Plan that provides for surrender of property as treatment of a secured claim shall operate to modify the automatic stay imposed pursuant to 11 U.S.C. § 362(a) and 1301(a) to permit the holder of the claim to exercise its rights with respect to obtaining possession and title to the property. Unless otherwise provided by the Plan or confirmation order, this modification of the automatic stay becomes effective 14 days after entry of the confirmation order and no separate motion for relief from the automatic stay need be filed by the affected secured creditor.

#### **15. DUTIES OF THE TRUSTEE**

It is sufficient for the purposes of Local Bankruptcy Rules 2016(c)(1) and 3015(e)(3) that the Trustee note his or her recommendation concerning confirmation of the Debtor(s)' Chapter 13 Plan by signing off on the confirmation order.

#### **16. DEBTOR(S) COUNSEL: SCOPE OF REPRESENTATION & COMPENSATION**

##### **A. Scope of Representation; Benchmark Fee**

- (1) An attorney representing the Debtor(s) in a Chapter 13 case shall represent the Debtor(s) in all matters in or related to that case, from the earlier of the filing of the petition (if the attorney signs the petition) or the filing of a notice of appearance by the attorney (if the Debtor(s) originally filed the petition pro se) until the case is dismissed or

otherwise closed (including disposition of any motion to reinstate the case), absent Court approval of counsel's withdrawal from representation.

(2) The Court may from time to time establish a standard benchmark fee for Debtor(s)' counsel in a routine non-business Chapter 13 case, and a standard benchmark fee for Debtor(s)' counsel in a routine business case (see subparagraphs (3) and (4) below). An attorney may not receive a post-petition retainer or payment from the Debtor(s) other than as specified in this Standing Order without leave of court. As guidelines, the Court contemplates that the following matters will be included in the standard benchmark fee:

(a) all conferences with the Debtor(s), including budget consultations and timely responses to Debtor(s) inquiries, whether by telephone or in writing;

(b) preparation of the bankruptcy petition, schedules, statement of affairs, plan, and pre-confirmation amendments thereto;

(c) representation of the Debtor(s) at the § 341 meeting of creditors, including any continuances thereof;

(d) representation of the Debtor(s) at confirmation and discharge hearings, including reset confirmation hearings;

(e) representation of the Debtor(s) in connection with two motions under 11 U.S.C. § 362;

(f) representation of the Debtor(s) on motions to dismiss, including Trustee motions to dismiss with or without prejudice;

(g) preparation of and representation of the Debtor(s) on routine motions, which include the following:

(i) one motion for moratorium or one motion to modify;

(ii) motions to waive pay order;

(iii) motions to pay filing fees in installments;

(iv) one motion to reinstate the case;

- (v) objections to claims and motions to value collateral and to avoid liens;
  - (vi) motions to extend time to file paperwork;
  - (vii) motions to convert or dismiss the case; and
  - (viii) defense of two motions for relief.
- (h) providing notices to creditors, where appropriate, such as explaining the automatic stay;
- (i) making and performing, or assisting the Debtor(s) in making or performing, the disclosures and duties required by 11 U.S.C. §§ 521, 527, 528, and 1308 including completion of the Questionnaire required at the end of the case; and
- (j) other miscellaneous normal, customary services including correspondence with clients, review of correspondence from clients, communication with the Trustee, Trustee's office, and Clerk's office.
- (3) In an individual non-business case, the Court deems \$3,600.00 ("the Individual Standard Fee") as reasonable compensation and reimbursement of expenses for an attorney representing the Debtor(s) in accordance with 11 U.S.C. § 330(a)(3)(B).
- (4) In an individual business case, the Court deems \$4,100.00 ("the Business Standard Fee") as reasonable compensation and reimbursement of expenses for an attorney representing the Debtor(s) in accordance with 11 U.S.C. § 330(a)(3)(B).
- (5) The Court will allow an Individual Standard Fee or a Business Standard Fee and the bankruptcy clerk filing fees without the requirement of an application for compensation under 11 U.S.C. § 330 and the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules").

B. Additional Compensation

(1) Notwithstanding the foregoing, an attorney may for cause shown request additional fees for the services listed. Such request may be made through the filing of a formal application for compensation and following the Bankruptcy Rules and Local Rules for such procedure. Alternatively Debtor(s)' counsel may follow the expedited procedure provided hereafter. In no event however shall counsel condition representation upon payment of an additional fee prior to undertaking

a task. Counsel's choice is to undertake the work and then seek compensation or to decline the work and file an application for permission to withdraw from further representation in the case.

(2) Expedited Application for Additional Compensation

(a) If (and only if) counsel's employment agreement with the Debtor(s) regarding attorneys' fees and scope of employment authorizes fees and expenses to be charged beyond the amount originally agreed to be paid, as disclosed by counsel pursuant to Bankruptcy Rule 2016(b), and only if and when the case filing fee has been paid in full, counsel may seek the allowance and payment of additional fees and expenses. In the interest of establishing a simpler, more expeditious, and less expensive process for requesting and obtaining allowance of such additional attorneys' fees and expenses in Chapter 13 cases, as an alternative to the procedure established under Local Rule 2016(4), the following procedure may be used. This abbreviated procedure may be used not more than three times in any case, and the total additional fees and expenses that are requested in a case using this abbreviated procedure may not be more than the amount originally charged.

(b) Except as provided below in subsection (b)(3), such additional fees may only be requested by the filing by counsel of a "Motion for Additional Fees." If previous motions for additional fees have been filed, then subsequent motions shall be identified numerically as "Second Motion for Additional Fees," etc. The content of the motion shall:

(i) include the 21-day negative notice language of Local Bankruptcy Rule 9014(a) and be served on all creditors with allowed claims, the Debtor(s) and the Trustee;

(ii) state the amount agreed to be paid under the original fee agreement, and the amount of any pre-petition retainer;

(iii) state the dates and amounts of all previous requests for additional fees and expenses, and the amount awarded on each;

(iv) briefly describe the services performed for the current request;

(v) state the proposed source of payment of the fees and expenses requested (e.g., directly by the Debtor(s), through the plan, by a third party, from sales proceeds, etc.);

(vi) briefly describe the anticipated effect of the allowance of the additional fees and expenses on the plan (i.e., on its feasibility, the amount of any reduction in the dividend to unsecured creditors, etc.); and

(vii) contain a certificate of service indicating service on the Trustee, Debtor(s), and all other parties in interest in the case.

(3) Exceptions: In the few limited instances listed below, a request for additional attorneys' fees and expenses may be included in a pleading that requests other relief. That a request for additional fees and expenses is included shall be noted in the caption of the pleading (and in the caption of the form of the order submitted with the pleading), which caption shall also indicate how many such requests have preceded the current request (e.g., "and Fourth Request for Additional Debtor's Attorneys' Fees"). The pleading shall comply with the requirements of subsection 2(b)(i) through (vii), above, and may include 21-day negative notice. If 21-day negative notice is included, and if no party in interest files a timely response, the Court may approve the request for additional attorneys' fees and expenses, in addition to the other relief requested, without further notice or hearing.

The only pleadings that may include such requests for additional attorneys' fees and expenses are:

(a) applications to sell property where the proceeds of the sale will be the source of payment of any authorized additional fees and expenses;

(b) motions or other pleadings where a third party, not the bankruptcy estate or the Debtor(s), will be the source of payment of any authorized additional fees and expenses; and

(c) motions to modify, motions for moratorium, and defense of motions for relief from the automatic stay that are not covered by the benchmark fee.

(4) Responsive pleadings may not include requests for additional attorneys' fees and expenses of counsel for the Debtor(s).

## **17. 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:

- A. failure of the Debtor(s) to timely pay the filing fee;
- B. failure of the Debtor(s) to timely file a Plan or use the applicable Plan Form;
- C. failure of the Debtor(s) to timely file Schedules;
- D. unexcused failure of the Debtor(s) to appear at the scheduled Meeting of Creditors (Section 341 Meeting);
- E. delinquency of the Debtor(s) of 60 days or more days on payments under a proposed or confirmed Plan;
- F. failure of the Debtor(s) to comply with the provisions of a prior order of the Court;
- G. failure of the Debtor(s) to submit tax returns pursuant to § 521(e)(2); or
- H. failure of the Debtor(s) to submit payment advices pursuant to § 521(a)(1)(B)(iv).

## **18. ONGOING MORTGAGE PAYMENTS IN CHAPTER 13 CASES**

- 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 any 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) "Debtor" means a Chapter 13 Debtor or Debtor(s).



(4) "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.

(5) "Petition Date" means the date the Debtor files the Chapter 13 petition or the date the case converted to Chapter 13 from another chapter.

(6) "Trustee" means the Standing Chapter 13 Trustee.

(7) "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, or 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 the 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 the Debtor is current on the mortgage on the Petition Date, the Debtor shall complete Exhibit #3 and provide that document to the Trustee (not the Court) within 5 days of the Petition Date.

(b) If a Debtor 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 #4 Mortgage Arrearage Claim Checklist and Exhibit #5 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 monthly 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 prepetition 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 be 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 B 1051, *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*, the Debtor, the Trustee, the United States Trustee, or 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 a *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) No post-petition adjustment to the Ongoing Mortgage Payment shall be valid unless authorized by the agreement upon which the claim is based. The Chapter 13 Trustee is not authorized to change the mortgage payment unless the Mortgage Creditor's *Notice of Mortgage Payment Change* is filed with the Court, unless otherwise ordered by the Court.

(d) If a Mortgage Creditor has a claim based on an open-end credit agreement such as a home equity line of credit, and/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 Postpetition Mortgage Fees, Expenses and Charges*, under Bankruptcy Rule 3002.1(c), 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 *Notice of Trustee Disbursements in Ongoing Mortgage Case* (Exhibit #6), 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 Notice shall specify the period covered by the Notice, and identify the months for which each contractual payment is applied according to the records of the Trustee. The Notice shall be served on the Debtor, Debtor's counsel and each creditor holding a claim described on the Notice.

(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, the Mortgage Creditor shall file with the Court and notify the Trustee, Debtor and the Debtor's attorney of any such change using a document that conforms to Exhibit #7 (*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, and will also serve the Mortgage Creditor. The Mortgage Creditor will have 30 days from the filing of such Final 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 Confirmation

Upon ceasing the conduit mortgage payments to be paid through the 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 #8). 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 the Debtor with the same effect as an Order of the Court.

**IT IS THEREFORE ORDERED** that the above procedures are hereby adopted by the Bankruptcy Court for the Western District of Texas in the El Paso Division.

# # #

**EXHIBIT # 1**

**UNITED STATES BANKRUPTCY COURT  
WESTERN DIVISION OF TEXAS  
EL PASO DIVISION**

**IN RE:**

	§	
	§	
	§	<b>CASE NO.</b>
	§	
<b>Debtor(s)</b>	§	<b>(Chapter 13)</b>

**DECLARATION OF THE DEBTOR(S)  
CONCERNING CONFIRMATION REQUIREMENTS**

The Debtor(s) in the above captioned case, \_\_\_\_\_,  
being duly sworn upon oath, state as follows (check all applicable statements):

1.    ☐ Since the filing of this bankruptcy case, I/we have not been required by a judicial or administrative order or by statute to pay any domestic support obligation as defined in 11 U.S.C. § 101(14A).  
      **OR**  
      ☐ I/We have paid all amounts that first became due and payable under a domestic support obligation (as defined in 11 U.S.C. § 101(14A)) after the filing of this bankruptcy case that I/we am/are required by a judicial or administrative order or by statute to pay.
  
2.    ☐ I/We have filed all federal, state, and local tax returns required by law to be filed for all taxable periods ending during the four year period prior to the filing of this bankruptcy case.  
      **OR**  
      ☐ I/We have signed a Supplement to the Confirmation Order certifying that all required tax returns will be filed no later than \_\_\_\_\_.

**By signing this Affidavit, I/we acknowledge that all statements contained herein are true and accurate and that the Court may rely on the truth of each of these statements in determining whether to confirm my/our Chapter 13 Plan. The Court may revoke confirmation of the Chapter 13 Plan if the statements herein are not accurate. Debtor(s) understand that, should any of the above declarations change prior to entry of a confirmation order, Debtor(s) will have to present an updated Declaration to the Chapter 13 Trustee.**

*I/We declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on \_\_\_\_\_, 20\_\_\_\_.*

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Debtor

**EXHIBIT # 2**

**DEBTOR QUESTIONNAIRE UPON COMPLETION OF  
PLAN PAYMENTS IN BANKRUPTCY CASE NO.**

CIRCLE THE CORRECT ANSWERS:

1. YES/NO I/We have completed an instructional course concerning personal financial management, as described in 11 U.S.C. § 111, provided by the following entity:

Stuart C. Cox Chapter 13 Standing Trustee  
1760 N. Lee Trevino  
El Paso, TX 79936
2. YES/NO I/We have received a discharge in a Chapter 7, 11 or 12 bankruptcy case within four years of the date I/we filed this bankruptcy case.
3. YES/NO I/We have received a discharge in another Chapter 13 bankruptcy case within two years of the date I/we filed this bankruptcy case.
4. YES/NO Did you elect to use State exemptions? If yes, then the following two questions must be answered.
  - a. YES/NO I/We had, either at the time of the filing of this bankruptcy case, or at the present time, equity in excess of \$155,675 (\$311,350 if married and filing this case jointly) in the type of property described in 11 U.S.C. § 522(p)(1). [generally, your homestead]
  - b. YES/NO There is currently pending any proceeding in which I [in an individual case] or either of us [in a joint case] may be found guilty of a felony [a felony is an offense punishable by a minimum term of imprisonment of more than one year] of the kind described in 11 U.S.C. § 522(q)(1)(A) [one where the circumstances of the felony demonstrated that the filing of this case was an abuse of the Bankruptcy Code] or liable for a debt of the kind described in 11 U.S.C. § 522(q)(1)(B) [violation of federal or state securities laws or regulations or orders issued thereunder; fraud, deceit or manipulation in a position of trust in connection with the purchase or sale of certain registered securities; civil remedies under the racketeering statute; or criminal acts, intentional civil injuries, or willful or reckless misconduct causing serious physical injury or death to another in the preceding five years]

5a. YES/NO I/We have been required by a judicial or administrative order or by statute to pay any domestic support obligation, as defined in 11 U.S.C. § 101 (14A) [a debt owed to or recoverable by a spouse, former spouse, or child or the child's parent or legal guardian, or a government unit, for alimony, maintenance, or support of those persons, that was established by a separation agreement, divorce decree, property settlement, or order of the court or, where applicable, a determination of a governmental unit] either before this bankruptcy case was filed, or at any time after the filing of this bankruptcy case.

IF THE ANSWER TO QUESTION 5a IS "YES," THEN ALL OF THE FOLLOWING QUESTIONS MUST BE COMPLETED/ANSWERED:

5b. YES/NO I/We certify that, prior to the date of this Questionnaire, I/we have paid all amounts due under any domestic support obligation [as defined in 11 U.S.C. § 101(14A)] required by a judicial or administrative order or by statute, including amounts due before this bankruptcy case was filed, to the extent provided for by my/our Plan. The name and address of each holder of a domestic support obligation is as follows:

---

---

---

5c. My/Our most recent address is:

---

---

---

5d. The name and address of my/our most recent employer(s) is:

---

---

---



5e.                   The following creditors hold a claim that is not discharged under 11 U.S.C. § 523(a)(2) or (a)(4), or a claim that was reaffirmed under 11 U.S.C. § 524(c):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I/we acknowledge that all statements contained herein are true and accurate. The Court may rely on the truth of each of these statements in determining whether to grant me/us a discharge in this Chapter 13 bankruptcy case. The Court may revoke my discharge if the statements herein are not accurate.

*I/We declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on \_\_\_\_\_, 20\_\_.*

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Debtor

**EXHIBIT # 3**

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 (un-redacted) Account Number \_\_\_\_\_

\_\_\_\_\_  
Signature (Debtor 1)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature (Debtor 2)

\_\_\_\_\_  
Date

**EXHIBIT # 4**

**MORTGAGE ARREARAGE CLAIM CHECKLIST**

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

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

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

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

Residence

Rental

Other (Describe)

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

Mortgage Company Attorney Name & 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: \_\_\_\_\_

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? \_\_\_\_\_

Debtor(s) Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Joint Debtor(s) Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**EXHIBIT # 5**

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

***SUBMIT TO THE TRUSTEE ONLY  
DO NOT FILE THIS DOCUMENT 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 Debtor(s) to release information to Stuart C. Cox, 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 his staff in the administration of the bankruptcy case and may be included in motions before the Court.

Debtor(s) Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Joint Debtor(s) Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**EXHIBIT # 6**

**UNITED STATES BANKRUPTCY COURT  
WESTERN DIVISION OF TEXAS  
EL PASO DIVISION**

**IN RE:**

	§	
	§	
	§	<b>CASE NO.</b>
	§	
<b>Debtor(s)</b>	§	<b>(Chapter 13)</b>

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

**NOTICE IS HEREBY GIVEN** pursuant to *Standing Order For Chapter 13 Case Administration in the El Paso Division Effective In All Cases Filed On or After November 1, 2017* that the following is a schedule of payments made on the claim of \_\_\_\_\_ (Mortgage Creditor).

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 Chapter 13 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, El Paso 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/ Stuart C. Cox  
Stuart C. Cox, Trustee  
1760 N. Lee Trevino Dr.  
El Paso, TX 79936  
(915) 598-6769

## **SUMMARY OF PAYMENTS**

[insert payment history]

## **CERTIFICATE OF SERVICE**

I certify that on \_\_\_\_\_, 20\_\_, a true and correct copy of the foregoing Notice *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 set forth below.

\_\_\_\_\_  
Stuart C. Cox, Trustee

U.S. Trustee  
Attorney for Debtor(s)  
Debtor(s)  
Mortgage Co. Notice Address from POC  
Mortgage Co. Address from Notice of Appearance  
Counsel for Mortgage Co.

**EXHIBIT # 7**

**UNITED STATES BANKRUPTCY COURT  
WESTERN DIVISION OF TEXAS  
EL PASO DIVISION**

**IN RE:**

**Debtor(s)**

§  
§  
§  
§  
§

**CASE NO.**

**(Chapter 13)**

**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 Name: \_\_\_\_\_

Tel. No: \_\_\_\_\_ Fax No: \_\_\_\_\_

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

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

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

Printed Name  
Company Name  
Company Address  
Company Phone/Fax



**EXHIBIT # 8**

**UNITED STATES BANKRUPTCY COURT  
WESTERN DIVISION OF TEXAS  
EL PASO DIVISION**

**IN RE:**

§  
§  
§  
§  
§

**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 pleading unless a written objection is filed within 21 days from the date of service.**

**A timely filed Objection is necessary for a hearing to be held. If no Objection is timely filed, this 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 UNITED STATES BANKRUPTCY JUDGE:**

Comes now Stuart C. Cox, Chapter 13 Trustee (hereinafter "Trustee"), and making this his *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) 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

---

Stuart C. Cox, Trustee  
1760 N. Lee Trevino Dr.  
El Paso, TX 79936  
(915) 598-6769 Telephone

**CERTIFICATE OF SERVICE**

I certify that on \_\_\_\_\_, 20\_\_, 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 set forth below.

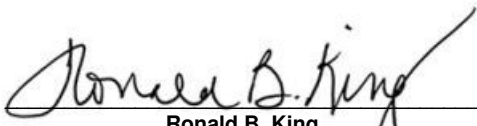
---

Stuart C. Cox, Trustee

U.S. Trustee  
Attorney for Debtor(s)  
Debtor(s)  
Mortgage Creditor  
Attorney for Mortgage Creditor

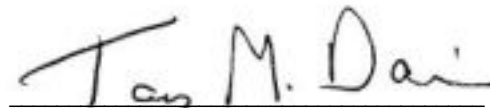
SIGNED this 16th day of October, 2017.



  
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

CONSOLIDATED STANDING ORDER FOR THE ADOPTION OF A  
DISTRICT FORM CHAPTER 13 PLAN

The Bankruptcy Judges for the Western District of Texas have determined that, in addition to any Division Standing Orders Relating to Chapter 13 Practices, a Standing Order adopting a District Form Chapter 13 Plan in accordance with proposed Fed. R. Bankr. P. 3015.1 and 3015(c)(2) is necessary for the efficient and orderly administration of Chapter 13 cases. This Consolidated Standing Order supersedes all prior standing orders in every Division regarding District form chapter 13 plans for all cases filed on or after the Effective Date of this Order. Attached as Exhibit #1 to this Consolidated Standing Order is the Form Chapter 13 Plan (hereinafter the "Form Plan") which shall be used by all chapter 13 debtors in cases filed in this District on and after the Effective Date of this Order. ***The Form Plan may be revised periodically.*** The clerk shall make available to the public the Form Plan and any revised Form Plans.

Creditors are hereby notified that the Plan may be amended at any time before confirmation. Any amendment may affect your status as a creditor. Debtor's estimate of how much the Plan will pay, projected payments, and estimates as to the payment or distribution to a particular class may change.

**I. Plan Payments**

- A. Debtor shall propose to pay to the Trustee the indicated base amount by paying the indicated monthly payment ("Plan Payment"). Debtor shall submit such portion of future earnings or other future income of the Debtor to the supervision and control of the Trustee as is necessary for the execution of the Plan. [§ 1306(a)(2)].

- B. Debtor shall commence making Plan Payments to the Trustee not later than thirty (30) days after the date the Petition is filed. [§ 1326(a)(1)]

## **II. Other Plan Provisions**

- A. Lien Avoidance Powers. The confirmation of the Plan shall not limit the ability of the Trustee or Debtor from exercising any lien avoidance powers pursuant to the Bankruptcy Code.
- B. Debtor Request for Moratoriums of Plan Payments. Debtor may request a one-time moratorium on Plan payments not to exceed sixty (60) days. Debtor shall file a Motion with the Court with fourteen (14) days negative notice to all creditors. The Motion must state with specificity the basis for the request and the impact on a class or classes of creditors. The Motion must state when the debtor will resume payments and how the missed payment(s) will be cured. The purpose of such Motion is to assist Debtor in the performance under the Plan and to meet emergency situations that arise during the term of the Plan. The duration of the Plan may be extended, but not beyond sixty (60) months from confirmation. This provision may also be governed by the Standing Order for Chapter 13 Administration for the division in which this case is pending.
- C. Incurring Post-Petition Debt. Debtor shall not, without Court or Trustee approval, incur debt, except in the ordinary course of business if Debtor is engaged in business pursuant to § 1304.
- D. Transfer of Assets Post-Petition. 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.
- E. Late Filed Claims, Amended Claims, or Deficiency Claims. If a late claim, an amended claim, or a deficiency claim is filed and allowed; and the Trustee has disbursed to other claims within that class or junior classes, such creditor's allowed claim shall be paid at the same percentage as was paid to other creditors with allowed claims in the same class before recommencing payments to other creditors, but only to the extent possible without recovery of payment from other creditors in the same class. The Trustee shall not be required to recover any payments made to other creditors as a result of the filing of an allowed late claim, amended claim, or a deficiency claim.
- F. Termination of the Automatic Stay. If the automatic stay applicable to a creditor is terminated either by confirmation of the Plan or order of the Court (or a 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 ninety (90) days from the date the automatic stay is terminated to file an unsecured deficiency claim.

- G. Debtor Engaged in Business. If Debtor is self-employed, Debtor shall comply with the duties required under § 1304(b) and (c) regarding the operation of the business. The duties imposed on Debtor are incorporated herein by reference, including the submission of periodic reports to the Trustee, if required.
- H. Additional Attorney Fees. If the Court approves additional attorney fees, such fees are to be paid as an administrative claim. Further, to the extent the Trustee has disbursed to other classes of creditors, including general unsecured creditors, the Trustee shall not be required to recover such funds previously disbursed in order to assure full payment of the additionally allowed attorney fees.
- I. Order of Payment. Unless the Plan states otherwise, the Trustee shall disburse the funds received as follows:
- (i) Trustee Fees on receipt
  - (ii) Ongoing Mortgage Payments
  - (iii) Adequate Protection Payments
  - (iv) § 503 Administrative Claims (Attorney Fees and other Administrative Claims)  
– subject to the Standing Order for Chapter 13 Administration for the Division
  - (v) Secured Claims
  - (vi) § 507 Priority Claims
  - (vii) General Unsecured Claims
- J. Date of Plan. Every original, amended or modified plan shall be dated.

The Effective Date of this Standing Order is **November 1, 2017**. The Form Plan shall be used in every case filed in this District on and after the Effective Date of this Standing Order.

**So Ordered.**

###

**UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
\_\_\_\_\_ DIVISION**

**IN RE:**

**Debtor(s)**

§  
§  
§  
§

**CASE NO.**

**Chapter 13**

**CHAPTER 13 PLAN AND MOTIONS FOR  
VALUATION AND LIEN AVOIDANCE**

**☐ AMENDED**

If you oppose the Plan's treatment of your claim or any provisions of this Plan, YOU MUST FILE AN OBJECTION to confirmation no later than fourteen (14) days before the confirmation hearing date.

Use of the singular word "Debtor" in this Plan includes the plural where appropriate. All section references ("§") are to the Bankruptcy Code unless otherwise noted.

The following matters may be of particular importance. *Debtors must check one box on each line to state whether or not the Plan includes each of the following items.* If an item is checked as "Not Included" or if both boxes are checked, the provision will be ineffective if set out later in the Plan.

**1. Plan Overview**

<b>1.1</b>	A limit on the amount of secured claim based on valuation of collateral for the claim, set out in Sections 7.8 and 7.9, which may result in a partial payment or no payment at all to the secured creditor	<input type="checkbox"/> Included	<input type="checkbox"/> Not Included
<b>1.2</b>	Avoidance of a wholly unsecured lien or judicial lien or nonpossessory, nonpurchase-money security interest, set out in Sections 7.9 and 7.10	<input type="checkbox"/> Included	<input type="checkbox"/> Not Included
<b>1.3</b>	Nonstandard provisions, set out in Section 8	<input type="checkbox"/> Included	<input type="checkbox"/> Not Included

**2. Plan Summary**

- 2.1** Debtor's Plan payment will be \$\_\_\_\_\_ per month, paid by ☐ 3<sup>rd</sup> Party Epay (if accepted by Trustee), ☐ Payroll Order, or ☐ Direct (Money Order or Cashier's Check). Variable payments, if applicable, are proposed as follows:

**EXAMPLE:**

Months	Amount of Monthly Payment
1–24	\$500
25–60	\$750

The term of the Plan is \_\_\_\_\_ months. The gross amount to be paid to the Trustee (sometimes, the “base amount”) is \$\_\_\_\_\_.

- 2.2** Under this Plan, the Trustee will pay all allowed priority claims in full; all allowed secured claims to the extent of the value of the collateral or the amount of the claim, whichever amount is provided for in Sections 7.7 and 7.8; and approximately \_\_\_\_\_% to allowed general unsecured claims. The specific treatment for each class of creditors is set forth below in the Plan.

**This Plan does not allow claims. A creditor must file a proof of claim by the applicable deadline to receive distributions under the plan as confirmed. Creditors are referred to the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules for the Western District of Texas, and the Standing Order for Chapter 13 Administration for this Division for information on procedures and deadlines.**

- 2.3** The aggregate value of Debtor’s non-exempt assets is: \$\_\_\_\_\_.

### **3. Vesting of Estate Property**

- ☐ Upon confirmation of the Plan, all property of the estate **shall** vest in the Debtor, shall not remain property of the estate, and shall not be subject to the automatic stay of § 362; provided however, in the event of conversion of this case to chapter 7 the property of the Debtor as of the petition date should revert in the estate.
- ☐ Upon confirmation of the Plan, all property of the estate **shall not** vest in the Debtor, shall remain property of the estate, and shall remain subject to the automatic stay of § 362.

### **4. Tax Refunds and Annual Tax Returns**

#### **4.1 Tax Refunds.**

All tax refunds received by Debtor (or either Debtor if a joint case) while the chapter 13 case is pending shall be allocated as set forth below:

- 1) The total amount of the aggregate tax refund(s) received for any tax period that exceeds \$2,000.00 shall, upon receipt, be paid and turned over to the Trustee as additional disposable income and such amount shall increase the base amount of the Plan. The Plan shall be deemed modified accordingly, and the Trustee will file a notice of plan modification within 21 days of receipt of the tax refund;
- 2) This \$2,000.00 annual limit shall apply to both joint-debtor and single-debtor cases;
- 3) The \$2,000.00 otherwise retained by Debtor must first be applied to any Plan arrearages;

- 4) Notwithstanding subparagraph (1) above, Debtor may file a notice to retain the portion of the tax refund otherwise payable to the Plan under subparagraph (1) with twenty-one (21) day negative notice as set forth in Local Rule 9014(a) if, at the time of receipt of a refund, Debtor's Plan provides for the payment of 100% of allowed general unsecured claims within the term of this Plan. If the Trustee does not object within the twenty-one (21) day negative notice period, Debtor may retain that portion of the tax refund.

The Trustee is hereby authorized to endorse a tax refund check if the check is made payable to Debtor.

#### **4.2 Annual Tax Returns.**

Debtor shall provide a copy of the annual post-petition income tax return to the Trustee if requested to do so or if required to do so pursuant to the Standing Order for Chapter 13 Administration for the division in which this case is pending. If this is a joint case, each Debtor shall comply with this provision if separate returns are filed.

### **5. Pre-Confirmation Adequate Protection Payments**

Pre-confirmation adequate protection payments under § 1326(a)(1) and § 502(b) shall be made as provided below, and pursuant to the Standing Order for Chapter 13 Administration for the division in which this case is pending:

- A. All pre-confirmation payments if required by § 1326(c) and proposed below will be made by the Chapter 13 Trustee without further order of the Court. Such payments shall be considered payments pursuant to § 1326(a) and 28 U.S.C. § 586(e).
- B. If the Debtor fails to make the required plan payments and funds on hand are not sufficient to pay all pre-confirmation adequate protection payments due, then such payments shall be paid on a pro rata basis, with the exception of ongoing monthly mortgage payments made by the Trustee.
- C. Monthly pre-confirmation adequate protection payments will be calculated from the date the first plan payment is due. To receive adequate protection payments, a secured creditor must have on file with the Clerk of the Court a timely filed and allowed proof of claim. The proof of claim must include proof of the creditor's security interest and shall be served on the Chapter 13 Trustee, the Debtor and Debtor's attorney. The Trustee will thereafter commence disbursement of pre-confirmation adequate protection payments in the next regularly scheduled monthly disbursement following the filing of the claim, subject to normal operating procedures.
- D. The Debtor proposes the following pre-confirmation adequate protection ("AP") payments. The Trustee shall apply pre-confirmation adequate protection payments to accrued interest, if applicable, and then to principal. AP payments shall cease upon confirmation of the Plan.



<b>Creditor &amp; Collateral</b>	<b>Monthly AP Payment</b>	<b>Interest Rate, If Claim is Over Secured</b>	<b>Other Treatment Remarks</b>

## **6. Executory Contracts / Unexpired Leases / Contracts for Deed**

**6.1 Pursuant to § 1322(b)(7) and § 365, Debtor hereby elects to assume the following executory contracts, unexpired leases, and/or contracts for deed as follows:**

<b>Creditor</b>	<b>Property or Contract Description</b>	<b>Current Monthly Payment to be Paid Directly by the Debtor</b>

**6.2 Pursuant to § 1322(b)(7) and § 365, Debtor hereby elects to reject the following executory contracts, unexpired leases, and/or contracts for deed:**

<b>Creditor</b>	<b>Property</b>

## **7. Treatment of Claims**

**7.1 Administrative Claims & Request for Attorney Fees.**

The Trustee shall collect the allowed statutory Trustee fee upon receipt of all monies paid by or on behalf of Debtor. All other administrative claims, including Debtor's attorney fees, shall be paid according to the terms of this Plan.

Upon confirmation of the Plan, the Court approves and awards \$\_\_\_\_\_ to Debtor's attorney as an administrative claim for legal services performed in this case in accordance with the applicable benchmark. Debtor's attorney may file applications for an additional award of attorney fees pursuant to the Bankruptcy Code, Local Bankruptcy Rules for the Western District of Texas, and the Standing Order for Chapter 13 Administration for the division in which this case is pending. If additional monies are available, the Trustee may, within his or her discretion, disburse such funds to this class on a pro rata basis. The Trustee shall disburse payments to the attorney as follows:

<b>Debtor's Attorney</b>	<b>Amount of Fee Paid Through the Plan</b>	<b>Payment Method:</b>	<b>Additional Provisions</b>
		<input type="checkbox"/> Standing Order <input type="checkbox"/> Other	

## 7.2 Priority Claims.

All allowed claims entitled to priority under § 507(a), except § 507(a)(2), shall be paid in full in deferred distributions by the Trustee, unless: (1) the holder of a particular claim agrees to a different treatment of such claim; or (2) such claim is provided for under § 1322(a)(4). Unless the Plan provides otherwise, the distributions shall be made by the Trustee. If the Plan identifies a creditor's claim as a priority claim and the creditor files the claim as a general unsecured claim, the claim shall be treated as a general unsecured claim unless otherwise ordered by the Court. If any priority claim is filed for a debt that was either not scheduled or scheduled as a general unsecured claim, the claim shall be allowed as a priority claim unless otherwise ordered by the Court. Allowed priority claim(s) shall be paid without interest, unless otherwise ordered by the Court or unless specifically allowed under § 1322(b)(10) and provided for below.

The amount set forth in the Plan is an estimate and if the actual allowed claim is in a different amount, the amount to be paid pursuant to the Plan shall be the amount due on the allowed claim.

Domestic Support Obligations ("DSO"). The Trustee shall pay all pre-petition DSO claims through the Plan unless the Court orders otherwise. Debtor shall pay all DSO payments that accrue post-petition directly to the holder, or the holder's agent, pursuant to the terms of the DSO.

The Trustee shall disburse payments to the following creditors holding priority claims:

### EXAMPLE:

<b>Creditor</b>	<b>Description</b>	<b>Est. Claim Amount</b>	<b>Est. Monthly Payment</b>
Attorney General	Child Support	\$5,000	Pro Rata
IRS	Income Tax (2013)	\$5,000	Pro Rata

If additional monies are available, the Trustee may, within his or her discretion, disburse such funds to this class on a pro rata basis.

## 7.3 Arrears on Assumed Executory Contracts/Leases/Contracts for Deed.

The Trustee shall disburse payments for arrears to creditors holding assumed executory contracts, leases, and/or contracts for deeds. The amounts listed below by Debtor are estimates. If a creditor files a proof of claim and the claim for arrears or the ongoing monthly

payment is in a different amount than stated below, the payments under the Plan shall be based on the creditor's claim unless a different amount is established by court order.

Those creditors holding claims within this class are as follows:

<b>Creditor &amp; Collateral</b>	<b>Arrears &amp; Treatment of Arrears Through the Plan</b>	<b>Amount of Ongoing Monthly Payment Through the Plan</b>

#### **7.4 Collateral to be Surrendered.**

Upon the entry of an order confirming the Plan or an order modifying the Plan, the stay shall automatically terminate with regard to the collateral surrendered. Upon the entry of such order, the creditor shall have ninety (90) days from the date of the order to file a claim or amended claim as to any deficiency balance that may remain, and such deficiency balance will be paid as a general unsecured claim. Any such claim is subject to objection.

Debtor surrenders the following collateral:

<b>Creditor</b>	<b>Collateral</b>	<b>Location of Collateral</b>

#### **7.5 Creditors to be Paid Directly by Debtor (Other Than Mortgage Creditors), by a Third Party, or by a Co-Debtor. [USE ONLY IF THERE IS NO DEFAULT]**

Creditors within this class shall retain their liens on the collateral that is security for the claim until the claim has been paid in full as determined by the note and/or applicable non-bankruptcy law.

If certain claims are paid directly by Debtor to creditor, Debtor shall be deemed acting as a disbursing agent under the Plan for payment of such claim. Such payments shall be made in addition to the payments by Debtor to the Trustee and are deemed to be payments made pursuant to the Plan.

The following creditors shall be paid directly by Debtor, a Third Party, or a Co-Debtor:

<b>Creditor</b>	<b>Collateral</b>	<b>Debt Owed</b>	<b>Monthly Payment</b>	<b>Remarks</b>	<b>Identify Payer</b>

## **7.6 Mortgage Creditors: Ongoing Mortgage Payments & Direct Mortgage Payments on Debtor's Principal Residence.**

Unless the Debtor is current on the mortgage on the petition date, or otherwise provided for under PLAN PROVISIONS 8. Nonstandard Plan Provisions, the Trustee shall pay all post-petition monthly mortgage payments to the mortgagee. Ongoing mortgage payments will be in the amount stated in the allowed proof of claim or pursuant to a Court Order. If Debtor makes a Plan payment that is insufficient for the Trustee to disburse all ongoing mortgage payments required below, the Trustee shall hold plan payments until a sufficient amount is received to make a full ongoing mortgage payment. Debtor shall provide to the Trustee all notices received from Mortgage Creditors including, statements, escrow notices, default notifications, and notices concerning changes of the interest rate if a variable rate mortgage. The automatic stay is modified to permit Mortgage Creditors to issue such notices.

The Trustee shall be authorized to make changes to the ongoing monthly mortgage payments based on Notice filed pursuant to Bankruptcy Rule 3002.1(b) and to pay fees, expenses, and charges based on Notice filed pursuant to Bankruptcy Rule 3002.1(c). The Trustee may request that the Debtor file amended Schedules I and J, and the Debtor shall do so on or within thirty (30) days after receiving such a request from the Trustee. If Debtor lacks the disposable income to pay the ongoing mortgage payment, the Trustee may seek dismissal. The Debtor or the Trustee may seek to modify the Plan based on Debtor's current income, Debtor's ongoing mortgage payment obligations, or as otherwise provided in § 1329.

Alternatively, upon the filing by a Mortgage Creditor of a Notice pursuant to Bankruptcy Rule 3002.1(b) or 3002.1(c), the Trustee may file a Notice of Increase of Plan Payment with the Court if the Trustee reasonably believes that, under the circumstances, the increased payment should be Debtor's responsibility. The Trustee shall serve the Notice of Increase of Plan Payment on Debtor and Debtor's counsel. Such circumstances include but are not limited to: (1) increase in the mortgage payment or claim for expense is caused by Debtor's failure to pay tax, insurance or other obligations to the mortgagee that the Debtor was required to pay directly; (2) cases in which the Debtor is paying less than the Debtor's full disposable income because the Debtor has agreed to pay a 100% dividend to general unsecured creditors; and (3) cases where, because of the increase due the Mortgage Creditor, the current Plan would fail to pay fully the amount provided under the Plan to allowed secured, priority, and administrative claims and any required amount to be paid to general unsecured claims under the terms of the confirmed Plan by reason of § 1325(a)(4) or otherwise.

The amount set forth in a Notice of Increase of Plan Payment shall become the modified Plan payment, and the Plan base shall be correspondingly increased. The Debtor must file a motion to modify Plan, supported by amended Schedules I and J as well as income verification, if the Debtor believes there is not, at that time, sufficient disposable income to pay the increased Plan payment or there is otherwise basis to amend the Plan rather than pay the increased Plan payment. The Debtor's motion to modify Plan shall be filed no later than thirty (30) days after Trustee's Notice of Increase in Plan Payment is filed.

**It is possible that a change in the ongoing mortgage payment will affect the distribution to the unsecured creditors, and this provision of the Plan shall serve as adequate notice of the possibility.**

If Debtor is current as of the petition date and elects to pay the ongoing mortgage directly but subsequently defaults, Debtor should file a motion to modify the Plan within thirty (30) days of receiving notice of the default to provide for the payment of the post-petition mortgage arrearage. The future ongoing mortgage payments shall be paid by the Trustee. The motion to modify the Plan must state the name, address, and account number of the Mortgage Creditor to whom payments are to be made; the date the Trustee is to commence the ongoing mortgage payments; and the treatment of the post-petition delinquency including the gap between the date when Debtor modified the Plan and the date on which the Trustee is to commence the ongoing mortgage payments. The Trustee may also file a motion to modify the Plan in the event of a post-petition default.

The Standing Order for Chapter 13 Administration for the division in which this case is pending as to ongoing mortgage payments shall also apply.

For cause shown, Debtor may deviate from the procedures set forth in this provision of the Plan provided that Debtor sets forth cause, with specificity, in PLAN PROVISIONS 8. Nonstandard Plan Provisions. The Trustee and any party in interest may object. Debtor shall have the burden of proving at any hearing on confirmation of the Plan cause for such deviation. Avoidance of administrative fees alone shall not be considered cause.

The amounts set forth below are Debtor's estimate and the allowed claim shall control as to the amounts. Those creditors holding a secured claim with ongoing mortgage payments are as follows:

<b>Creditor</b>	<b>Property Address</b>	<b>Monthly Mortgage Payment</b>	<b>Interest Rate (for informational purposes only)</b>	<b>Payment Due Date (per contract)</b>	<b>Paid By:</b>
					<input type="checkbox"/> Trustee (Conduit) <input type="checkbox"/> Debtor (Direct)

## **7.7 Secured Claims: Cure Arrears on Long Term Debt and Mortgage Arrears on Debtor's Principal Residence.**

Arrears on long term debt and pre-petition mortgage arrearage claims shall be paid pursuant to the payment schedule set forth below. Upon discharge, if the pre-petition arrears and the post-petition ongoing payments are current on Debtor's Principal Residence, the default will be deemed cured and the note reinstated according to its original terms, including the retention of any security interest. The pre-petition arrears set forth below is an estimate only and the Trustee shall pay the pre-petition arrears based on the proof of claim as filed by the creditor, unless a different amount is allowed pursuant to a court order.

If there are insufficient funds to pay the monthly payment to claims within this class, creditors in this class shall be paid on a pro rata basis. If additional monies are available, the Trustee may, within his or her discretion, disburse such funds to this class on a pro rata basis.

The following secured creditors hold claims for arrears in this class:

Creditor	Collateral Description	Estimated Arrearage	Monthly Payment or Method of Distribution	Interest Rate (If applicable)	Remarks

#### 7.8 Secured Claims: Treatment of Claim and Motion to Value Collateral Pursuant to § 506; and 910 Day Claims/1 Year Claims.

Creditors within this class shall retain their liens on the collateral that is security for their claims until the earlier of: (1) the date the underlying debt, as determined by non-bankruptcy law, has been paid in full; or (2) the date discharge is entered under § 1328. If the case is dismissed or converted without completion of all Plan payments, the liens shall be retained by the creditors pursuant to applicable non-bankruptcy law.

Debtor moves to value the collateral described below in the amounts indicated. The values as stated below represent the fair market value of the collateral pursuant to § 506(a)(2). Objections to the valuation of collateral proposed by this Motion and the Plan must be filed no later than fourteen (14) days before the confirmation hearing date. If no timely objection is filed, the relief requested may be granted in conjunction with the confirmation of the Plan.

The Trustee shall pay the allowed secured claims, which require the filing of a proof of claim, to the extent of the value of the collateral or the full payment of the claim as specified below, plus interest thereon at the rate specified in this Plan. **Failure of the secured creditor to object will be deemed acceptance of the plan under § 1325(a)(5)(A)** Except for secured claims for which provision is made to pay the full amount of the claim notwithstanding the value of the collateral, the portion of any allowed claim that exceeds the value of the collateral shall be treated as an unsecured claim under Section 7.11 below.

Creditor	Collateral Description	Amount of Debt (Est)	Fair Market Value	Interest Rate	Equal Monthly Payment	Unsecured Claim	910 Claim? ***
							<input type="checkbox"/>

\*\*\* Debtor indicates, by notation (☒) that the collateral which secures the claim was purchased within 910 days if a vehicle or within 1 year if personal property pursuant to § 1325(a) (hanging paragraph).

If additional monies are available, the Trustee may, within his or her discretion, disburse such funds to this class on a pro rata basis.

If any secured proof of claim is timely filed for a debt that was either not scheduled or scheduled as unsecured, the claim shall be allowed as secured unless otherwise ordered by the Court. Said claim shall be paid under the Plan with interest at \_\_\_\_% per annum and shall be paid on a pro rata basis as funds become available after payment of any fixed equal monthly payments payable to other secured creditors listed above.

## **7.9 Wholly Unsecured Claims.**

### **NOTICE OF DEBTOR'S INTENTION TO STRIP A WHOLLY UNSECURED LIEN**

**Debtor proposes a Chapter 13 plan that strips your lien secured by real property to a wholly unsecured claim. The Plan alleges that the value of the real property is less than the amount owed on all liens that are senior in priority to your lien. Your claim will receive no distributions as a secured claim but will receive distributions as a general unsecured claim.**

**If you disagree with the treatment proposed by the Plan that will terminate your lien and that will pay your claim as a general unsecured claim, you must file an objection to the Plan no later than fourteen (14) days before the confirmation hearing date. If you fail to object, the Bankruptcy Court may approve the Plan without further notice.**

**Upon entry of a Discharge Order, 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 real property and to provide a copy of the release to the Trustee, Debtor, and Debtor's 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 post-petition amounts are incurred with respect to post-petition fees and assessments, and are approved by the Court, if incurred during the pendency of the bankruptcy case.**

**This provision does not apply if a secured creditor does not file a proof of claim.**

Notice of this Plan provision must be provided by the Debtor to the secured creditor in accordance with Fed. R. Bankr. P. 7004.

The following claims shall be paid as a general unsecured claim as there is no equity in the collateral to secure the claim.

If the case is dismissed or converted without completion of all Plan payments, the liens shall be retained by the creditors pursuant to applicable non-bankruptcy law.

Those creditors holding secured claims that are wholly unsecured and are within this class are as follows:

<b>Creditor</b>	<b>Collateral</b>	<b>Fair Market Value</b>	<b>Amount of Senior Lien(s)</b>

#### **7.10 Motions to Avoid Lien Pursuant to § 522(f).**

The Bankruptcy Code allows certain liens to be avoided. If a lien is avoided, the creditor's claim, to the extent allowed, will be treated as a general unsecured claim under Section 7.11. The amount of the debt set forth in the Plan is Debtor's estimate and if the actual allowed claim is in a different amount, the unsecured amount to be treated pursuant to the Plan shall be the amount due on the allowed claim.

If the case is dismissed or converted without completion of all Plan payments, the liens shall be retained by the creditors pursuant to applicable non-bankruptcy law.

Debtor moves under § 522(f) to avoid the following liens that impair exemptions. Objections to this treatment must be filed no later than fourteen (14) days before the confirmation hearing date. If no timely objection is filed, the relief requested may be granted in conjunction with the confirmation of the Plan. (Debtor must list the specific exempt property that the lien impairs and the basis of the lien—e.g. judicial lien, non-PMSI, etc.).

<b>Creditor</b>	<b>Property Subject to Lien</b>	<b>Lien Amount to be Avoided</b>	<b>Secured Amount Remaining</b>	<b>Type of Lien</b>

#### **7.11 General Unsecured Claims.**

Creditors within this class hold general unsecured claims that are not otherwise provided for in the Plan, including but not limited to creditors' unsecured claims arising by reason of lien avoidance or lien strip, rejection of executory contracts or leases, or bifurcation of a claim. Payments to holders of allowed claims within this class shall be disbursed on a pro rata basis and shall be disbursed after payment of other creditors. The amounts set forth as unsecured claims in Debtor's schedules are estimates only, and payments to holders of allowed general unsecured claims shall be based upon allowed claim amounts.



## 8. Nonstandard Plan Provisions

### Nonstandard Plan Provisions.

The following Plan provisions will be effective only if there is a check in the box in Section 1.3 of the Plan.

**Failure to place any nonstandard provision in this section results in the nonstandard provision being void.**

I certify that all nonstandard plan provisions are contained in this section of the Plan.

\_\_\_\_\_  
Debtor's Attorney or Pro Se Debtor  
State Bar No. \_\_\_\_\_

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

\_\_\_\_\_  
Debtor

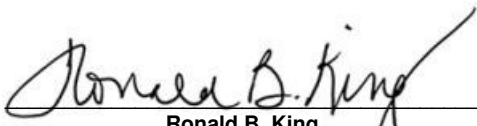
\_\_\_\_\_  
Joint Debtor


### **Certificate of Service**

Debtor shall be responsible for service of the Plan on the Trustee and all parties in interest.

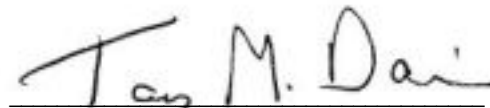
SIGNED this 07th day of September, 2017.



  
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

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS**

**STANDING ORDER: (I) THAT PRO BONO LEGAL COUNSEL ARE NOT DEBT  
RELIEF AGENCIES AND (II) THAT PRO BONO COUNSEL FOR DEBTORS ARE  
NOT SUBJECT TO SECTIONS 526 THROUGH 528 OF THE BANKRUPTCY CODE**

The Bankruptcy Judges for the Western District of Texas have determined that this Order is necessary in order to encourage well-qualified, licensed attorneys to provide pro bono legal representation in bankruptcy cases to low income debtors. Accordingly, the Court makes the following findings of fact and conclusions of law:

**I. FINDINGS OF FACT<sup>1</sup>**

1. This Court has jurisdiction to enter this final, standing order pursuant to 28 U.S.C. §§ 157 and 1334, which provides relief that can arise only pursuant to the provisions of Title 11 of the United States Code, §§ 101 et seq. (as amended, the "Bankruptcy Code").

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<sup>1</sup> The following findings of fact and conclusions of law are made pursuant to Rule 52 of the Federal Rules of Civil Procedure, made applicable by Rules 7052 and 9014 of the Federal Rules of Bankruptcy Procedure. Where appropriate, any and all findings of fact shall constitute conclusions of law and any and all conclusions of law shall constitute findings of fact.

2. The State Bar Bankruptcy Law Section Law School Pro Bono Project (the “Project”), is a program founded by the Bankruptcy Law Section of the State Bar of Texas, in cooperation and coordination with certain accredited law schools located in the State of Texas, to increase legal access to residents of the State of Texas who could not otherwise afford bankruptcy representation. The Project links qualified applicants, who are first interviewed and qualified under established Project procedures, with volunteer attorneys who, after further interview following their own conflict of interest review procedures, and with the assistance of one or more law students assigned to the case, enter into an agreement to represent the applicants in a case filed under chapter 7 of the Bankruptcy Code. The pool of volunteer attorneys may potentially include both consumer bankruptcy attorneys as well as: (i) volunteer non-bankruptcy attorneys willing to assist with matters arising from pro bono chapter 7 cases; and (ii) business bankruptcy lawyers who are willing to serve the program where they can.

3. For each case accepted by a volunteer attorney, the Project will assign one or more law students to handle the day to day affairs and duties attendant to the case under the supervision of the licensed attorney. Malpractice insurance coverage for the legal representation in the case shall be provided by the legal aid office making the referral. Accordingly, the applicants will enter into an engagement letter with the volunteer attorney using a form of engagement letter approved by the Project and the participating law schools. In addition, the participating law school and the referring legal aid office, through the Project, will monitor the progress of the case. This procedure is essential to the availability of malpractice insurance applicable to the services rendered by the volunteer attorneys.

4. Pursuant to the enactment and effectiveness of The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (“BAPCPA”), certain requirements are imposed on

consumer debtors who file a chapter 7 bankruptcy case, and also upon their legal counsel. According to the Project, in light of these extensive requirements, substantially fewer lawyers and firms who do not specialize in consumer bankruptcy law are willing to file pro bono consumer chapter 7 cases due to uncertainty over whether they could be considered a “debt relief agency” and the extent to which such designation might affect their usual practice. In particular, the Project believes that attorneys not specializing in consumer bankruptcy practice often do not want to have imposed upon them and their other practice the status and corresponding requirements applicable to a “debt relief agency” under the Bankruptcy Code.

5. However, these Bankruptcy Code obligations, applicable to counsel, apply only to counsel who charge or receive a fee, as distinct from counsel who represent clients pro bono.

6. The Project also believes that: (1) since the effective date of BAPCPA, programs for pro bono bankruptcy services have experienced significant difficulty in obtaining assistance for consumers debtors who seek pro bono bankruptcy representation due to a shortage of volunteer lawyers willing to accept such consumer bankruptcy cases on a pro bono basis; (2) a number of volunteer lawyers who previously had been willing to serve in such programs before BAPCPA have since discontinued their willingness to serve as volunteers due to the complexities of the law under BAPCPA and, in particular, those provisions associated with being a debt relief agency; and (3) many volunteers who are business bankruptcy lawyers with some familiarity of the practice area now refuse to undertake this type of consumer bankruptcy representation because of the concern that they or their firms will be labeled “debt relief agencies” under the Bankruptcy Code.

7. In order to address the foregoing concerns, this Court believes that it is necessary and appropriate to clarify that public service pro bono representation done without payment,

including but not limited to that proposed pursuant to the Project, does not fit the statutory definition of a “debt relief agency” for purposes of the Bankruptcy Code.

## **II. CONCLUSIONS OF LAW**

8. A debtor is an “assisted person” under the Code.

9. The Code in section 101 provides this definition:

(12A) The term “debt relief agency” means any person who provides any bankruptcy assistance to an assisted person *in return for the payment of money or other valuable consideration*, or who is a bankruptcy petition preparer under section 110, but does not include . . .

(B) a nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986[.]

11 U.S.C. § 101(12A), (B) (emphasis supplied).

10. If a firm or attorney is a debt relief agency, then the Bankruptcy Code adds a number of requirements for consumer practitioners and those who are deemed “Debt Relief Agencies” to follow. Section 526 provides restrictions applicable to debt relief agencies, with section 527 imposing disclosure requirements on debt relief agencies.

11. A volunteer attorney or law firm’s acceptance of clients who are referred to them by legal aid organizations or other similar nonprofit organizations should not render the accepting firm or lawyer a “debt relief agency” because the representation is pro bono; the lawyer or firm is not providing legal assistance in return for payment or fee, and, as set forth more fully below, the Court holds that the goodwill or other non-pecuniary benefits of civic service do not constitute

“other valuable consideration” being received by the lawyer. This conclusion appears to apply even where the pro bono service does not originate from a nonprofit organization. As a result, the restrictions on debt relief agencies enumerated in section 526 do not apply to attorneys merely because they represent debtors on a pro bono basis.

12. Pro bono counsel are not subject to the requirements imposed pursuant to the Bankruptcy Code on debt relief agencies, if counsel are not engaged in any paying consumer bankruptcy practice.

13. The plain meaning of the Code does not apply the term “debt relief agency” to pro bono attorneys. As a result, because sections 526 through 528 are directed only to debt relief agencies, these do not apply to the pro bono debtor or pro bono counsel.

14. The Court further determines that, as a matter of law, the following does not comprise valuable consideration under BAPCPA with regard to representation of assisted persons under the Bankruptcy Code on a pro bono basis: (i) gratitude, friendship, appreciation or other feelings of thanks for the assistance of pro bono counsel in a bankruptcy case by the pro bono debtor; (ii) any appreciation by members of the bar, the Court or the community for an attorney’s participation in pro bono service; (iii) any prospect that an attorney or law firm may have for future referral or other client representation from any source related to the debtor, whether for a fee or otherwise, unless the parties agree to a specific referral as a condition of the pro bono engagement; (iv) acceptance or regard from the community; (v) the potentially favorable public relations or press that the lawyer or firm may receive; and (vi) any other sense of well-being or satisfaction for participation in serving the community.

15. Valuable consideration within the meaning of section 526 requires the receipt by legal counsel of money or something having measurable and definitive value or worth, which can

be converted into money or money's worth by the counsel. Service as pro bono counsel to a debtor who is otherwise an assisted person does not involve receipt by such attorney or firm of valuable consideration.

ACCORDINGLY, IN CONSIDERATION OF THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW IT IS HEREBY:

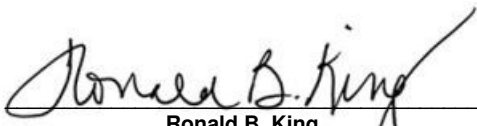
ORDERED ADJUDGED AND DECREED THAT that counsel representing a pro bono debtor in the Western District of Texas are not debt relief agencies or debt relief agents under sections 526 through 528 of the Bankruptcy Code solely by virtue of any such pro bono representation. It is further

ORDERED ADJUDGED AND DECREED THAT that counsel thus excluded from the definition of "debt relief agency" are not required to comply with any of the requirements applicable to debt relief agencies pursuant to sections 526 through 528 of the Bankruptcy Code.

# # #

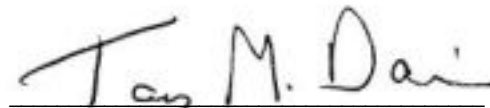
SIGNED this 05th day of August, 2016.



  
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

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

**STANDING ORDER RELATING TO CHAPTER 13 PRACTICES IN  
THE SAN ANTONIO DIVISION**

This Standing Order supersedes the Amended Standing Order Relating to Chapter 13 Practices in the San Antonio Division dated November 7, 2005, and the Standing Order Relating to Attorney Fees in Chapter 13 Cases in the San Antonio Division dated June 13, 2006; and is applicable in the San Antonio Division only. This Standing Order sets out certain practices and procedures relating to Chapter 13 practice and procedure.

If you are involved in Chapter 13 cases in the Western District of Texas in the San Antonio Division, please review the terms of this Order carefully. The procedures set out herein will directly affect your practice. Please note that the procedures discussed in this Standing Order apply in the San Antonio Division only. The procedures in the Austin, Waco, El Paso and Midland Divisions may be different and may be subject to other standing orders applicable to those Divisions. Please consult the Clerk of the Court for copies of any other applicable standing orders.

**1. ADOPTION OF CHAPTER 13 PLAN FORMAT**

Attached as "Exhibit A" is a Chapter 13 Plan Form which shall be used by all Chapter 13 debtors in cases where the Plan is filed after the effective date of this Order. The Plan Form may be revised periodically by the Court. Any proposed changes to the Chapter 13 Plan Form will be



sent to active bankruptcy practitioners, who will have thirty (30) days to provide comments to the Judges and the Chapter 13 Trustee. The Clerk of the Court shall make the Chapter 13 Plan Form available to the public.

Regardless whether the plan is filed with the Chapter 13 petition at the commencement of the case, the debtor shall be responsible for serving the plan on all creditors and parties in interest. A Certificate of Service must be filed with the Clerk of the Court reflecting service of the plan. The Clerk of the Court shall be responsible for serving the Notice of Commencement.

## **2. ATTORNEY FEES FOR DEBTOR'S COUNSEL**

The Court may determine and maintain a standard benchmark fee for business and routine non-business Chapter 13 cases. The benchmark fee for routine non-business Chapter 13 cases shall be \$3,600 and \$4,900 for business Chapter 13 cases.

(a) The following services are presumed to be included in the benchmark fee:

- (1) all pre-confirmation conferences with the debtor(s);
- (2) pre-confirmation preparation of the petition and its associated forms, schedules, statement of affairs, plan and pre-confirmation amendments to all such documents;
- (3) attendance at all 11 U.S.C. § 341<sup>1</sup> meetings (including adjourned meetings);
- (4) attendance at confirmation and discharge hearings (including any adjourned hearings);
- (5) requests for trustee-approved moratoriums; and
- (6) with the exclusion of subparagraph (f), compliance with the requirements of § 521.

(b) Preparation of and hearing attendance for the following routine motions are presumed to be included in the benchmark fee:

- (1) motions to pay filing fees in installments;
- (2) motions to avoid liens;
- (3) motions for waiver of credit counseling;
- (4) motions for continuation of the stay under § 362(c)(3)(B);
- (5) motions to extend filing or other debtor deadlines; and
- (6) any such other matter as the Court may deem to be routine.

(c) An attorney may, for cause shown, request additional fees for routine services as set out in subparagraph (b) above. Any such request must be made by motion, on notice with opportunity for a hearing.

(d) An attorney may request and obtain an award for fees for additional services rendered, on motion with notice and opportunity for a hearing. The motion shall state the total

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<sup>1</sup> Unless otherwise noted herein, all statutory references are to 11 U.S.C., *et seq.*

amount of fees requested to date—including the base fee and any other additional fee awards—and the specific basis for the fee request. The attorney must utilize the lodestar method to determine additional fees requested including accurate time records, hourly rates and a description of the service provided. The motion must state how the additional fees, if awarded, shall be paid, such as: (1) in a specified amount per month; (2) in an amount necessary to complete payment within the remaining term of the Plan; (3) in full upon entry of the order where funds are available; or (4) directly by the debtor or another party.

(e) The Trustee shall distribute the benchmark fee, as awarded in the confirmation order, to debtor's attorney from the amount received from debtor—less applicable adequate protection payments and Trustee fees—during the first four months from the date the first payment is due. The remainder of the base fee due to Debtor's attorney shall be paid at the rate of \$100.00 per month in a non-business case and at the rate of \$200.00 per month in a business case, or in such additional amount as is available after payment of the scheduled monthly distributions on secured claims, until paid in full.

(f) Notwithstanding the foregoing paragraph, an attorney may receive all available funds, less trustee fees, in payment of any outstanding unpaid fee award if no secured creditors or priority creditors remain unpaid.

### **3. PRE-CONFIRMATION PAYMENTS**

The following provisions shall apply to pre-confirmation adequate protection payments under § 1326(a)(1):

(a) All pre-confirmation payments required by § 1326(c) will be made by the Chapter 13 Trustee without further order of the Court. Unless the Court orders otherwise pursuant to a motion, the monthly installments proposed by the Plan will be considered to provide adequate protection to such creditor. A secured creditor may file a Motion for Adequate Protection Payment pursuant to § 363(e) if the creditor was not provided for in the Plan or if the creditor objects to the monthly payment proposed in the plan.

(b) To receive adequate protection payments, a secured creditor must timely file a proof of claim with the Clerk of the Court and shall serve it on the Chapter 13 Trustee, Debtor and Debtor's attorney. The proof of claim must include evidence of the creditor's security interest. Upon receipt of the claim and absent an objection to the claim, the Chapter 13 Trustee shall disburse pre-confirmation adequate protection payments commencing with the month following the month in which the claim is filed. Adequate protection payments shall continue to be paid post-confirmation until the commencement of the creditor's distribution as provided in the plan.

(c) The Trustee shall retain the statutory fee allowed pursuant to 28 U.S.C. § 586(e)(2) at the time payments are received ("a fee on receipts").

(d) If the Debtor fails to make the required plan payments and funds on hand are insufficient to pay all pre-confirmation adequate protection payments due, such payments shall be paid on a pro rata basis, with the exception of conduit mortgage payments.

#### **4. VALUATION OF COLLATERAL**

If the Plan proposes to pay a secured creditor's claim based on the fair market value of the collateral, the value of collateral as stated in the Plan shall be binding on the Debtor and creditor upon confirmation, unless either an objection to confirmation or a motion for valuation is filed, pursuant to L. Bankr. R. 3012, by the deadline to object to confirmation of the Plan as provided in ¶ 5, *infra*. An objection to valuation of collateral must be specifically pled. Any objection to valuation will be heard at the confirmation hearing and no Plan will be confirmed until the objection to valuation is resolved. A determination of value by the Court does not relieve a secured creditor from the duty to file a proof of claim in order to be paid under the Plan. If a vehicle is determined to be a "910 Claim" or other personal property purchased within one (1) year of the petition date pursuant to § 1325(a) commonly referred to as "the hanging paragraph," the claim shall be paid in full and valuation of the collateral will not be determined at confirmation.

#### **5. OBJECTIONS TO CONFIRMATION**

A creditor objecting to confirmation of the plan must file an objection to the Plan no later than fourteen (14) days before the confirmation hearing date. Failure of a creditor to affirmatively and timely object to a proposed plan constitutes acceptance of the Plan, including a secured claim, under § 1325(a)(5)(A). Objections to confirmation must be specific and cite legal authority, where applicable. If an objection is not timely filed, the Trustee may effectuate early confirmation by filing an Order Confirming Plan and the matter may be removed from the confirmation docket.

#### **6. GENERAL PROCEDURES REGARDING AMENDED PLANS**

If the Plan is amended prior to confirmation, the Debtor shall file the Amended Plan and shall serve a copy of such Amended Plan pursuant to Fed. R. Bankr. P. 3015 and 9014; and L. Bankr. R. 3015(b). A party in interest shall have twenty-one (21) days from the date of filing the Amended Plan to file an objection to confirmation. An Amended Plan must be filed and served at least twenty-eight (28) days prior to the confirmation hearing; however, the Court may consider de minimus, non-substantive amendments to the Plan at the confirmation hearing. At the time of the confirmation hearing, any amendments to the Plan as filed must be stated on the record and must be included in the confirmation order.

#### **7. DUTIES OF TRUSTEE**

(a) Provided an objection to confirmation has not been timely filed, the submission of an Order Confirming Plan prior to the confirmation hearing shall be deemed a recommendation as to confirmation by the Trustee so as to effectuate early confirmation of the Plan.

(b) Notice of Intent to Pay Claims. After the deadline for filing proof of claims has expired, the Trustee shall file a Notice of Intent to Pay Claims and shall serve a copy on all creditors and parties in interest. If a party in interest believes the Notice of Intent to Pay Claims is incorrect, the party must file an objection to the Notice of Intent to Pay Claims within twenty-one (21) days from the date of service with a request for hearing.

**8. GENERAL PROCEDURES REGARDING MOTIONS TO MODIFY PLANS (INCLUDING MOTIONS FOR “MORATORIUM”), MOTIONS TO SELL PROPERTY AND MOTIONS TO INCUR DEBT**

(a) All post-confirmation Motions to Modify Chapter 13 Plan (other than modifications in response to a Trustee’s Motion to Dismiss), Motions to Sell Property, and Motions to Incur Debt must:

- (1) comply with Fed. R. Bankr. P. 3015(g), L. Bankr. R. 3015(d) and L. Bankr. R. 9014; and
- (2) unless a hearing is specifically requested, contain negative notice language affording a party in interest twenty-one (21) days to file objections to the proposed relief.

(b) If a Motion to Modify Chapter 13 Plan is filed by a Debtor, the Debtor must:

- (1) contemporaneously therewith, and in accordance with L. Bankr. R. 3015(d), file amended Schedules I and J;
- (2) provide proof of current income to the Trustee within seven (7) days of filing the Motion; and
- (3) state in the Motion to Modify both the number of months the plan will extend, if at all, from the date of confirmation and the month in which the payment is to resume under the modified plan.

(c) Special procedures apply to motions to modify a plan filed in response to a Trustee’s Motion to Dismiss. See ¶ 9, *infra*.

**9. TRUSTEE’S MOTION TO DISMISS CASE (“TMTD”) AND DEBTOR’S MOTION TO MODIFY IN RESPONSE TO TRUSTEE’S MOTION TO DISMISS**

(a) A TMTD shall be filed using the following heading containing twenty-one (21) day negative notice language. The notice shall provide a hearing date which will be held only if a response or motion to modify in response is timely filed. If neither a response nor motion to modify in response is timely filed, the TMTD may be granted without a hearing.

**TRUSTEE’S MOTION TO DISMISS CASE**

**THE DEBTOR, OR PARTY IN INTEREST, MUST FILE A WRITTEN RESPONSE OR A MOTION TO MODIFY PLAN IN RESPONSE WITHIN TWENTY-ONE (21) DAYS OF THE DATE OF SERVICE OF THIS MOTION. FAILURE TO DO SO MAY**

**RESULT IN THE ENTRY OF AN ORDER TO DISMISS CASE WITHOUT A HEARING. IF A RESPONSE OR MOTION TO MODIFY PLAN IN RESPONSE IS TIMELY FILED, A HEARING WILL BE HELD ON [INSERT DATE, TIME AND LOCATION].**

(b) If a response is filed, the response must plead with specificity as to the means of curing the alleged default. Non-responsiveness of the debtor is not a sufficient basis for debtor's counsel to request a hearing to circumvent entry of a default order granting the TMTD.

(c) A motion to modify in response to a TMTD must comply with ¶ 8(b), *supra*. A creditor must file a written objection within twenty-one (21) days from the date of service of the motion. The Trustee is not required to file a written objection in order to preserve her right to object. A motion to modify shall be served pursuant to Fed. R. Bankr. P. 3015(g) and 9014; and L. Bankr. R. 3015(d).

The Debtor's motion to modify in response to a TMTD must include the following title and heading including twenty-one (21) day negative notice language:

**DEBTOR'S MOTION TO MODIFY PLAN IN RESPONSE  
TO TRUSTEE'S MOTION TO DISMISS CASE**

**IF YOU OBJECT TO THIS MOTION TO MODIFY PLAN, YOU MUST FILE A WRITTEN OBJECTION WITH THE CLERK OF THE COURT WITHIN TWENTY-ONE (21) DAYS OF THE DATE OF SERVICE OF THIS MOTION. IF AN OBJECTION IS FILED, THEN A HEARING WILL BE HELD ON [INSERT DATE OF HEARING IN TMTD] IN CONJUNCTION WITH THE TRUSTEE'S MOTION TO DISMISS. FAILURE TO FILE A TIMELY OBJECTION AND TO APPEAR AT THE HEARING MAY RESULT IN THE COURT'S GRANTING THE RELIEF REQUESTED.**

(d) If a Motion to Modify Plan in Response to a TMTD is timely filed which adversely affects a party in interest and the TMTD will be heard in less than twenty-one (21) days, then the TMTD hearing shall be adjourned for a period not less than twenty-one (21) days to allow for possible objections to be filed.

(e) If a Motion to Modify Plan in Response to a TMTD fails to contain the foregoing title and heading, the Court may dismiss the debtor's motion to modify for failure to comply with these procedures.

**10. REQUEST FOR FREE MORATORIUM / DEBTOR REFUND**

By this Order, the Trustee is authorized to approve a one-time moratorium on plan payment or refund of plan payment(s) for a period not to exceed sixty (60) days. The Debtor shall submit a written request to the Trustee setting forth the basis for the request and will provide any supporting documentation. The request shall be submitted directly to the Trustee, and need not be filed with the Court or served on creditors, except for a secured creditor receiving pre-confirmation adequate protection payments. No order is required for such a

moratorium or refund. If the Trustee denies the request, then the Debtor may file an Amended Plan or Motion to Modify Plan. The purpose of this section is to assist the Debtor(s) in performance under the plan and to meet emergency situations that may arise during the term of the plan. The Plan duration shall be extended to the extent necessary to repay such a moratorium or refund, or the Debtor shall file an Amended Plan or a Motion to Modify the Plan but the term may not be extended beyond sixty (60) months from confirmation.

## **11. TAX RETURNS AND TAX REFUNDS<sup>2</sup>**

The Plan or confirmation order shall contain the following language:

If this chapter 13 Plan provides for a dividend of less than 100% to allowed unsecured creditors, the Debtor is directed to pay into the Plan all disposable income, as defined by 11 U.S.C. §§ 1325(b)(1)(B) & (2), for the term of the Plan, including income tax refunds received during that period. The Debtor is directed to maintain the same number of tax exemptions for withholding as when the case was filed, except as required by a change in dependent allowance(s), marital status, or to prevent post-petition income tax liabilities. Should the Debtor change the withholding exemptions, the Debtor must amend Schedules I and J within 30 days, specifically noting the basis for the amendment. If Schedule I (Statement of Current Income) includes annual tax refunds as 1/12 prorated income, the Debtor is directed to pay into the plan any amount that exceeds the annualized amount set forth on Schedule I. The Trustee shall have the discretion to increase the percentage dividend to the unsecured creditors as a result of additional payments made under this provision. The Trustee shall have the discretion and authority to determine whether tax refunds are disposable income, provided that the debtor submits to the Trustee supporting documentation and a Stipulation to Retain Tax Refund, which the Debtor shall file with the Court. The Debtor reserves the right to file a motion to retain the tax refund.

## **12. DISCHARGE**

(a) After completion of the plan and an audit by the Trustee, the Trustee shall file and serve a Motion to Enter Discharge, with twenty-one (21) day negative notice language. If no objection to the Trustee's motion is filed, the discharge hearing may be waived by the Court and a discharge entered.

(b) If the Trustee does not believe the Debtor qualifies for a discharge, a Motion to Deny Discharge or a Motion to Dismiss shall be filed.

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<sup>2</sup> Once a model plan is subsequently adopted by the District and includes a provision related to tax returns and tax refunds, the District model plan shall supersede this paragraph of the Standing Order.

### **13. DISMISSAL FOR OTHER REASONS**

(a) The Court may dismiss a Chapter 13 case upon certification from the Chapter 13 Trustee of the Debtor's failure to appear at the first meeting of creditors, when such nonappearance has not otherwise been excused by an order of the Court.

(b) The Court may dismiss a Chapter 13 case upon certification from the Chapter 13 Trustee of Debtor's failure to file the Plan, Schedules of Assets and Liabilities, Statement of Financial Affairs, and such other documents required to be filed pursuant to § 521(a)(1) within the period prescribed by the Federal Rules of Bankruptcy Procedure or an extension of time by an order of the Court.

(c) The Court may, at the confirmation hearing and upon request of the Chapter 13 Trustee or a party in interest, dismiss a Chapter 13 case for failure of the debtor to obtain confirmation of the Chapter 13 plan.

(d) The Court may dismiss a Chapter 13 case upon certification from the Clerk of the Court or the Chapter 13 Trustee, with notice to the debtor and/or debtor's attorney and a ten (10) day opportunity to cure, for the debtor's failure to pay filing fees—including installment filing fees—when due.

### **14. EFFECTIVE DATE**

This order shall become effective on **September 1, 2016**.

**IT IS SO ORDERED.**

###

**Exhibit**

**A**



**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

<b>IN RE:</b>	§	<b>Case No.</b>
<b>Debtor(s)</b>	§	
	§	<b>CHAPTER 13 PLAN</b>

To the Honorable United States Bankruptcy Judge:

Comes now the Debtor(s) herein and, as required by 11 U.S.C. § 1321, files this Debtor's Chapter 13 plan, and in support thereof would should the Court as follows:

**Monthly Plan Payment**

Debtor(s) shall each month submit such portion of Debtor's future earnings (or other future income) to the supervision and control of the Chapter 13 Trustee as is necessary for the execution of this plan. Payments by Debtor to the Trustee shall begin within thirty (30) days after the date the Order for relief is entered unless otherwise allowed by the Court. The Debtor's monthly plan payment shall be an amount equal to the Debtor's monthly disposable income or an amount sufficient to pay the claims of general unsecured creditors in full over the term of the plan, whichever first occurs.

**Duration of Plan**

The term of the plan shall not exceed sixty (60) months from the date the first monthly plan payment is due or until the claims of general unsecured creditors are paid in full, whichever first occurs, provided that the term may be extended by the granting of a moratorium by the Court after proper notice and opportunity for hearing. Regardless of the total term, unless there has been a change in circumstances, the plan shall be deemed to have been completed when the Chapter 13 Trustee has received from or on behalf of the Debtor(s) an amount equal to the number of months specified in the Plan times the monthly plan payment or an amount necessary to pay the claims of general unsecured creditors in full, whichever first occurs, and as adjusted by any post-confirmation modifications of the amount of the monthly plan payment.

**Payment of Claims**

Allowed claims shall be paid to the holders thereof in accordance with the terms hereof. From the monthly payments described above, the Chapter 13 Trustee shall pay the following allowed claims in the manner and amounts specified. Claims filed by a creditor designated as secured or priority but which are found by the Court to be otherwise shall be treated as set forth in the Trustee's Recommendation Concerning Claims (TRCC).

**Local Rule 3002 provides, in part, that EVERY creditor filing a proof of claim in all cases SHALL transmit a copy with attachments, if any, to the Debtor's attorney (or the Debtor if the Debtor is pro se) and the Trustee appointed in the case.**

**A. Administrative Expenses:** The Trustee shall pay the expenses, as prescribed by the Court, for administering the plan. The first monthly plan payment shall be paid to the Debtor's attorney as attorney's fees. The balance, if any, of Debtor's attorney's fees shall be paid concurrently with allowed secured claims in consecutive monthly installments. Such fees shall be paid in full prior to any payments being made to general unsecured creditors. Once Debtor's attorney fees are paid in full, those funds will be paid, pro rate, first to secured creditors then, to priority creditors and then to unsecured creditors.

**B. Priority Claims:** Other than Debtor's attorneys' fees, payment of which is provided for in the preceding paragraph, claims entitled to priority under 11 U.S.C. § 507, except a claim entitled to priority under § 507(a)(1)(B), shall be paid in full, pro rata, unless a specific payment amount is assigned to a particular priority claim, in deferred installments as funds become available upon completion of payment of attorneys' fees and allowed secured claims. The holder of any such claim may agree to a different treatment of such claim. Claims allowed under § 507(a)(1)(B) are not dischargeable and may be paid less than the full amount only if the Debtor's disposable income is paid into the plan for 5 years.

**C. Secured Claims:** In the event a secured claim is treated pursuant to 11 U.S.C. § 1325(a)(5)(B), secured creditors whose claims are allowed shall be paid, in consecutive monthly installments, a principal amount equal to the value of their collateral or the amount of their net claim, whichever is less, plus interest thereon at the applicable rate. Unless objected to, the monthly installments proposed by the Debtor will be considered to provide adequate protection to such creditor during the term of the plan. The holders of such claims shall retain their liens on the collateral which is security for such claims (except for those liens which the Debtor(s) avoids by proper pleading and opportunity for hearing thereon) until the earlier of the payment of the underlying debt (determined under non-bankruptcy law) or discharge pursuant to § 1328. If the case is dismissed or converted without completion of the plan, such lien is retained to the extent allowed by applicable non-bankruptcy law. The value of the collateral shall be deemed to be the value established by the Debtor, subject to objection, and, accordingly, the amount of the secured claim shall be established in the manner provided by the Local Rules and Standing Order of the United States Bankruptcy Court for the Western District of Texas, San Antonio Division, and the *Notice of Chapter 13 Bankruptcy Case, Meeting of Creditors, & Deadlines*. In the event a creditor timely files a proof of claim which evidences a perfected security interest in collateral, which claim and collateral was not dealt with by the Debtor's plan, the collateral will be deemed valued by the Court at the amount set forth in the Trustee's Recommendation Concerning Claims (TRCC), unless a response and objection to the TRCC is timely filed.

**D. Unsecured Claims:** Unsecured claims may be separately classified provided, however, that all claims within a particular class shall be treated the same. Any unsecured claim not over \$50.00 may be paid pro rate, in equal installments or in full, at the election of the Trustee. The classes, generally, will be as follows:

**1. General unsecured:** The class of “general unsecured” claims shall comprise the claims of all creditors holding unsecured nonpriority claims, not otherwise designated as “special class” unsecured claims, including the unsecured portion of a secured creditor’s bifurcated claim (i.e., the difference between the value of the collateral and the total amount of the claim) and secured claims the liens securing which have been avoided. Payments to general unsecured creditors shall be made on a pro rata basis as funds become available after secured and priority claims have been paid in full. The amount paid to general unsecured claimants shall depend on such factors as the total amount of claims actually filed and allowed, but the total amount paid to unsecured creditors shall be equal to or greater than the amount such creditors would receive, as of the effective date of the plan, if the Debtor’s estate were liquidated under Chapter 7 of the United States Bankruptcy Code. In the event the Debtor owns non-exempt assets the liquidation of which would result in the immediate payment in full of all allowed general unsecured claims were the Debtor’s estate liquidated under Chapter 7 of the United States Bankruptcy Code, then the Debtor shall pay the holders of such claim interest at the rate of five percent (5%) per annum on allowed claims over the term of the Chapter 13 plan. Interest that would otherwise accrue during the life of the plan is discharged upon completion of the plan, except for any interest accruing on a debt to any general unsecured creditor whose debt (and/or interest) is nondischargeable under the law.

**2. Special class:** The class of “special class” claims shall comprise those claims that would otherwise be general unsecured claims but that the Debtor(s) has elected to pay in full despite that fact that general unsecured claims are not paid in full. Such claims include, but are not limited to, claims arising out of consumer debts for which any individual is liable with the Debtor by way of co-signature, guarantee, endorsement or otherwise (“co-signed debts”), claims based on NSF checks (or any other claims which might result in criminal prosecution), and student loans.

### **Vesting of Estate Property**

Upon confirmation of the plan, all property of the estate shall not vest in the Debtor(s), but shall remain as property of the estate subject to the automatic stay of 11 U.S.C. § 362.

### **Executory Contracts/Unexpired Leases**

Pursuant to 11 U.S.C. § 1322(b)(7) of the Bankruptcy Code, the Debtor(s) hereby elects to assume or assign the following executory contracts, if any:

Pursuant to 11 U.S.C. § 1322(b)(7) of the Bankruptcy Code, the Debtor(s) hereby elects to reject the following executory contracts, if any:

### **Direct Payments to Creditors**

Certain claims may be paid directly to the holders thereof, not by the Chapter 13 Trustee, but rather by the Debtor(s) or some other party who shall be deemed acting as disbursing agent of the Trustee for payment of such claims. Creditors receiving such direct payments outside the

plan may continue to issue payment books, coupons and any other method normally used to make and receive periodic payments and this shall not violate the provisions of 11 U.S.C. § 362.

Such payments shall be made in addition to the payments by Debtor to the Trustee as herein set forth.

If a creditor is allowed by Court Order to foreclose on, or otherwise take back his/her property, such creditor must notify the Chapter 13 Trustee immediately upon regaining the property. Upon entry of an Order Lifting Stay, the Trustee shall stop any further payment on that claim.

Any creditor who has obtained an order lifting the automatic stay, or an inferior lienholder in the case desiring to file a deficiency claim, must file such claim by amending or replacing their claim within 90 days of the property's reversion to the first lienholder.

### **Long Term Debts**

Any amount not paid during the term of the plan on secured debts upon which the last payment is due after the final payment under the plan is due ("long term debts") shall not be discharged. In the event the debt is secured by any real or personal property and either the holder of such secured claim obtains relief from the stay of 11 U.S.C. § 362 for the purpose of foreclosing its lien on or security interest in such property or the Debtor elects to surrender the property to the creditor, then the entire debt shall be discharged pursuant to 11 U.S.C. § 1328(a) or 11 U.S.C. § 1328(b) and shall not be excepted from such discharge by 11 U.S.C. § 1328(a)(1) or 11 U.S.C. § 1328(c)(1). A creditor may file an unsecured claim in the amount of any resulting deficiency after the collateral is liquidated and the proceeds thereof applied against the claim within ninety (90) days of such liquidation unless the Court orders otherwise.

### **Additional Provisions**

Additional information, provisions and requirements set forth in the Local Rule and Standing Orders of the United States Bankruptcy Court for the Western District of Texas, San Antonio Division, and in the *Notice of Chapter 13 Bankruptcy Case, Meeting of Creditors, & Deadlines* which will be mailed to all parties affected hereby. These documents should be consulted in connection with any analysis of this plan and the effect thereof.

Proposed payments to individual creditors and the amount of payments to unsecured creditors may change as a result of the Meeting of Creditors or as Proofs of Claim are filed and allowed. Creditors may wish to attend the meeting of creditors and should be aware of any changes. All changes will be listed in the TRCC which will be served on all creditors after the deadline for filing proofs of claim has expired.

## Specific Treatment for Payment of Allowed Claims

These are proposed treatments. Actual treatment may be different. When claims are finalized, you will be served with the "Trustee's Recommendation Concerning Claims" and the opportunity to object.

### **1. DIRECT PAYMENTS TO CREDITORS**

Creditor Name	Remarks	Debt Amount	Monthly Payment
---------------	---------	-------------	-----------------

### **2. SECURED CREDITORS:** (Refer to paragraph C)

Creditor/ Collateral	Est. Amount	Est. Value	Unsecured Portion	Mo. Pmt. or Method of Disb.	Insured (yes/no) Name of Insurance	Indicated if to be Sold or Returned	Interest Rate	Remarks
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### **3. PRIORITY CREDITORS:** (Refer to paragraph B)

Creditor	Estimated Amount of Debt	Payment Method 1. Before 2. After 3. Along with Secured Creditors	Remarks
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### **4. SPECIAL CLASS UNSECURED CREDITORS:** (Refer to paragraph D-2)

Creditor	Special Condition	Est. Debt	Mo. Pmt or Method of Disb. On Est. Value	Remarks
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### **5. GENERAL UNSECURED CREDITORS:** (Refer to paragraph D-1)

Creditor	Estimated Debt	Remarks
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**Totals:**

Priority \_\_\_\_\_ Secured \_\_\_\_\_ Special Class \_\_\_\_\_ Unsecured \_\_\_\_\_

## General Information

### **Notice: Local Rule 3002 provides, in part:**

***“Every Creditor filing a Proof of Claim in all cases shall transmit a copy with attachments, if any to the Debtor’s Attorney (or the Debtor if the Debtor is pro se) and the Trustee appointed in the case.”***

Creditors are hereby notified that WITHOUT FURTHER NOTICE the Plan may be amended at the Meeting of Creditors (341(a) meeting). Any amendment may affect your status as a creditor. The Debtor’s estimate of how much the Plan will pay, projected payments and estimates of the allowed claims may also change. The following information is an attempt to advise Creditors of the status of the case based on the information known at the time of its preparation. Any special concerns of a creditor may justify attendance at the First Meeting of Creditors and such other action as may be appropriate under the circumstances. More detailed information is on file at the office of the United States Bankruptcy Clerk in San Antonio, Texas.

1. The Debtor’s Plan Payment is scheduled at \_\_\_\_\_ per month. ☐ Pay Order, ☐ Pay Order waived.
  2. The Plan proposes to pay in full all allowed priority, special class and secured claims to the extent of the value of the collateral and a total of no less than \$\_\_\_\_\_ will be paid to nonpriority unsecured creditors with allowed claims during the Plan. Unsecured creditors will receive approximately \_\_\_\_% of allowed claims. (See Note 1).
  3. Value of non-exempt assets \_\_\_\_\_, ☐ Federal or ☐ State exemptions; ☐ Consumer Debtor or ☐ Business Debtor.
  4. Current Monthly Income \_\_\_\_\_, - Amounts Reasonably Necessary to Be Expended \_\_\_\_\_ = Monthly Disposable Income \_\_\_\_\_. (From Form B22C)
- and/or
5. Monthly net income from Schedule I \_\_\_\_\_, - Expenses from Schedule J \_\_\_\_\_ = Excess Income.
  6. If the payment of any debt is proposed to be paid directly by the Debtor outside the Plan, it is so noted in the “Specific Treatment of Allowed Claims” set forth above.

Note 1: Creditors should note that the Debtor’s projection of the percentage of payment of allowed general unsecured claims is only an estimate. Such percentage is based upon the amount of debt of all classes listed by the Debtor(s) in the Debtor(s) schedules filed with the Court. If claims or amended claims are filed and allowed by the Court in an amount greater or lesser than that scheduled by the Debtor(s), the percentage paid to unsecured creditors may be different than is estimated here.

## SUPPLEMENTAL PLAN PROVISIONS

The above plan is a uniform Chapter 13 plan adopted for use in the San Antonio Division of the Western District of Texas. None of its provisions can be altered except as hereinafter set forth in this Supplemental Plan Provision. To the extent any provision of the Supplemental Plan is in conflict with the provisions in the uniform plan, the Supplemental Plan shall prevail. Any provisions in the Supplemental Plan not provided for in the uniform plan shall become a part of the plan in addition to the provisions of the uniform plan.

The following are the Supplemental Plan Provisions:

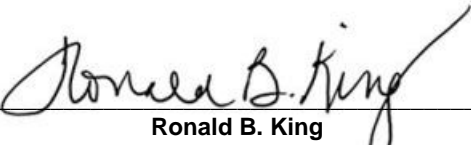
Respectfully submitted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Debtor

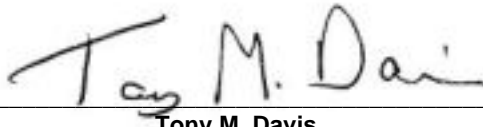
SIGNED this 29th day of October, 2015.



  
\_\_\_\_\_  
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

CONSOLIDATED STANDING ORDER FOR CHAPTER 13  
CASE ADMINISTRATION FOR THE AUSTIN DIVISION

The Bankruptcy Judges for the Western District of Texas for the Austin Division have determined that, in addition to the Amended Standing Order Relating to Ongoing Mortgage Payments in Chapter 13 Cases in the Austin Division (the “Mortgage Order”), the following procedures are necessary for the efficient and orderly administration of Chapter 13 cases. This Consolidated Standing Order supersedes all prior standing orders regarding chapter 13 practices (other than the Mortgage Order).

1. ADOPTION OF CHAPTER 13 PLAN FORMAT:

Attached as Exhibit #1 to this Standing Order is a chapter 13 Plan Form (hereinafter “Form Plan”) which shall be used by all chapter 13 debtors in cases filed after the effective date

of this Order. *The Form Plan may be revised periodically.* The clerk shall make available to the public the Form Plan.

The current Form Plan contains a Motion to Value Collateral and a Motion to Avoid Liens under 11 U.S.C. § 522. Objections to the valuation or lien avoidance feature of the plan/motion must be in writing and filed no later than fourteen (14) days prior to confirmation. All other confirmation objections must be filed no later than fourteen (14) days prior to the confirmation hearing date.

2. TRUSTEE'S RECOMMENDATION CONCERNING CLAIMS:

After the deadline for filing proofs of claims has passed, the chapter 13 trustee (hereinafter "trustee") shall file a Trustee's Recommendation Concerning Claims (hereinafter "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 distribution in accordance with the provisions of the TRCC, except with respect to the claim that is subject of the response or objection. The trustee shall 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 twenty one (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 twenty first (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.**

3. 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.

4. 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 as provided in section III of the Form Plan. Any request by the debtor to value property of the estate or to avoid a lien under section 522(f), independent of the plan, must be in writing and filed no later than 21 days after service of the TRCC.

5. 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 Bankruptcy Local Rule 9014. If no such notice is included, no response is necessary and the Objection to Claim shall be set for hearing.

6. 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 six (6) calendar 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.

7. 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 creditors, parties in interest 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.

8. DEBTOR'S DUTY TO FACILITATE NOTICE REGARDING DOMESTIC SUPPORT OBLIGATION:

In order to facilitate the expedient notice to domestic support claim holders and the applicable state agency provided for in 11 U.S.C. §1302, the debtor shall, no later than seven (7) days after the filing of the petition, provide to the trustee the names and 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 name, address, and telephone number of the state child support enforcement agencies as set forth under section 1302(d)(1)(A)(i) for the states in which the persons to whom the debtor owes a domestic support obligation reside.

9. ADEQUATE PROTECTION PAYMENTS BY THE CHAPTER 13 TRUSTEE; PRE-CONFIRMATION DISBURSEMENTS:

a) All pre-confirmation payments required by section 1326(c) will be made by the chapter 13 trustee. Unless the court orders otherwise pursuant to a motion filed under subparagraph (d) below, the monthly installments proposed by the debtor's plan will be considered to provide adequate protection to such creditor. The debtor's chapter 13 plan must propose a pre-confirmation adequate protection payment to all creditors entitled to such payment

pursuant to 11 U.S.C. § 1326(a).

b) To be paid adequate protection payments, each secured creditor must file a claim with the clerk of the court, attach adequate proof of its security interest and serve it on the debtor(s) and debtor(s) attorney.

c) If no Objection to Claim is filed by the debtor(s) or any other party in interest within seven (7) days of the filing of the claim, adequate protection payments to the secured creditor will commence in the amount specified under an order on a motion made under (d) below, or, if no such order has been entered, in the amount specified under the proposed plan, with the next regular trustee disbursement after the thirtieth day following the filing of the petition if the plan has not been confirmed. Adequate protection payments will cease upon confirmation of the plan.

d) A secured creditor may file a Motion for Adequate Protection Payment pursuant to 11 U.S.C. § 363(e), utilizing fourteen (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.

e) Any adequate protection payments made hereunder will reduce the principal amount of the recipient's claim unless otherwise ordered by the court.

f) The trustee is allowed to take the statutory fee allowed on all such payments under this heading.

g) 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.

10. MOTION FOR RELIEF FROM AUTOMATIC STAY

Unless the court orders otherwise, the trustee shall cease disbursements on a claim 60 days after an Order for Relief from the Stay or Notice of Termination of Stay is entered OR once the trustee receives a Notice of Repossession or Foreclosure, whichever is earlier. The creditor retains the right to file an amended unsecured deficiency claim, but such claim must be filed no later than 90 days from the date of the entry of the Order for Relief from the Stay unless the court orders otherwise.

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.

11. ATTORNEYS’ 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 routine non-business chapter 13 cases. The benchmark fee for routine non-business chapter 13 cases commenced on or after October 1, 2015, 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 commenced after the entry of this order 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 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/or 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 fourteen (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).

In a chapter 13 case, the following services are presumed included in the benchmark fee:

- (a) All conferences with the debtor(s);
- (b) Preparation of the petition and its associated forms, schedules, statement of financial affairs, plan, and amendments to all such documents;
- (c) Attendance at all 341 meetings (including reset meetings);
- (d) Attendance at confirmation and discharge hearings (including any reset hearings);
- (e) Preparation of routine motions, which shall be deemed to include the following:
  - 1. Motions to Waive Pay Order;
  - 2. Motions to Pay Filing Fees in Installments;
  - 3. Objections to Claim and Motions to Value or Avoid Lien; and

4. Responses to exemption objections.

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 in a chapter 13 case 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), 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
8. Motion to Modify filed more than 120 days following confirmation - \$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.

12. CERTIFICATION REGARDING POST-PETITION DOMESTIC SUPPORT OBLIGATIONS, TAX RETURNS AND DIRECT PAYMENTS:

No later than seven (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 section 1325 (a)(8), (2) the debtor has filed all applicable federal, state, and local tax returns as required by section 1308, pursuant to section 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, debtor shall also file with the court the certification required by section 1328(a) within 21 days after the completion by the debtor of all payments under the plan.

13. 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 fourteen (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.

14. SALE OF EXEMPT PROPERTY:

If all liens are to be paid in full, exempt property may be sold by the debtor(s) at any time without further order of the court. All valid liens, claims, or encumbrances shall attach the proceeds of such sale. Proceeds from the sale of exempt property may be paid directly to the debtor(s) unless the court orders otherwise.

Notwithstanding the foregoing, real property exempted under Texas Property Code Section 41.001 may be sold only upon order of the court.

15. DISPOSITION OF FEDERAL INCOME TAX REFUNDS IN CHAPTER 13 CASES:

Section 362(b)(26) of the Bankruptcy Code provides for the setoff rights of the Internal Revenue Service (hereinafter “IRS”). 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.

If the debtor receives an IRS tax refund after the petition date and before the final payment is made under the plan, or the case is converted or dismissed, the debtor may retain up to \$1,000 of the refund each year for personal use. The debtor shall turnover any amounts in excess of \$1,000 to the trustee as additional disposable income, unless otherwise ordered by the court. The trustee is hereby authorized to apply such amounts to the debtor’s plan and any plan delinquency in a debtor’s chapter 13 case. The base amount of the plan shall be increased by the amount turnover over to the trustee, and the plan will be deemed modified accordingly.

16. PROCEDURE FOR RESPONDING TO POST-CONFIRMATION TRUSTEE’S MOTIONS TO DISMISS:

A Trustee’s Motion to Dismiss (hereinafter “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.

- a) 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.

- b) 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/node/421>

Judge Mott: <http://www.txwb.uscourts.gov/node/204#motion-expedite>

#### 17. 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:

- (a) Failure of the debtor to timely file a plan.
- (b) Failure of the debtor to timely file schedules.
- (c) Unexcused failure of the debtor to appear at the scheduled meeting of creditors.
- (d) The debtor becomes 60 days delinquent on payments under a confirmed plan.
- (e) Failure to comply with the provisions of a prior order which provides for such relief.
- (f) Failure to submit tax returns pursuant to 11 U.S.C. § 521(e)(2).
- (g) Failure to submit payment advices pursuant to 11 U.S.C. § 521(a)(1)(B)(iv).

#### 18. PROCEDURES RELATING TO BANKRUPTCY RULE 3002.1:

Following service of the Mortgage Creditor's Notice of Postpetition Mortgage Fees,

Expenses and Charges, the trustee is authorized to add such amount as an arrearage claim to be paid and is authorized to commence payment of the claim as a secured claim, on a pro-rata basis for that class of claimant as funds are available 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.

19. PROCEDURES FOR CLOSING COMPLETED CASES IN CHAPTER 13:

a) 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.

b) 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 (hereinafter "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.

c) 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.

d) 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.

e) 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.

IT IS SO ORDERED.

# # #

Exhibit #1 (effective November 15, 2013)

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

IN RE:

§  
§  
§  
§  
§

CASE NO.

Debtor(s)

Chapter 13 Proceeding

**DEBTOR(S)' CHAPTER 13 PLAN**      ☐ *AMENDED*  
**AND MOTIONS FOR VALUATION AND LIEN AVOIDANCE**

**Plan Summary**

- A. The Debtor's Plan Payment is scheduled at \_\_\_\_\_ per month [ ☐ Pay Order, ☐ Direct Pay] for \_\_\_\_\_ months. The gross amount to be paid into the plan is \_\_\_\_\_.
- B. The Plan proposes to pay all allowed priority, special class and secured claims and approximately \_\_\_\_\_ % of the unsecured allowed claims. **THIS PLAN DOES NOT ALLOW CLAIMS.** You must file a proof of claim to receive distributions under any plan. Other than adequate protection payments, disbursements will begin after entry of an order of confirmation of the plan.
- C. Value of non-exempt assets \_\_\_\_\_.
- D. Current monthly income \_\_\_\_\_ - expenses \_\_\_\_\_ = available for plan \_\_\_\_\_.
- E. The total amount to be paid into the Plan shall be increased for tax refunds as set forth in the Standing \_\_\_\_\_ Order for Chapter 13 Case Administration in this Division. These additional receipts shall be disbursed according to the provisions of the Plan. The IRS or the Debtor(s) are directed to forward the refund to the Trustee.

**Special Plan Provisions**

**Plan Provisions**

**I. Vesting of Estate Property**

Upon confirmation of the plan, all property of the estate shall (shall not) vest in the Debtor(s), and shall not (shall) remain as property of the estate subject to the automatic stay of 11 U.S.C. §362.

## II. Executory Contracts/Unexpired Leases/Contracts for Deed

Pursuant to 11 U.S.C. §1322(b)(7) of the Bankruptcy Code, the Debtor(s) hereby elects to assume the following executory contracts, if any:

Pursuant to 11 U.S.C. §1322(b)(7) of the Bankruptcy Code, the Debtor(s) hereby elects to reject the following executory contracts, if any:

## III. Specific Treatment for Payment of Allowed Claims

### 1. DIRECT PAYMENTS BY DEBTOR TO CREDITORS; SURRENDER OF COLLATERAL

A. Debtor shall pay the following creditors directly:

Creditor Name	Remarks	Debt Amount	Monthly Payment
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B. Debtor shall surrender the following collateral:

Creditor Name	In Full Satisfaction (Yes/No)	Debt Amount	Collateral Surrendered
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#### C. Creditor's Direct Communication With Debtors

Creditors whose claims are scheduled to be paid directly by the debtor(s), including creditors with claims secured by real property or vehicles, are authorized to send monthly statements to the debtor(s). They are also authorized to communicate directly with the debtor(s) in response to a debtor's questions about monthly payments, escrow accounts, account balances, increases in monthly payments, and other routine customer service inquiries.

### 2. PAYMENTS BY TRUSTEE

A. Administrative Expenses (including Attorney's fees)

*The Trustee may receive up to 10% of all sums received.*

Creditor	Estimated Amount of Debt	Monthly Payment Amount	
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**B. Ongoing Mortgage Payments –**

The Trustee shall pay all post-petition monthly mortgage payments on claims against real property that were delinquent on the petition date (“Ongoing Mortgage Payments”). The Ongoing Mortgage Payments will be in the amount stated in the allowed proof of claim or as fixed by Court order. If the debtor makes a Plan payment that is insufficient for the Trustee to disburse all Ongoing Mortgage Payments required below, such payments will be disbursed in the order listed below. The Trustee shall hold debtor payments until a sufficient amount is received to make a full Ongoing Mortgage Payment. The debtor shall provide to the Trustee all notices received from Mortgage Creditors including statements, payment coupons, impound and escrow notices, default notifications, and notices concerning changes of the interest rate on variable interest rate loans. The automatic stay is modified to permit Mortgage Creditors to issue such notices. Changes to the monthly Ongoing Mortgage Payment or the addition of post-petition mortgage fees and charges shall be effectuated pursuant to the *Standing Order Relating to Ongoing Mortgage Payments in Chapter 13 Cases in the Austin Division*.

Mortgage Creditor	Property Address	Monthly Mortgage Payment (proof of claim controls)	Monthly Late Charge	Interest Rate (for information only)	Payment Due Date (per contract)	Paid by Trustee OR Paid Direct by Debtor (select one)
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**C. Secured Claims – Real Property; Mortgage Arrearage**

The plan will cure pre-petition arrearage claims pursuant to the payment schedule set forth in the plan. The amount of the mortgage arrearage claim to be paid through the plan will be the amount of the mortgage creditors' allowed proof of claim, unless a different amount is established by court order. The amount set forth in the proposed plan and any subsequent order confirming the plan is an estimate only and is not binding on the Debtor(s) or the mortgage creditor and is not an admission on the part of the Debtor(s) nor does it prohibit the Debtor(s) from filing an objection to the mortgage creditor's claim. Unless funds are available to pay all classes on a monthly basis, secured claims will be paid ahead of unsecured claims.

Creditor	Property Address/ Description of Collateral	Estimated Claim	Mo. Pmt or Method of Disbursement	Interest Rate (if applicable)	Other remarks
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**D. Secured Claims – Personal Property; Adequate Protection Payments; *MOTIONS TO VALUE COLLATERAL***

The Trustee shall pay allowed secured claims, which require the filing of a proof of claim, to the extent of the value of the collateral or the full amount of the claim, as specified below, plus

interest thereon at the rate specified in this Plan. **Failure of the secured creditor to object to the proposed value will be deemed acceptance of the plan under Section 1325(a)(5)(A).** Except for secured claims for which provision is made to pay the full amount of the claim notwithstanding the value of the collateral, the portion of any allowed claim that exceeds the value of the collateral shall be treated as an unsecured claim under Section III(2)(E).

In the first disbursement following the filing of a claim by a creditor holding an allowed claim secured by personal property, the Trustee shall commence making adequate protection payments in the amount set out below, unless otherwise ordered by the Court. Such payments shall cease upon confirmation of the plan.

Unless funds are available to pay all classes on a monthly basis, secured claims will be paid ahead of unsecured claims.

Creditor/Collateral	Adequate Protection Payment	Other Treatment/Remarks
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The Debtor moves to value collateral described below in the amounts indicated. The Debtor(s) declares, under penalty of perjury, that the foregoing values as stated in the above Motion and the Plan for the secured debt are true and correct and to the best of their knowledge represent the replacement value, pursuant to Section 506(a)(2), of the assets held for collateral.

\_\_\_\_\_  
*Debtor*

\_\_\_\_\_  
*Co-Debtor*

Objections to Valuation of collateral proposed by this plan must be filed no later than fourteen (14) days prior to the confirmation hearing date. If no timely objection is filed, the relief requested may be granted in conjunction with confirmation of the plan. Following confirmation of the plan, monthly payments shall be made as follows:

Creditor/Collateral	Est. Claim	Value Of Collateral	Monthly Payment	Interest Rate	Pay Value of Collateral (OR) Pay Full Amount of Claim (select one)	
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Secured creditors shall retain their liens on the collateral which is security for their claims until the earlier of the payment of the underlying debt determined under non-bankruptcy law, or discharge under 11 U.S.C. Section 1328. In addition, if this case is dismissed or converted without completion of the plan, such liens shall also be retained by the creditors to the extent recognized by applicable non-bankruptcy law.

**E. Priority Creditors**

Creditor	Estimated Amount of Debt	Payment Method 1. Before 2. After 3. Along with Secured creditors	Monthly Payment or Method of Disbursement
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**F. General Unsecured Creditors**, [including claims from rejection of contracts, leases and contracts for deed] The Trustee will pay allowed general, unsecured claims unless otherwise ordered by the Court. Unless otherwise provided below, payments to creditors with allowed general unsecured claims shall be made on a pro rata basis as funds become available after payment of other creditors. It is estimated that distribution to the general unsecured creditors will commence in the \_\_\_\_\_ month of the Plan.

**G. Cure claims on Assumed Executory Contracts, Contracts for Deed & Leases:**

Creditor	Estimated Amount Of Debt	Payment Method 1. Before 2. After 3. Along with Secured creditors	Monthly Payment or Method of Disbursement
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**Totals:**

**Administrative Claims** \_\_\_\_\_

**Arrearage Claims** \_\_\_\_\_

**Secured Claims** \_\_\_\_\_

**Priority Claims** \_\_\_\_\_

**Unsecured Claims** \_\_\_\_\_

**Cure Claims** \_\_\_\_\_

**H. Lien Avoidance under 11 U.S.C. § 522(f)**

**MOTION TO AVOID LIENS UNDER 11 U.S.C. § 522(f)**

Debtor moves to avoid the following liens that impair exemptions. Objections to Lien Avoidance as proposed in this plan must be filed no later than fourteen (14) days prior to the confirmation hearing date. If no timely objection is filed, the relief requested may be granted in conjunction with confirmation of the plan. (Debtor must list the specific exempt property said lien impairs and the basis of the lien, i.e. judicial, nonpurchase-money security interest, etc.)

Creditor	Property subject to lien	Amount of Lien to be Avoided	Remarks
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**IV. General Information**

**Notice: Local Rule 3002 provides, in part:**

*“Every Creditor filing a Proof of Claim in all cases shall transmit a copy with attachments, if any, to the Debtor’s Attorney (or the Debtor if the Debtor is pro se).”*

**Limiting Notice After Deadline to File a Proof of Claim:**

For pleadings requiring notice on all creditors and filed after the deadline to file a proof of claim, parties in interest need only serve the Limited Notice List and the Limited Notice List shall include the following:

- a. the United States Trustee for the Western District of Texas, Austin Division;
- b. the Chapter 13 Trustee for the Western District of Texas Austin Division;
- c. the Debtor(s) unsecured creditors or their respective counsel, provided however that they filed a claim or notice of appearance;
- d. all secured creditors in this case or their counsel;
- e. all taxing authorities holding claims against the Debtor(s);
- f. all parties who have, by notice of entry of appearance advised the Court and counsel for the Debtor(s) that they desire to receive notices herein;
- g. government agencies required to receive notice under the Bankruptcy Rules and above-named.

Any special concerns of a creditor may justify attendance at the Meeting of Creditors and such other action as may be appropriate under the circumstances. The deadline for the filing of objections to confirmation is fourteen (14) days prior to the confirmation hearing.

Respectfully submitted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Debtor  
Address

\_\_\_\_\_  
Co-Debtor  
Address

\_\_\_\_\_  
Attorney for Debtor  
Address/Phone & Fax Number

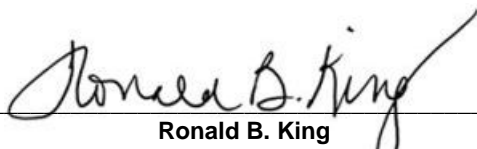
**Certificate of Service**

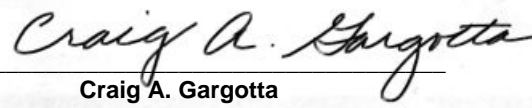
**The Debtor(s) shall be responsible for service of the plan on the Trustee and all parties in interest.**

**ATTACH SCHEDULE OF VARIABLE PLAN PAYMENTS, IF APPLICABLE.**

SIGNED this 29th day of October, 2015.



  
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

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

§  
§  
§  
§  
§

**AMENDED STANDING ORDER RELATING TO ONGOING MORTGAGE  
PAYMENTS IN CHAPTER 13 CASES IN THE AUSTIN DIVISION**

This Standing Order supplements the *Standing Order for Chapter 13 Case Administration for Austin Division*, which remains in effect.

**1. DEFINITIONS:** As used herein, the following terms shall mean:

- a. “Arrearage” means past-due payments, fees or charges due to a Mortgage Creditor as of the petition date.
- b. “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 these Rules, 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.*
- c. “Debtor” means a Chapter 13 Debtor or Debtors.

- d. “Mortgage Creditor” means the entity, or the servicer for such entity, 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.
- e. “Petition Date” means the date the Debtor files the Chapter 13 petition or the date the case converted to Chapter 13 from another chapter.
- f. “Trustee” means the Standing Chapter 13 Trustee.
- g. “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, or any other party with an interest in the property.

## **2. ONGOING MORTGAGE PAYMENTS**

- a. 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.
- b. The Debtor may be excused from complying with this Rule upon the entry of a Court order after a motion establishing good cause therefore.<sup>1</sup> The additional cost associated with the trustee fee on the Ongoing Mortgage Payment will not, by itself, constitute good cause.
- c. If a Debtor has no Arrearage claim other than the regular payment due in the month of filing or conversion, the Debtor may make the post-petition mortgage payments directly to the Mortgage Creditor.
  - i. If a Debtor who has no Arrearage claim other than the regular payment due in the month of filing or conversion makes the post-petition mortgage payments directly to the Mortgage Creditor, Debtor shall complete Exhibit A and provide that document to the Trustee (not the Court) within 5 days of the Petition Date.
  - ii. If a Debtor who has no Arrearage claim other than the regular payment due in the month of filing or conversion nevertheless decides to pay the post-petition payments to the Mortgage Creditor through the Chapter 13 Trustee as part of the plan payment, the terms of the Standing Order herein apply.

## **3. DEBTOR’S DUTIES**

- a. A Debtor with an Arrearage claim shall complete Exhibit B *Mortgage Arrearage Claim Checklist* and Exhibit C *Authorization to Release Information to the*

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<sup>1</sup> See e.g., *In re Perez*, 339 B.R. 385 (Bankr. S.D. Tex. 2006), aff’d, 373 B.R. 468 (S.D. Tex. 2007), (twenty-one nonexclusive factors to be examined in determining whether to excuse debtors from making ongoing mortgage payments through the plan).

*Trustee* and provide those documents to the Trustee (not to the Court) within 5 days of the Petition Date.

- b. 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 monthly Mortgage Payment as of the Petition Date.
- c. Immediately upon receipt, the Debtor shall provide to the Trustee a copy of all correspondence, notices, statements, payment coupons, escrow notices and default notices received from the Mortgage Creditor concerning any adjustment to the Ongoing Mortgage Payment, along with a completed Exhibit D attached to the documentation. The automatic stay is modified to permit Mortgage Creditors to issue such notices.
- d. 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.

#### **4. TRUSTEE'S DUTIES**

- a. The Trustee will not disburse Ongoing Mortgage Payments until a Proof of Claim, including the information set forth in Exhibit E *Addendum to Mortgage Proof of Claim*, is filed with the Court. The information should include the monthly post-petition mortgage payment and the current amount of the monthly late fee. 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.
- b. The Trustee shall add an amount equal to one (1) post-petition mortgage payment plus one associated late fee to the amount included in the Mortgage Creditors' Proof of Claim, to be paid through the plan as an arrearage claim, unless the Mortgage Creditor has already clearly added such amount to the 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.
- c. For all purposes hereunder, the Trustee shall use the amount of the Ongoing Mortgage Payment asserted in the Exhibit E *Addendum to Mortgage Proof of Claim* or otherwise clearly set forth in the proof of claim. If a party-in-interest objects to the amount of the Ongoing Mortgage Payment, the Trustee will hold Ongoing Mortgage Payments in reserve pending a resolution of the objection pursuant to an allowed amended claim or a Court order.
- d. The Trustee shall only disburse the full amount of an Ongoing Mortgage Payment to a Mortgage Creditor. If there are insufficient funds in the Debtor's account with the Trustee to make a full Ongoing Mortgage Payment plus the Trustee's fee, the Trustee shall hold such funds until a sufficient amount is received from the Debtor to make a full Ongoing Mortgage Payment.



- e. 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.

## **5. MORTGAGE CREDITOR'S DUTIES**

- a. A Mortgage Creditor with an Arrearage claim shall file a proof of claim with an attachment or information that substantially complies with Exhibit E *Addendum to Mortgage Proof of Claim*.
- b. The Mortgage Creditor shall provide to the Trustee copies of all correspondence, notices, statements, payment coupons, escrow notices and default notices concerning any change to the Ongoing Mortgage Payments or interest rate immediately upon receipt or creation of the same, along with a completed Exhibit D attached to the documentation.
- c. 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.
- d. The Mortgage Creditor shall comply with subsection 6 herein regarding *Post-Petition Mortgage Payment Changes and Charges*.

## **6. POST-PETITION MORTGAGE PAYMENT CHANGES AND CHARGES**

- a. 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:
  - i. 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 B 10S1 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.
  - ii. No later than 30 days after service of the *Mortgage Creditor's Notice of Mortgage Payment Change*, the Debtor, the Trustee, the United States Trustee, or 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*.

- iii. If no timely objection is filed to 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. The Trustee shall be allowed to adjust the plan payment and plan base sufficiently to pay the new Ongoing Mortgage Payment while substantially maintaining the dividend to creditors per the confirmed plan. The Trustee shall file a *Notice of Adjustment of Plan Payment* with the Court, and shall serve the *Notice of Adjustment of Plan Payment* on the Debtor and Debtor's counsel.
  - iv. Should the new Ongoing Mortgage Payment jeopardize feasibility of the plan, the Trustee may file a motion to modify the plan or seek conversion or dismissal of the case, as the Trustee deems appropriate. The Debtor may also file a motion to modify the plan or seek conversion or dismissal of the case, if appropriate.
  - v. 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 shall set the new Ongoing Mortgage Payment to commence as soon as practicable.
  - vi. No post-petition adjustment to the Ongoing Mortgage Payment shall be valid unless authorized by the agreement upon which the claim is based. The Chapter 13 Trustee shall not change the mortgage payment unless the *Mortgage Creditor's Notice of Mortgage Payment Change* is filed with the Court, unless otherwise ordered by the Court.
  - vii. If a Mortgage Creditor has a claim based on an open-end credit agreement such as a home equity line of credit, and/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.
- b. Post-petition Charges and Fees. 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:
- i. Following service of the *Mortgage Creditor's Notice of Postpetition Mortgage Fees, Expenses and Charges*, the Trustee shall 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.
  - ii. The Trustee shall annually file a report (Exhibit I) 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.

- c. 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 the Debtor's attorney of any such change using a document that conforms to Exhibit J *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.

## **7. MODIFICATIONS TO ADD POST-PETITION ONGOING MORTGAGE PAYMENT**

In cases filed after the entry of this Standing Order, if the Debtor fails to make post-petition Ongoing Mortgage Payments directly pursuant to Section 2(c) herein, the Debtor shall modify the confirmed Plan to provide that future Ongoing Mortgage Payments shall be made by the Trustee. The modified plan must specifically state the name, address and account number of the creditor to whom payments are to be made; the date on which the Trustee is to commence making the ongoing mortgage payments; and the treatment of the post-petition delinquency, including the gap between the date when the debtor modified the plan and the date on which the Trustee is to commence making the ongoing mortgage payments.

## **8. 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.

## **9. EFFECT OF PLAN COMPLETION**

Upon the filing of a *Notice of Completion of Plan Payments* by the Trustee, the Trustee will file a *Notice Deeming Mortgage Current and Directing Debtor to Resume Monthly Mortgage Payments* (Exhibit K). 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.

#### **10. ATTORNEY'S COMPENSATION**

Unless 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 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 fees shall be payable from available funds after payment of administrative expenses, adequate protection payments, and ongoing mortgage payments.

#### **11. 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.

#### **12. PERIODIC REVISION OF PLAN, EXHIBITS**

The form Plan (Exhibit L) and Exhibits to this Standing Order may be revised periodically.

#### **13. EFFECTIVE DATE**

The provisions of this Order become effective upon entry for all Chapter 13 cases filed or converted on or after such date.

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 A

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 mortgage.

**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 (un-redacted)** Account Number: \_\_\_\_\_

\_\_\_\_\_  
Signature (Debtor 1)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature (Debtor 2)

\_\_\_\_\_  
Date

## Exhibit B

### 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 C**

### **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 postpetition 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 D**

**COVER SHEET FOR CORRESPONDENCE REGARDING ONGOING  
MORTGAGE PAYMENTS**

BK Case #: \_\_\_\_\_ Debtor(s) Name: \_\_\_\_\_

Party Forwarding Correspondence to the Trustee:

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

\_\_\_\_\_ Debtor's(s) Attorney

\_\_\_\_\_ Mortgage Creditor/Service

Company: \_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

Phone/Fax: \_\_\_\_\_/\_\_\_\_\_

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

Contact/Reference #: \_\_\_\_\_

Document(s):

\_\_\_\_\_ Address change

\_\_\_\_\_ Monthly payment amount change

\_\_\_\_\_ Default Notice

\_\_\_\_\_ Escrow amount change

\_\_\_\_\_ Notice of additional fees or late charges

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

## EXHIBIT E

### PROOF OF CLAIM ADDENDUM FOR

### RESIDENTIAL HOME MORTGAGES PAID THROUGH THE CHAPTER 13 TRUSTEE

Debtor Name(s) \_\_\_\_\_ Bk Case # \_\_\_\_\_

Address of Mortgaged Property \_\_\_\_\_

Legal Description:

\_\_\_\_\_ Lot

\_\_\_\_\_ Block

\_\_\_\_\_ Subdivision

Creditor Name \_\_\_\_\_ Debtor Acct # \_\_\_\_\_

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

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Phone \_\_\_\_\_

Creditor Attorney Name \_\_\_\_\_

Attorney Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Phone \_\_\_\_\_

#### Mortgage Information

Current Principal Balance \_\_\_\_\_

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

Is this a variable interest loan? ☐ Yes ☐ No

If yes, date of next adjustment \_\_\_\_\_

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 \_\_\_\_\_

#### Arrearage Calculation

\_\_\_\_\_ monthly payments of \_\_\_\_\_

\_\_\_\_\_ monthly payments of \_\_\_\_\_

\_\_\_\_\_ monthly payments of \_\_\_\_\_

Late fees of \_\_\_\_\_ per month \_\_\_\_\_

Escrow shortage: tax amt \_\_\_\_\_ insur. amt \_\_\_\_\_

Attorney fees for \_\_\_\_\_

Other (describe) \_\_\_\_\_

Other (describe) \_\_\_\_\_

Total arrearage amount to be cured in plan \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Phone

\*\*\*Creditor must notice Trustee of any and all changes to monthly mortgage payment.\*\*\*

**Exhibits F, G, H**  
**Intentionally Omitted**

**EXHIBIT I**

**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** pursuant to *Standing Order Relating to Ongoing Mortgage Payments in Chapter 13 Cases in the Austin Division* for the Western District of Texas 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  
3801 S. Capital of Texas Hwy.  
Suite 320  
Austin, Texas 78704  
(512) 912-0305 Telephone  
(512) 916-9234 Facsimile

## **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

Debtor's Attorney

Debtor

Mortgage Co. Notice Address from POC

Mortgage Co. Address from Notice of Appearance

Counsel for Mortgage Co.

/s/ Deborah B. Langehennig

Deborah B. Langehennig, Trustee

# EXHIBIT J

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 K**

**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 pleadings 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  
3801 S. Capital of Texas Hwy. #320  
Austin, TX 78704  
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

Attorney for Debtor(s)

Debtor(s)

Mortgage Creditor

Attorney for Mortgage Creditor

## EXHIBIT L

Exhibit #1 (effective November 15, 2013)

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

IN RE:

§  
§  
§  
§  
§

CASE NO.

Debtor(s)

Chapter 13 Proceeding

**DEBTOR(S)' CHAPTER 13 PLAN**      ☐ *AMENDED*  
**AND MOTIONS FOR VALUATION AND LIEN AVOIDANCE**

### **Plan Summary**

- A. The Debtor's Plan Payment is scheduled at \_\_\_\_\_ per month [ ☐ Pay Order, ☐ Direct Pay] for \_\_\_\_\_ months. The gross amount to be paid into the plan is \_\_\_\_\_.
- B. The Plan proposes to pay all allowed priority, special class and secured claims and approximately \_\_\_\_\_ % of the unsecured allowed claims. **THIS PLAN DOES NOT ALLOW CLAIMS.** You must file a proof of claim to receive distributions under any plan. Other than adequate protection payments, disbursements will begin after entry of an order of confirmation of the plan.
- C. Value of non-exempt assets \_\_\_\_\_.
- D. Current monthly income \_\_\_\_\_ - expenses \_\_\_\_\_ = available for plan \_\_\_\_\_.
- E. The total amount to be paid into the Plan shall be increased for tax refunds as set forth in the Standing \_\_\_\_\_ Order for Chapter 13 Case Administration in this Division. These additional receipts shall be disbursed according to the provisions of the Plan. The IRS or the Debtor(s) are directed to forward the refund to the Trustee.

### **Special Plan Provisions**

### **Plan Provisions**

#### **I. Vesting of Estate Property**

Upon confirmation of the plan, all property of the estate shall (shall not) vest in the Debtor(s), and shall not (shall) remain as property of the estate subject to the automatic stay of 11 U.S.C. §362.

## II. Executory Contracts/Unexpired Leases/Contracts for Deed

Pursuant to 11 U.S.C. §1322(b)(7) of the Bankruptcy Code, the Debtor(s) hereby elects to assume the following executory contracts, if any:

Pursuant to 11 U.S.C. §1322(b)(7) of the Bankruptcy Code, the Debtor(s) hereby elects to reject the following executory contracts, if any:

## III. Specific Treatment for Payment of Allowed Claims

### 1. DIRECT PAYMENTS BY DEBTOR TO CREDITORS; SURRENDER OF COLLATERAL

A. Debtor shall pay the following creditors directly:

Creditor Name	Remarks	Debt Amount	Monthly Payment
---------------	---------	-------------	-----------------

B. Debtor shall surrender the following collateral:

Creditor Name	In Full Satisfaction (Yes/No)	Debt Amount	Collateral Surrendered
---------------	-------------------------------	-------------	------------------------

#### C. Creditor's Direct Communication With Debtors

Creditors whose claims are scheduled to be paid directly by the debtor(s), including creditors with claims secured by real property or vehicles, are authorized to send monthly statements to the debtor(s). They are also authorized to communicate directly with the debtor(s) in response to a debtor's questions about monthly payments, escrow accounts, account balances, increases in monthly payments, and other routine customer service inquiries.

### 2. PAYMENTS BY TRUSTEE

A. Administrative Expenses (including Attorney's fees)

*The Trustee may receive up to 10% of all sums received.*

Creditor	Estimated Amount of Debt	Monthly Payment Amount	
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**B. Ongoing Mortgage Payments –**

The Trustee shall pay all post-petition monthly mortgage payments on claims against real property that were delinquent on the petition date (“Ongoing Mortgage Payments”). The Ongoing Mortgage Payments will be in the amount stated in the allowed proof of claim or as fixed by Court order. If the debtor makes a Plan payment that is insufficient for the Trustee to disburse all Ongoing Mortgage Payments required below, such payments will be disbursed in the order listed below. The Trustee shall hold debtor payments until a sufficient amount is received to make a full Ongoing Mortgage Payment. The debtor shall provide to the Trustee all notices received from Mortgage Creditors including statements, payment coupons, impound and escrow notices, default notifications, and notices concerning changes of the interest rate on variable interest rate loans. The automatic stay is modified to permit Mortgage Creditors to issue such notices. Changes to the monthly Ongoing Mortgage Payment or the addition of post-petition mortgage fees and charges shall be effectuated pursuant to the *Standing Order Relating to Ongoing Mortgage Payments in Chapter 13 Cases in the Austin Division*.

Mortgage Creditor	Property Address	Monthly Mortgage Payment (proof of claim controls)	Monthly Late Charge	Interest Rate (for information only)	Payment Due Date (per contract)	Paid by Trustee OR Paid Direct by Debtor (select one)
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**C. Secured Claims – Real Property; Mortgage Arrearage**

The plan will cure pre-petition arrearage claims pursuant to the payment schedule set forth in the plan. The amount of the mortgage arrearage claim to be paid through the plan will be the amount of the mortgage creditors' allowed proof of claim, unless a different amount is established by court order. The amount set forth in the proposed plan and any subsequent order confirming the plan is an estimate only and is not binding on the Debtor(s) or the mortgage creditor and is not an admission on the part of the Debtor(s) nor does it prohibit the Debtor(s) from filing an objection to the mortgage creditor's claim. Unless funds are available to pay all classes on a monthly basis, secured claims will be paid ahead of unsecured claims.

Creditor	Property Address/ Description of Collateral	Estimated Claim	Mo. Pmt or Method of Disbursement	Interest Rate (if applicable)	Other remarks
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**D. Secured Claims – Personal Property; Adequate Protection Payments; *MOTIONS TO VALUE COLLATERAL***

The Trustee shall pay allowed secured claims, which require the filing of a proof of claim, to the extent of the value of the collateral or the full amount of the claim, as specified below, plus

interest thereon at the rate specified in this Plan. **Failure of the secured creditor to object to the proposed value will be deemed acceptance of the plan under Section 1325(a)(5)(A).** Except for secured claims for which provision is made to pay the full amount of the claim notwithstanding the value of the collateral, the portion of any allowed claim that exceeds the value of the collateral shall be treated as an unsecured claim under Section III(2)(E).

In the first disbursement following the filing of a claim by a creditor holding an allowed claim secured by personal property, the Trustee shall commence making adequate protection payments in the amount set out below, unless otherwise ordered by the Court. Such payments shall cease upon confirmation of the plan.

Unless funds are available to pay all classes on a monthly basis, secured claims will be paid ahead of unsecured claims.

Creditor/Collateral	Adequate Protection Payment	Other Treatment/Remarks
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The Debtor moves to value collateral described below in the amounts indicated. The Debtor(s) declares, under penalty of perjury, that the foregoing values as stated in the above Motion and the Plan for the secured debt are true and correct and to the best of their knowledge represent the replacement value, pursuant to Section 506(a)(2), of the assets held for collateral.

\_\_\_\_\_  
*Debtor*

\_\_\_\_\_  
*Co-Debtor*

Objections to Valuation of collateral proposed by this plan must be filed no later than fourteen (14) days prior to the confirmation hearing date. If no timely objection is filed, the relief requested may be granted in conjunction with confirmation of the plan. Following confirmation of the plan, monthly payments shall be made as follows:

Creditor/Collateral	Est. Claim	Value Of Collateral	Monthly Payment	Interest Rate	Pay Value of Collateral (OR) Pay Full Amount of Claim (select one)	
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Secured creditors shall retain their liens on the collateral which is security for their claims until the earlier of the payment of the underlying debt determined under non-bankruptcy law, or discharge under 11 U.S.C. Section 1328. In addition, if this case is dismissed or converted without completion of the plan, such liens shall also be retained by the creditors to the extent recognized by applicable non-bankruptcy law.

**E. Priority Creditors**

Creditor	Estimated Amount of Debt	Payment Method 1. Before 2. After 3. Along with Secured creditors	Monthly Payment or Method of Disbursement
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**F. General Unsecured Creditors, [including claims from rejection of contracts, leases and contracts for deed]** The Trustee will pay allowed general, unsecured claims unless otherwise ordered by the Court. Unless otherwise provided below, payments to creditors with allowed general unsecured claims shall be made on a pro rata basis as funds become available after payment of other creditors. It is estimated that distribution to the general unsecured creditors will commence in the \_\_\_\_\_ month of the Plan.

**G. Cure claims on Assumed Executory Contracts, Contracts for Deed & Leases:**

Creditor	Estimated Amount Of Debt	Payment Method 1. Before 2. After 3. Along with Secured creditors	Monthly Payment or Method of Disbursement
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**Totals:**

**Administrative Claims** \_\_\_\_\_

**Arrearage Claims** \_\_\_\_\_

**Secured Claims** \_\_\_\_\_

**Priority Claims** \_\_\_\_\_

**Unsecured Claims** \_\_\_\_\_

**Cure Claims** \_\_\_\_\_

**H. Lien Avoidance under 11 U.S.C. § 522(f)**

**MOTION TO AVOID LIENS UNDER 11 U.S.C. § 522(f)**

Debtor moves to avoid the following liens that impair exemptions. Objections to Lien Avoidance as proposed in this plan must be filed no later than fourteen (14) days prior to the confirmation hearing date. If no timely objection is filed, the relief requested may be granted in conjunction with confirmation of the plan. (Debtor must list the specific exempt property said lien impairs and the basis of the lien, i.e. judicial, nonpurchase-money security interest, etc.)

Creditor	Property subject to lien	Amount of Lien to be Avoided	Remarks
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**IV. General Information**

**Notice: Local Rule 3002 provides, in part:**

*“Every Creditor filing a Proof of Claim in all cases shall transmit a copy with attachments, if any, to the Debtor’s Attorney (or the Debtor if the Debtor is pro se).”*

**Limiting Notice After Deadline to File a Proof of Claim:**

For pleadings requiring notice on all creditors and filed after the deadline to file a proof of claim, parties in interest need only serve the Limited Notice List and the Limited Notice List shall include the following:

- a. the United States Trustee for the Western District of Texas, Austin Division;
- b. the Chapter 13 Trustee for the Western District of Texas Austin Division;
- c. the Debtor(s) unsecured creditors or their respective counsel, provided however that they filed a claim or notice of appearance;
- d. all secured creditors in this case or their counsel;
- e. all taxing authorities holding claims against the Debtor(s);
- f. all parties who have, by notice of entry of appearance advised the Court and counsel for the Debtor(s) that they desire to receive notices herein;
- g. government agencies required to receive notice under the Bankruptcy Rules and above-named.

Any special concerns of a creditor may justify attendance at the Meeting of Creditors and such other action as may be appropriate under the circumstances. The deadline for the filing of objections to confirmation is fourteen (14) days prior to the confirmation hearing.

Respectfully submitted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Debtor  
Address

\_\_\_\_\_  
Co-Debtor  
Address

\_\_\_\_\_  
Attorney for Debtor  
Address/Phone & Fax Number

**Certificate of Service**

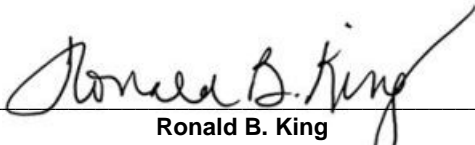
**The Debtor(s) shall be responsible for service of the plan on the Trustee and all parties in interest.**

**ATTACH SCHEDULE OF VARIABLE PLAN PAYMENTS, IF APPLICABLE.**



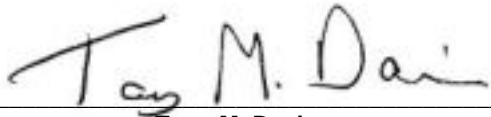
SIGNED this 06th day of October, 2015.



  
\_\_\_\_\_  
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

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

**STANDING ORDER: (I) THAT PRO BONO LEGAL COUNSEL ARE NOT DEBT RELIEF AGENCIES AND (II) THAT PRO BONO COUNSEL FOR DEBTORS ARE NOT SUBJECT TO SECTIONS 526 THROUGH 528 OF THE BANKRUPTCY CODE**

The Bankruptcy Judges for the Western District of Texas for the Austin Division have determined that this Order is necessary in order to encourage well-qualified, licensed attorneys to provide pro bono legal representation in bankruptcy cases to low income debtors. Accordingly, the Court makes the following findings of fact and conclusions of law:

## Findings of Fact<sup>1</sup>

1. This Court has jurisdiction to enter this final, standing order pursuant to 28 U.S.C. §§ 157 and 1334, which provides relief that can arise only pursuant to the provisions of Title 11 of the United States Code, §§ 101 et seq. (as amended, the "Bankruptcy Code").

2. The State Bar Bankruptcy Law Section Law School Pro Bono Project (the "Project"), is a program founded by the Bankruptcy Law Section of the State Bar of Texas, in cooperation and coordination with certain accredited law schools located in the State of Texas, to increase legal access to residents of the State of Texas who could not otherwise afford bankruptcy representation. The Project links qualified applicants, who are first interviewed and qualified under established Project procedures, with volunteer attorneys who, after further interview following their own conflict of interest review procedures, and with the assistance of one or more law students assigned to the case, enter into an agreement to represent the applicants in a case filed under chapter 7 of the Bankruptcy Code. The pool of volunteer attorneys may potentially include both consumer bankruptcy attorneys as well as: (i) volunteer nonbankruptcy attorneys willing to assist with matters arising from pro bono chapter 7 cases; and (ii) business bankruptcy lawyers who are willing to serve the program where they can.

3. For each case accepted by a volunteer attorney, the Project will assign one or more law students to handle the day to day affairs and duties attendant to the case under the supervision of the licensed attorney. Malpractice insurance coverage for the legal representation in the case shall be provided by the legal aid office making the referral. Accordingly, the applicants will enter into an engagement letter with the volunteer attorney using a form of

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<sup>1</sup> The following findings of fact and conclusions of law are made pursuant to Rule 52 of the Federal Rules of Civil Procedure, made applicable by Rules 7052 and 9014 of the Federal Rules of Bankruptcy Procedure. Where appropriate, any and all findings of fact shall constitute conclusions of law and any and all conclusions of law shall constitute findings of fact.

engagement letter approved by the Project and the participating law schools. In addition, the participating law school and the referring legal aid office, through the Project, will monitor the progress of the case. This procedure is essential to the availability of malpractice insurance applicable to the services rendered by the volunteer attorneys.

4. Pursuant to the enactment and effectiveness of The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA"), certain requirements are imposed on consumer debtors who file a chapter 7 bankruptcy case, and also upon their legal counsel. According to the Project, in light of these extensive requirements, substantially fewer lawyers and firms who do not specialize in consumer bankruptcy law are willing to file pro bono consumer chapter 7 cases due to uncertainty over whether they could be considered a "debt relief agency" and the extent to which such designation might affect their usual practice. In particular, the Project believes that attorneys not specializing in consumer bankruptcy practice often do not want to have imposed upon them and their other practice the status and corresponding requirements applicable to a "debt relief agency" under the Bankruptcy Code.

5. However, these Bankruptcy Code obligations, applicable to counsel, apply only to counsel who charge or receive a fee, as distinct from counsel who represent clients pro bono.

6. The Project also believes that: (1) since the effective date of BAPCPA, programs for pro bono bankruptcy services have experienced significant difficulty in obtaining assistance for consumers debtors who seek pro bono bankruptcy representation due to a shortage of volunteer lawyers willing to accept such consumer bankruptcy cases on a pro bono basis; (2) a number of volunteer lawyers who previously had been willing to serve in such programs before BAPCPA have since discontinued their willingness to serve as volunteers due to the complexities of the law under BAPCPA and, in particular, those provisions associated with being a debt relief agency; and (3) many volunteers who are business bankruptcy lawyers with some familiarity of

the practice area now refuse to undertake this type of consumer bankruptcy representation because of the concern that they or their firms will be labeled "debt relief agencies" under the Bankruptcy Code.

7. In order to address the foregoing concerns, this Court believes that it is necessary and appropriate to clarify that public service pro bono representation done without payment, including but not limited to that proposed pursuant to the Project, does not fit the statutory definition of a "debt relief agency" for purposes of the Bankruptcy Code.

## **II. CONCLUSIONS OF LAW**

8. A debtor is an "assisted person" under the Code.

9. The Code in section 101 provides this definition:

(12A) The term "debt relief agency" means any person who provides any bankruptcy assistance to an assisted person *in return for the payment of money or other valuable consideration*, or who is a bankruptcy petition preparer under section 110, but does not include -

(B) a nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

11 U.S.C. § 101(12A), (B) (emphasis supplied).

10. If a firm or attorney is a debt relief agency, then the Bankruptcy Code adds a number of requirements for consumer practitioners and those who are deemed "Debt Relief Agencies" to follow. Section 526 provides restrictions applicable to debt relief agencies, with section 527 imposing disclosure requirements on debt relief agencies.

11. A volunteer attorney or law firm's acceptance of clients who are referred to them by legal aid organizations or other similar nonprofit organizations should not render the accepting firm or lawyer a "debt relief agency" because the representation is pro bono; the lawyer or firm is not providing legal assistance in return for payment or fee, and, as set forth more fully

below, the Court holds that the goodwill or other non-pecuniary benefits of civic service do not constitute "other valuable consideration" being received by the lawyer. This conclusion appears to apply even where the pro bono service does not originate from a nonprofit organization. As a result, the restrictions on debt relief agencies enumerated in section 526 do not apply to attorneys merely because they represent debtors on a pro bono basis.

12. Pro bono counsel are not subject to the requirements imposed pursuant to the Bankruptcy Code on debt relief agencies, if counsel are not engaged in any paying consumer bankruptcy practice.

13. The plain meaning of the Code does not apply the term "debt relief agency" to pro bono attorneys. As a result, because sections 526 through 528 are directed only to debt relief agencies, these do not apply to the pro bono debtor or pro bono counsel.

14. The Court further determines that, as a matter of law, the following does not comprise valuable consideration under BAPCPA with regard to representation of assisted persons under the Bankruptcy Code on a pro bono basis: (i) gratitude, friendship, appreciation or other feelings of thanks for the assistance of pro bono counsel in a bankruptcy case by the pro bono debtor; (ii) any appreciation by members of the bar, the Court or the community for an attorney's participation in pro bono service; (iii) any prospect that an attorney or law firm may have for future referral or other client representation from any source related to the debtor, whether for a fee or otherwise, unless the parties agree to a specific referral as a condition of the pro bono engagement; (iv) acceptance or regard from the community; (v) the potentially favorable public relations or press that the lawyer or firm may receive; and (vi) any other sense of well-being or satisfaction for participation in serving the community.

15. Valuable consideration within the meaning of section 526 requires the receipt by legal counsel of money or something having measurable and definitive value or worth, which can

be converted into money or money's worth by the counsel. Service as pro bono counsel to a debtor who is otherwise an assisted person does not involve receipt by such attorney or firm of valuable consideration.

ACCORDINGLY, IN CONSIDERATION OF THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW IT IS HEREBY:

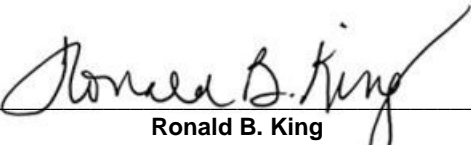
ORDERED ADJUDGED AND DECREED THAT that counsel representing a pro bono debtor in the Austin Division of the Western District of Texas are not debt relief agencies or debt relief agents under sections 526 through 528 of the Bankruptcy Code solely by virtue of any such pro bono representation. It is further

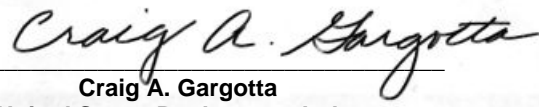
ORDERED ADJUDGED AND DECREED THAT that counsel thus excluded from the definition of "debt relief agency" are not required to comply with any of the requirements applicable to debt relief agencies pursuant to sections 526 through 528 of the Bankruptcy Code.

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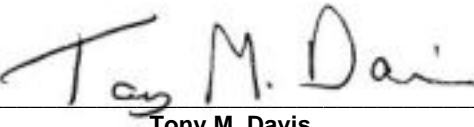
SIGNED this 30th day of September, 2015.



  
\_\_\_\_\_  
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

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS**

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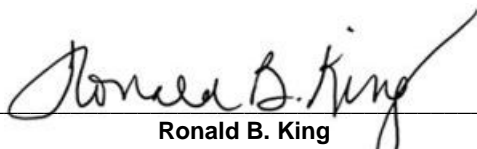
**STANDING ORDER INCREASING BENCHMARK FEE FOR CHAPTER 13 CASES**

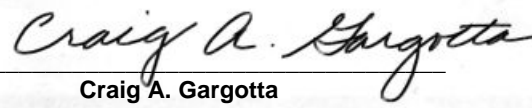
The benchmark fee for all chapter 13 cases (consumer and business) filed in all divisions of this District shall be increased by \$400 for cases filed on or after October 1, 2015.

# # #

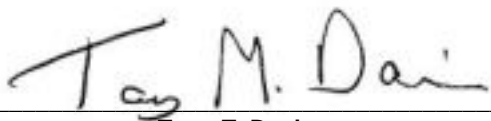
SIGNED this 05th day of October, 2013.



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

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

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

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

**UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS**

§  
§  
§

**ORDER ADOPTING LOCAL RULES OF THE UNITED STATES  
BANKRUPTCY COURT, WESTERN DISTRICT OF TEXAS**

The Bankruptcy Judges of this District, acting after consultation with the Chief District Judge and acting unanimously, order:

The Local Rules of the United States Bankruptcy Court for the Western District of Texas are hereby adopted pursuant to Rule 9029 of the Federal Rules of Bankruptcy Procedure.

These Rules are effective as of 12:01 a.m. on November 1, 2013. The prior Local Rules are hereby superseded.

These Local Rules apply to all pending cases and adversary proceedings.

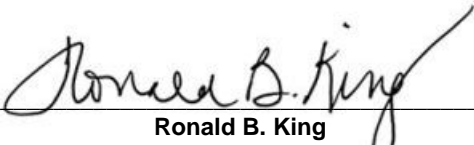
These Local Rules may be amended periodically as may be necessary for the proper administration of justice.

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SIGNED this 06th day of February, 2013.



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

  
\_\_\_\_\_  
CRAIG GARGOTTA  
United States Bankruptcy Judge

  
\_\_\_\_\_  
H. CHRISTOPHER MOTT  
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

CONSOLIDATED STANDING ORDER FOR CHAPTER 13  
CASE ADMINISTRATION FOR AUSTIN DIVISION

The Bankruptcy Judges for the Western District of Texas for the Austin Division have determined that the following procedures are necessary for the efficient and orderly administration of Chapter 13 cases. This Consolidated Standing Order supersedes and consolidates the following Standing Orders: (1) Amended Standing Order Relating to Disposition of Federal Income Tax Refunds in Chapter 13 Cases in the Austin Division dated September 8, 2009; (2) Amended Standing Order Relating to Attorney Fees in Chapter 13 Cases in the Austin Division dated February 17, 2009; (3) Standing Order Adopting Procedures for Closing Completed Cases in Chapter 13 in the Austin Division dated April 3, 2007; and (4) Standing Order for Chapter 13 Case Administration for Austin Division dated November 24, 2008.

1. ADOPTION OF CHAPTER 13 PLAN FORMAT:

Attached as Exhibit #1 to this Standing Order is a Chapter 13 Plan Form which shall be used by all Chapter 13 debtors in cases filed after the effective date of this Order. ***The form plan may be revised periodically.*** The Clerk shall make available to the public the Chapter 13 Plan Form. The current form plan is additionally a Motion to Value Collateral and a Motion to Avoid Liens under 11 U.S.C. Section 522. Objections to the Valuation or Lien Avoidance feature of the Plan/Motion must be in writing and filed no later than fourteen (14) days prior to confirmation. All other confirmation objections must be filed no later than fourteen (14) days prior to the confirmation hearing date.

2. TRUSTEE RECOMMENDATION CONCERNING CLAIMS:

After the deadline for filing proofs of claims has passed, the Chapter 13 Trustee (hereinafter, "Trustee,") shall file a Recommendation Concerning Claims and serve a copy upon the Debtor, Debtor's counsel, all creditors and other parties in interest. No order will be entered approving the Recommendation Concerning Claims. Instead, if no objection or other response is timely filed, then the Recommendation Concerning Claims 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 Recommendation without further order of the Court.

If an objection or other response to the Recommendation Concerning Claims is timely filed, the Trustee may nonetheless make distribution in accordance with the provisions of the Recommendation, except with respect to the claim that is subject of the response or objection. The Trustee shall 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 further Recommendation Concerning Claims.

The Recommendation Concerning Claims 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 TWENTY ONE (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 TWENTY FIRST (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.**

3. OBJECTIONS TO CLAIMS:

Objections to proofs of claim must be in writing and filed no later than 21 days after service of the Trustee's Recommendation Concerning Claims. Any Order affecting distributions to creditors or allowance of a claim should be submitted to the Trustee for review prior to submission to the Court.

4. 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 as provided in Section III of the Plan Form. Any request by the debtor to value property of the estate or to avoid a lien under Section 522(f), independent of the plan, must be in writing and filed no later than 21 days after service of the Trustee's Recommendation Concerning Claims.

5. 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 Bankruptcy Rule 9014. If no such notice is included, no response is necessary and the objection to claim shall be set for hearing.

6. AMENDMENTS TO THE PLAN OF REORGANIZATION:

The last date that a debtor may seek to amend its plan of reorganization 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.

7. SERVICE OF THE PLAN AND PRE-CONFIRMATION AMENDMENTS:

(a) Whether or not the plan is filed with the Chapter 13 petition at the commencement of the case, the debtor shall be responsible for serving the plan on all creditors.

(b) Whenever a Chapter 13 plan is amended prior to confirmation, the debtor shall serve the amended plan on all creditors, parties in interest and the Trustee.

(c) 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 L. Rule 9013.

8. DEBTOR'S DUTY TO FACILITATE NOTICE REGARDING DOMESTIC  
SUPPORT OBLIGATION:

In order to facilitate the expedient notice to domestic support claim holders and the applicable state agency 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 and 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 name, address, and telephone number of the state child support enforcement agencies as set forth under Section 1302(d)(1)(A)(i) for the states in which the persons to whom debtor owes a domestic support obligation resides.

9. ADEQUATE PROTECTION PAYMENTS BY THE CHAPTER 13 TRUSTEE:

(a) All pre-confirmation payments required by §1326(c) will be made by the Chapter 13 Trustee. Unless the Court orders otherwise pursuant to a motion filed under subparagraph (d) below, the monthly installments proposed by the debtor(s) plan will be considered to provide adequate protection to such creditor. The debtor's plan of reorganization must propose a pre-confirmation adequate protection payment to all creditors entitled to such payment pursuant to 11 U.S.C. §1326(a).

(b) To be paid adequate protection payments, each secured creditor must file a claim, with adequate proof of security interest attached, with the Clerk of the Court, and serve it on the debtor(s) and debtor(s) attorney.

(c) If no claim objection is made by the debtor(s) or other party in interest within 7 days of the filing of the claim, adequate protection payments to the secured creditor will commence in the amount specified under an order on a motion made under (d) below, or, if no such order has been entered, in the amount specified under the proposed plan, with the next regular trustee disbursement after the thirtieth day following the filing of the petition if the plan has not been

confirmed. Adequate protection payments will cease upon confirmation of the plan.

(d) A secured creditor may file a Motion for Adequate Protection Payment pursuant to 11 U.S.C. §363(e), utilizing fourteen (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.

(e) If the case is dismissed or converted prior to confirmation, and the debtor(s) have filed a plan and made payments, then the money on hand with the Trustee on the date of the dismissal or conversion of the case shall be disbursed on the next regular disbursement date first in satisfaction of adequate protection payments provided under paragraph (a) above, that have come due in the month of disbursement.

(f) Any adequate protection payments made hereunder will reduce the principal amount of the recipient's claim unless otherwise ordered by the Court.

(g) The Trustee is allowed to take the statutory fee allowed on all such payments under this heading.

10. MOTIONS FOR RELIEF FROM THE AUTOMATIC STAY:

Unless the Court orders otherwise, the Trustee shall cease disbursements on a claim sixty (60) days after an Order for Relief from the Stay or Notice of Termination of Stay is entered OR once the Trustee receives a Notice of Repossession or Foreclosure, whichever is earlier. The creditor retains the right to file an amended unsecured deficiency claim, but such claim must be filed no later than ninety (90) days from the date of the entry of the Order for Relief from the Stay unless the Court orders otherwise.

Any Order affecting distributions to creditors or allowance of a claim should be submitted to the Trustee for review prior to submission to the Court.

11. ATTORNEYS' 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 close or dismissal of the case (including disposition of motions to reinstate), unless relieved from representation by order of the Court obtained pursuant to Motion and notice under Local Rule 2014(e) and 9013.

The Bankruptcy Court for the Western District of Texas may determine and maintain a standard benchmark fee for routine non-business chapter 13 cases. The benchmark fee for routine non-business chapter 13 cases commenced after the entry date of this order shall be \$3,200. If the bankruptcy case is successfully confirmed on the first confirmation setting, the benchmark fee awarded shall be \$3,500 and the base shall be increased accordingly.

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 the first monthly disbursement following confirmation, and then up to \$250 per month thereafter until paid in full. Attorney fees paid shall be payable from available funds after payment of administrative expenses, adequate protection payments, and/or other court ordered payments. The Trustee is authorized, upon an involuntary dismissal or conversion prior to confirmation, to disburse up to \$1,000 in cases in which the debtor serves as disbursing agent for ongoing mortgage payments. See Standing Order Relating to Ongoing Mortgage Payments for information regarding disbursements on attorney's fees.

In a routine non-business chapter 13 case, the following services are presumed included in the benchmark fee:

- (a) all conferences with the debtor(s);
- (b) preparation of the petition and its associated forms, schedules, statement of financial affairs, plan, and amendments to all such documents;
- (c) attendance at all 341 meetings (including reset meetings);
- (d) attendance at confirmation and discharge hearings (including any reset hearings);
- (e) preparation of routine motions, which shall be deemed to include the following:
  - 1. motions to waive pay order;
  - 2. motions to pay filing fees in installments;
  - 3. objections to claim, and motions to value or avoid lien.
- (f) 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 in a Chapter 13 case may only request and obtain an award of fees for additional services beyond those specified above by court order, on motion, notice, and 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), 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 \$250 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:

- (a) Defending a Motion for Relief from Stay - \$300.00
- (b) Defending a Motion To Dismiss - \$275.00
- (c) Motions to Sell Property - \$400.00 (additional \$200.00 with expedited hearing)
- (d) Post-confirmation plan modifications - \$450.00
- (e) Applications to Incur Debt - \$200.00
- (f) Applications for Tax refund - \$250.00
- (g) Motions for Moratorium - \$200.00
- (h) Motion to Reinstate Case - \$375.00 to be paid direct

12. CERTIFICATION REGARDING POST-PETITION DOMESTIC SUPPORT OBLIGATIONS AND TAX RETURNS

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 Section 1325 (a)(8) and (2) the debtor has filed all applicable Federal, State, and local tax returns as required by Section 1308, pursuant to Section 1325(a)(9).

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

13. 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 to incur consumer debt. The debtor's attorney shall not file the application with the Clerk. If approved by the Trustee, the Trustee shall file the approval with the Clerk. If the Trustee denies the application 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 shall contain as an attachment the Trustee's denial of the application to incur debt, if applicable.

Additional attorney's fees incurred as a result of an application to incur debt may be paid through the Chapter 13 plan and the plan base shall be increased accordingly.

14. SALE OF EXEMPT PROPERTY:

If all liens are to be paid in full, exempt property may be sold by the Debtor(s) at any time without further order of the Court. All valid liens, claims, or encumbrances shall attach the proceeds of such sale. Proceeds from the sale of exempt property may be paid directly to the Debtor(s) unless the Court orders otherwise.

15. DISPOSITION OF FEDERAL INCOME TAX REFUNDS IN CHAPTER 13 CASES:

Section 362(b)(26) of the Bankruptcy Code provides for the setoff rights of the Internal Revenue Service (IRS). L. Rule 3023(b)(1) is repealed 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 L. Rule 9013.

Unless otherwise ordered by the Court, the Trustee is hereby authorized to receive, endorse, deposit and apply to debtor's plan and any plan delinquency in a debtor's Chapter 13 case any IRS refund issued to debtor by the IRS after the petition date and before the final payment is made under the plan, or the case is converted or dismissed.

The base amount of the plan shall be increased by the amount of the IRS refund, and the Plan will be deemed modified accordingly. The debtor shall immediately forward any IRS refund to the Trustee as additional disposable income, unless other use of such funds is approved by the Court.

16. 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:

- (a) Failure of the debtor to timely file a plan.
- (b) Failure of the debtor to timely file Schedules.
- (c) Unexcused failure of the debtor to appear at the scheduled meeting of creditors.
- (d) The debtor becomes sixty (60) days delinquent on payments under a confirmed plan.

- (e) Failure to comply with the provisions of a prior order which provides for such relief.
- (f) Failure to submit tax returns pursuant to 11 U.S.C. §521(e)(2).
- (g) Failure to submit payment advices pursuant to 11 U.S.C. §521(a)(1)(B)(iv).

17. PROCEDURES RELATING TO BANKRUPTCY RULE 3002.1

Following service of the Mortgage Creditor's Notice of Postpetition Mortgage Fees, Expenses and Charges, the Trustee is authorized to add such amount as an arrearage claim to be paid and is authorized to commence payment of the claim as a secured claim, on a pro-rata basis for that class of claimant as funds are available 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.

18. PROCEDURES FOR CLOSING COMPLETED CASES IN CHAPTER 13

(a) Upon payment by the debtor of the final plan payment to the Chapter 13 Trustee, the Chapter 13 Trustee will file with the court a *Chapter 13 Trustee's Report of Completion of Plan Payments*. The Trustee will serve copies of the *Chapter 13 Trustee's Report of Completion of Plan Payments* on the debtor and the debtor's attorney.

(b) Unless the debtor is not entitled to a discharge, the filing of the *Chapter 13 Trustee's Report 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*, hereafter referred to as the "Motion." The Motion 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 *Chapter 13 Trustee's Report of*

*Completion of Plan Payments.* Failure to file the Motion timely could result in the closing of the case without a discharge.

(c) The Motion will include verifications by the debtor regarding satisfaction of plan requirements, entitlement to a discharge, and the status of Domestic Support Obligations. The Motion will also verify that the debtor is not disqualified by the provisions of 11 U.S.C. § 1328(h) from receiving a discharge.

(d) Unless an objection is filed in a timely manner, and provided the debtor is otherwise entitled, the court will enter a discharge. Entry of the discharge without objection constitutes a finding that 11 U.S.C. § 1328(h) has been satisfied by the debtor.

(e) 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 *Chapter 13 Trustee's Report of Completion of Plan Payments*.

IT IS SO ORDERED.

# # #

Exhibit #1 (effective November 15, 2013)

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

IN RE:

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§  
§  
§  
§

CASE NO.

Debtor(s)

Chapter 13 Proceeding

**DEBTOR(S)' CHAPTER 13 PLAN**      ☐ *AMENDED*  
**AND MOTIONS FOR VALUATION AND LIEN AVOIDANCE**

**Plan Summary**

- A. The Debtor's Plan Payment is scheduled at \_\_\_\_\_ per month [ ☐ Pay Order, ☐ Direct Pay] for \_\_\_\_\_ months. The gross amount to be paid into the plan is \_\_\_\_\_.
- B. The Plan proposes to pay all allowed priority, special class and secured claims and approximately \_\_\_\_\_ % of the unsecured allowed claims. THIS PLAN DOES NOT ALLOW CLAIMS. You must file a proof of claim to receive distributions under any plan. Other than adequate protection payments, disbursements will begin after entry of an order of confirmation of the plan.
- C. Value of non-exempt assets \_\_\_\_\_.
- D. Current monthly income \_\_\_\_\_ - expenses \_\_\_\_\_ = available for plan \_\_\_\_\_.
- E. The total amount to be paid into the Plan shall be increased for tax refunds as set forth in the Standing \_\_\_\_\_ Order for Chapter 13 Case Administration in this Division. These additional receipts shall be disbursed according to the provisions of the Plan. The IRS or the Debtor(s) are directed to forward the refund to the Trustee.

**Special Plan Provisions**

**Plan Provisions**

**I. Vesting of Estate Property**

Upon confirmation of the plan, all property of the estate shall (shall not) vest in the Debtor(s), and shall not (shall) remain as property of the estate subject to the automatic stay of 11 U.S.C. §362.

## II. Executory Contracts/Unexpired Leases/Contracts for Deed

Pursuant to 11 U.S.C. §1322(b)(7) of the Bankruptcy Code, the Debtor(s) hereby elects to assume the following executory contracts, if any:

Pursuant to 11 U.S.C. §1322(b)(7) of the Bankruptcy Code, the Debtor(s) hereby elects to reject the following executory contracts, if any:

## III. Specific Treatment for Payment of Allowed Claims

### 1. DIRECT PAYMENTS BY DEBTOR TO CREDITORS; SURRENDER OF COLLATERAL

A. Debtor shall pay the following creditors directly:

Creditor Name	Remarks	Debt Amount	Monthly Payment
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B. Debtor shall surrender the following collateral:

Creditor Name	In Full Satisfaction (Yes/No)	Debt Amount	Collateral Surrendered
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#### C. Creditor's Direct Communication With Debtors

Creditors whose claims are scheduled to be paid directly by the debtor(s), including creditors with claims secured by real property or vehicles, are authorized to send monthly statements to the debtor(s). They are also authorized to communicate directly with the debtor(s) in response to a debtor's questions about monthly payments, escrow accounts, account balances, increases in monthly payments, and other routine customer service inquiries.

### 2. PAYMENTS BY TRUSTEE

A. Administrative Expenses (including Attorney's fees)

*The Trustee may receive up to 10% of all sums received.*

Creditor	Estimated Amount of Debt	Monthly Payment Amount	
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**B. Ongoing Mortgage Payments –**

The Trustee shall pay all post-petition monthly mortgage payments on claims against real property that were delinquent on the petition date (“Ongoing Mortgage Payments”). The Ongoing Mortgage Payments will be in the amount stated in the allowed proof of claim or as fixed by Court order. If the debtor makes a Plan payment that is insufficient for the Trustee to disburse all Ongoing Mortgage Payments required below, such payments will be disbursed in the order listed below. The Trustee shall hold debtor payments until a sufficient amount is received to make a full Ongoing Mortgage Payment. The debtor shall provide to the Trustee all notices received from Mortgage Creditors including statements, payment coupons, impound and escrow notices, default notifications, and notices concerning changes of the interest rate on variable interest rate loans. The automatic stay is modified to permit Mortgage Creditors to issue such notices. Changes to the monthly Ongoing Mortgage Payment or the addition of post-petition mortgage fees and charges shall be effectuated pursuant to the *Standing Order Relating to Ongoing Mortgage Payments in Chapter 13 Cases in the Austin Division*.

Mortgage Creditor	Property Address	Monthly Mortgage Payment (proof of claim controls)	Monthly Late Charge	Interest Rate (for information only)	Payment Due Date (per contract)	Paid by Trustee OR Paid Direct by Debtor (select one)
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**C. Secured Claims – Real Property; Mortgage Arrearage**

The plan will cure pre-petition arrearage claims pursuant to the payment schedule set forth in the plan. The amount of the mortgage arrearage claim to be paid through the plan will be the amount of the mortgage creditors' allowed proof of claim, unless a different amount is established by court order. The amount set forth in the proposed plan and any subsequent order confirming the plan is an estimate only and is not binding on the Debtor(s) or the mortgage creditor and is not an admission on the part of the Debtor(s) nor does it prohibit the Debtor(s) from filing an objection to the mortgage creditor's claim. Unless funds are available to pay all classes on a monthly basis, secured claims will be paid ahead of unsecured claims.

Creditor	Property Address/ Description of Collateral	Estimated Claim	Mo. Pmt or Method of Disbursement	Interest Rate (if applicable)	Other remarks
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**D. Secured Claims – Personal Property; Adequate Protection Payments; *MOTIONS TO VALUE COLLATERAL***

The Trustee shall pay allowed secured claims, which require the filing of a proof of claim, to the extent of the value of the collateral or the full amount of the claim, as specified below, plus



interest thereon at the rate specified in this Plan. **Failure of the secured creditor to object to the proposed value will be deemed acceptance of the plan under Section 1325(a)(5)(A).** Except for secured claims for which provision is made to pay the full amount of the claim notwithstanding the value of the collateral, the portion of any allowed claim that exceeds the value of the collateral shall be treated as an unsecured claim under Section III(2)(E).

In the first disbursement following the filing of a claim by a creditor holding an allowed claim secured by personal property, the Trustee shall commence making adequate protection payments in the amount set out below, unless otherwise ordered by the Court. Such payments shall cease upon confirmation of the plan.

Unless funds are available to pay all classes on a monthly basis, secured claims will be paid ahead of unsecured claims.

Creditor/Collateral	Adequate Protection Payment	Other Treatment/Remarks
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The Debtor moves to value collateral described below in the amounts indicated. The Debtor(s) declares, under penalty of perjury, that the foregoing values as stated in the above Motion and the Plan for the secured debt are true and correct and to the best of their knowledge represent the replacement value, pursuant to Section 506(a)(2), of the assets held for collateral.

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Co-Debtor

Objections to Valuation of collateral proposed by this plan must be filed no later than fourteen (14) days prior to the confirmation hearing date. If no timely objection is filed, the relief requested may be granted in conjunction with confirmation of the plan. Following confirmation of the plan, monthly payments shall be made as follows:

Creditor/Collateral	Est. Claim	Value Of Collateral	Monthly Payment	Interest Rate	Pay Value of Collateral (OR) Pay Full Amount of Claim (select one)	
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Secured creditors shall retain their liens on the collateral which is security for their claims until the earlier of the payment of the underlying debt determined under non-bankruptcy law, or discharge under 11 U.S.C. Section 1328. In addition, if this case is dismissed or converted without completion of the plan, such liens shall also be retained by the creditors to the extent recognized by applicable non-bankruptcy law.

**E. Priority Creditors**

Creditor	Estimated Amount of Debt	Payment Method 1. Before 2. After 3. Along with Secured creditors	Monthly Payment or Method of Disbursement
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**F. General Unsecured Creditors,** [including claims from rejection of contracts, leases and contracts for deed] The Trustee will pay allowed general, unsecured claims unless otherwise ordered by the Court. Unless otherwise provided below, payments to creditors with allowed general unsecured claims shall be made on a pro rata basis as funds become available after payment of other creditors. It is estimated that distribution to the general unsecured creditors will commence in the \_\_\_\_ month of the Plan.

**G. Cure claims on Assumed Executory Contracts, Contracts for Deed & Leases:**

Creditor	Estimated Amount Of Debt	Payment Method 1. Before 2. After 3. Along with Secured creditors	Monthly Payment or Method of Disbursement
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**Totals:**

**Administrative Claims** \_\_\_\_\_  
**Arrearage Claims** \_\_\_\_\_  
**Secured Claims** \_\_\_\_\_  
**Priority Claims** \_\_\_\_\_  
**Unsecured Claims** \_\_\_\_\_  
**Cure Claims** \_\_\_\_\_

#### H. Lien Avoidance under 11 U.S.C. § 522(f)

##### MOTION TO AVOID LIENS UNDER 11 U.S.C. § 522(f)

Debtor moves to avoid the following liens that impair exemptions. Objections to Lien Avoidance as proposed in this plan must be filed no later than fourteen (14) days prior to the confirmation hearing date. If no timely objection is filed, the relief requested may be granted in conjunction with confirmation of the plan. (Debtor must list the specific exempt property said lien impairs and the basis of the lien, i.e. judicial, nonpurchase-money security interest, etc.)

Creditor	Property subject to lien	Amount of Lien to be Avoided	Remarks
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#### IV. General Information

**Notice: Local Rule 3002 provides, in part:**

*“Every Creditor filing a Proof of Claim in all cases shall transmit a copy with attachments, if any, to the Debtor’s Attorney (or the Debtor if the Debtor is pro se).”*

**Limiting Notice After Deadline to File a Proof of Claim:**

For pleadings requiring notice on all creditors and filed after the deadline to file a proof of claim, parties in interest need only serve the Limited Notice List and the Limited Notice List shall include the following:

- the United States Trustee for the Western District of Texas, Austin Division;
- the Chapter 13 Trustee for the Western District of Texas Austin Division;
- the Debtor(s) unsecured creditors or their respective counsel, provided however that they filed a claim or notice of appearance;
- all secured creditors in this case or their counsel;
- all taxing authorities holding claims against the Debtor(s);
- all parties who have, by notice of entry of appearance advised the Court and counsel for the Debtor(s) that they desire to receive notices herein;
- government agencies required to receive notice under the Bankruptcy Rules and above-named.

Any special concerns of a creditor may justify attendance at the Meeting of Creditors and such other action as may be appropriate under the circumstances. The deadline for the filing of objections to confirmation is fourteen (14) days prior to the confirmation hearing.

Respectfully submitted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Debtor  
Address

\_\_\_\_\_  
Co-Debtor  
Address

\_\_\_\_\_  
Attorney for Debtor  
Address/Phone & Fax Number

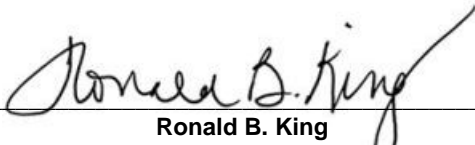
**Certificate of Service**

**The Debtor(s) shall be responsible for service of the plan on the Trustee and all parties in interest.**

**ATTACH SCHEDULE OF VARIABLE PLAN PAYMENTS, IF APPLICABLE.**

SIGNED this 19th day of November, 2012.



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

  
\_\_\_\_\_  
CRAIG GARGOTTA  
United States Bankruptcy Judge

  
\_\_\_\_\_  
H. CHRISTOPHER MOTT  
United States Bankruptcy Judge

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

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**SUPPLEMENTAL STANDING ORDER  
RELATING TO CHAPTER 13 CASE ADMINISTRATION UNDER BAPCPA  
IN THE EL PASO, MIDLAND AND WACO DIVISIONS**

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**IT IS HEREBY ORDERED:**

**1. CORRECTION OF CHAPTER 13 PLAN FORMAT:**

This Order shall supplement two Standing Orders, the first Order entered November 8, 2005, and entitled "First Joint Standing Order Relating to Chapter 13 Case Administration Under BAPCPA In The El Paso and Waco Divisions," and the second

Order entered November 17, 2005 and entitled "Standing Order For Chapter 13 Case Administration For The Midland-Odessa Division."

**IT IS ORDERED** that Section VI.2.A. of the Plan Form applicable to the El Paso and Waco Divisions is amended to revise the Administrative Expense language to read as follows, in order to conform to Title 28, U.S.C. 586 (e)(2):

**A. Administrative Expenses**

'Administrative Expenses shall include the Trustee's commission and debtor's attorney's fees. The Trustee shall receive up to 10% of all sums received.'

**IT IS ORDERED** that Section III.2.A. of the Plan Form applicable to the Midland-Odessa Division is amended to revise the Administrative Expense language to read as follows, in order to conform to Title 28, U.S.C. 586 (e)(2):

**A. Administrative Expenses (including attorney's fees):**

'The Trustee shall receive up to 10% of all sums received.'

**2. EFFECTIVE DATE OF ORDER:**

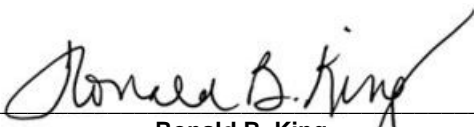
**IT IS ORDERED** that this Supplemental Order shall be effective on the date entered above, and that this Order shall be applicable and effective as to all Chapter 13 cases pending as of the entry date of this Order, and;

**IT IS ORDERED** that in addition to all pending cases, this Supplemental Order shall be effective on the date entered above with regard to all Chapter 13 cases filed on or after the effective date.

**###**

SIGNED this 23rd day of March, 2012.



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

  
\_\_\_\_\_  
Leif M. Clark  
United States Bankruptcy Judge

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

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

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

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**AMENDED STANDING ORDER RELATING TO ONGOING MORTGAGE  
PAYMENTS IN CHAPTER 13 CASES IN THE AUSTIN DIVISION**

This Standing Order supplements the *Standing Order for Chapter 13 Case Administration for Austin Division*, entered by the court on November 24, 2008 (referenced herein as “Standing Order”), which remains in effect.

**1. DEFINITIONS:** As used herein, the following terms shall mean:

- a. “Arrearage” means past-due payments, fees or charges due to a Mortgage Creditor as of the petition date.
- b. “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 these Rules, 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.*
- c. “Debtor” means a Chapter 13 Debtor or Debtors.

- d. “Mortgage Creditor” means the entity, or the servicer for such entity, 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.
- e. “Petition Date” means the date the Debtor files the Chapter 13 petition or the date the case converted to Chapter 13 from another chapter.
- f. “Trustee” means the Standing Chapter 13 Trustee.
- g. “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, or any other party with an interest in the property.

## **2. ONGOING MORTGAGE PAYMENTS**

- a. 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.
- b. The Debtor may be excused from complying with this Rule upon the entry of a Court order after a motion establishing good cause therefore.<sup>1</sup> The additional cost associated with the trustee fee on the Ongoing Mortgage Payment will not, by itself, constitute good cause.
- c. If a Debtor has no Arrearage claim other than the regular payment due in the month of filing or conversion, the Debtor may make the post-petition mortgage payments directly to the Mortgage Creditor.
  - i. If a Debtor who has no Arrearage claim other than the regular payment due in the month of filing or conversion makes the post-petition mortgage payments directly to the Mortgage Creditor, Debtor shall complete Exhibit A and provide that document to the Trustee (not the Court) within 5 days of the Petition Date.
  - ii. If a Debtor who has no Arrearage claim other than the regular payment due in the month of filing or conversion nevertheless decides to pay the post-petition payments to the Mortgage Creditor through the Chapter 13 Trustee as part of the plan payment, the terms of the Standing Order herein apply.

## **3. DEBTOR’S DUTIES**

- a. A Debtor with an Arrearage claim shall complete Exhibit B *Mortgage Arrearage Claim Checklist* and Exhibit C *Authorization to Release Information to the*

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<sup>1</sup> See e.g., *In re Perez*, 339 B.R. 385 (Bankr. S.D. Tex. 2006), aff’d, 373 B.R. 468 (S.D. Tex. 2007), (twenty-one nonexclusive factors to be examined in determining whether to excuse debtors from making ongoing mortgage payments through the plan).



*Trustee* and provide those documents to the Trustee (not to the Court) within 5 days of the Petition Date.

- b. 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 monthly Mortgage Payment as of the Petition Date.
- c. Immediately upon receipt, the Debtor shall provide to the Trustee a copy of all correspondence, notices, statements, payment coupons, escrow notices and default notices received from the Mortgage Creditor concerning any adjustment to the Ongoing Mortgage Payment, along with a completed Exhibit D attached to the documentation. The automatic stay is modified to permit Mortgage Creditors to issue such notices.
- d. 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.

#### **4. TRUSTEE'S DUTIES**

- a. The Trustee will not disburse Ongoing Mortgage Payments until a Proof of Claim, including the information set forth in Exhibit E *Addendum to Mortgage Proof of Claim*, is filed with the Court. The information should include the monthly post-petition mortgage payment and the current amount of the monthly late fee. 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.
- b. The Trustee shall add an amount equal to one (1) post-petition mortgage payment plus one associated late fee to the amount included in the Mortgage Creditors' Proof of Claim, to be paid through the plan as an arrearage claim, unless the Mortgage Creditor has already clearly added such amount to the 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.
- c. For all purposes hereunder, the Trustee shall use the amount of the Ongoing Mortgage Payment asserted in the Exhibit E *Addendum to Mortgage Proof of Claim* or otherwise clearly set forth in the proof of claim. If a party-in-interest objects to the amount of the Ongoing Mortgage Payment, the Trustee will hold Ongoing Mortgage Payments in reserve pending a resolution of the objection pursuant to an allowed amended claim or a Court order.
- d. The Trustee shall only disburse the full amount of an Ongoing Mortgage Payment to a Mortgage Creditor. If there are insufficient funds in the Debtor's account with the Trustee to make a full Ongoing Mortgage Payment plus the Trustee's fee, the Trustee shall hold such funds until a sufficient amount is received from the Debtor to make a full Ongoing Mortgage Payment.

- e. 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.

## **5. MORTGAGE CREDITOR'S DUTIES**

- a. A Mortgage Creditor with an Arrearage claim shall file a proof of claim with an attachment or information that substantially complies with Exhibit E *Addendum to Mortgage Proof of Claim*.
- b. The Mortgage Creditor shall provide to the Trustee copies of all correspondence, notices, statements, payment coupons, escrow notices and default notices concerning any change to the Ongoing Mortgage Payments or interest rate immediately upon receipt or creation of the same, along with a completed Exhibit D attached to the documentation.
- c. 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.
- d. The Mortgage Creditor shall comply with subsection 6 herein regarding *Post-Petition Mortgage Payment Changes and Charges*.

## **6. POST-PETITION MORTGAGE PAYMENT CHANGES AND CHARGES**

- a. 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:
  - i. 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 B 10S1 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.
  - ii. No later than 30 days after service of the *Mortgage Creditor's Notice of Mortgage Payment Change*, the Debtor, the Trustee, the United States Trustee, or 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*.

- iii. If no timely objection is filed to 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. The Trustee shall be allowed to adjust the plan payment and plan base sufficiently to pay the new Ongoing Mortgage Payment while substantially maintaining the dividend to creditors per the confirmed plan. The Trustee shall file a *Notice of Adjustment of Plan Payment* with the Court, and shall serve the *Notice of Adjustment of Plan Payment* on the Debtor and Debtor's counsel.
  - iv. Should the new Ongoing Mortgage Payment jeopardize feasibility of the plan, the Trustee may file a motion to modify the plan or seek conversion or dismissal of the case, as the Trustee deems appropriate. The Debtor may also file a motion to modify the plan or seek conversion or dismissal of the case, if appropriate.
  - v. 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 shall set the new Ongoing Mortgage Payment to commence as soon as practicable.
  - vi. No post-petition adjustment to the Ongoing Mortgage Payment shall be valid unless authorized by the agreement upon which the claim is based. The Chapter 13 Trustee shall not change the mortgage payment unless the *Mortgage Creditor's Notice of Mortgage Payment Change* is filed with the Court, unless otherwise ordered by the Court.
  - vii. If a Mortgage Creditor has a claim based on an open-end credit agreement such as a home equity line of credit, and/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.
- b. Post-petition Charges and Fees. 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:
- i. Following service of the *Mortgage Creditor's Notice of Postpetition Mortgage Fees, Expenses and Charges*, the Trustee shall 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.
  - ii. The Trustee shall annually file a report (Exhibit I) 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.

- c. 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 the Debtor's attorney of any such change using a document that conforms to Exhibit J *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.

## **7. MODIFICATIONS TO ADD POST-PETITION ONGOING MORTGAGE PAYMENT**

In cases filed after the entry of this Standing Order, if the Debtor fails to make post-petition Ongoing Mortgage Payments directly pursuant to Section 2(c) herein, the Debtor shall modify the confirmed Plan to provide that future Ongoing Mortgage Payments shall be made by the Trustee. The modified plan must specifically state the name, address and account number of the creditor to whom payments are to be made; the date on which the Trustee is to commence making the ongoing mortgage payments; and the treatment of the post-petition delinquency, including the gap between the date when the debtor modified the plan and the date on which the Trustee is to commence making the ongoing mortgage payments.

## **8. 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.

## **9. EFFECT OF PLAN COMPLETION**

Upon the filing of a *Notice of Completion of Plan Payments* by the Trustee, the Trustee will file a *Notice Deeming Mortgage Current and Directing Debtor to Resume Monthly Mortgage Payments* (Exhibit K). 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.

## **10. ATTORNEY'S COMPENSATION**

Unless 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 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 \$250 per month thereafter until paid in full. Attorney fees shall be payable from available funds after payment of administrative expenses, adequate protection payments, and ongoing mortgage payments.

The Trustee is authorized, upon an involuntary dismissal or conversion prior to confirmation, to disburse up to \$1,000 in cases in which the debtor serves as disbursing agent for ongoing mortgage payments and up to \$1,500 in cases in which the Trustee serves as disbursing agent for ongoing mortgage payments, from the balance on hand to attorney's fees. No further Order of the court shall be necessary to authorize this disbursement. Attorney fees shall be payable from available funds after payment of administrative expenses, adequate protection payments, and ongoing mortgage payments.

## **11. 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.

## **12. PERIODIC REVISION OF PLAN, EXHIBITS**

The form Plan (Exhibit L) and Exhibits to this Standing Order may be revised periodically.

## **13. EFFECTIVE DATE**

The provisions of this Order become effective upon entry for all Chapter 13 cases filed or converted on or after such date.

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 A

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 mortgage.

**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 (un-redacted)** Account Number: \_\_\_\_\_

\_\_\_\_\_  
Signature (Debtor 1)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature (Debtor 2)

\_\_\_\_\_  
Date

## Exhibit B

### 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 C**

### **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 postpetition 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 D**

**COVER SHEET FOR CORRESPONDENCE REGARDING ONGOING  
MORTGAGE PAYMENTS**

BK Case #: \_\_\_\_\_ Debtor(s) Name: \_\_\_\_\_

Party Forwarding Correspondence to the Trustee:

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

\_\_\_\_\_ Debtor's(s) Attorney

\_\_\_\_\_ Mortgage Creditor/Service

Company: \_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

Phone/Fax: \_\_\_\_\_/\_\_\_\_\_

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

Contact/Reference #: \_\_\_\_\_

Document(s):

\_\_\_\_\_ Address change

\_\_\_\_\_ Monthly payment amount change

\_\_\_\_\_ Default Notice

\_\_\_\_\_ Escrow amount change

\_\_\_\_\_ Notice of additional fees or late charges

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

## EXHIBIT E

### PROOF OF CLAIM ADDENDUM FOR

### RESIDENTIAL HOME MORTGAGES PAID THROUGH THE CHAPTER 13 TRUSTEE

Debtor Name(s) \_\_\_\_\_ Bk Case # \_\_\_\_\_

Address of Mortgaged Property \_\_\_\_\_

Legal Description:

\_\_\_\_\_

Lot

\_\_\_\_\_

Block

\_\_\_\_\_

Subdivision

Creditor Name \_\_\_\_\_ Debtor Acct # \_\_\_\_\_

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

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Phone \_\_\_\_\_

Creditor Attorney Name \_\_\_\_\_

Attorney Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Phone \_\_\_\_\_

#### Mortgage Information

Current Principal Balance \_\_\_\_\_

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

Is this a variable interest loan? ☐ Yes ☐ No

If yes, date of next adjustment \_\_\_\_\_

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 \_\_\_\_\_

#### Arrearage Calculation

\_\_\_\_\_ monthly payments of \_\_\_\_\_

\_\_\_\_\_ monthly payments of \_\_\_\_\_

\_\_\_\_\_ monthly payments of \_\_\_\_\_

Late fees of \_\_\_\_\_ per month \_\_\_\_\_

Escrow shortage: tax amt \_\_\_\_\_ insur. amt \_\_\_\_\_

Attorney fees for \_\_\_\_\_

Other (describe) \_\_\_\_\_

Other (describe) \_\_\_\_\_

Total arrearage amount to be cured in plan \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Phone

\*\*\*Creditor must notice Trustee of any and all changes to monthly mortgage payment.\*\*\*

**EXHIBIT I**

**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** pursuant to *Standing Order Relating to Ongoing Mortgage Payments in Chapter 13 Cases in the Austin Division* for the Western District of Texas 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  
3801 S. Capital of Texas Hwy.  
Suite 320  
Austin, Texas 78704  
(512) 912-0305 Telephone  
(512) 916-9234 Facsimile

## **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

Debtor's Attorney

Debtor

Mortgage Co. Notice Address from POC

Mortgage Co. Address from Notice of Appearance

Counsel for Mortgage Co.

/s/ Deborah B. Langehennig

Deborah B. Langehennig, Trustee

# EXHIBIT J

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 K**

**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 (20) 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 CRAIG A GARGOTTA, 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  
3801 S. Capital of Texas Hwy. #320  
Austin, TX 78704  
512-912-0305 *telephone*  
512-916-9234 *facsimile*

#### 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

Attorney for Debtor(s)

Debtor(s)

Mortgage Creditor

Attorney for Mortgage Creditor

## Exhibit L

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

IN RE:

§§§§§

CASE NO.

Debtor(s)

## Chapter 13 Proceeding

**DEBTOR(S)' CHAPTER 13 PLAN      ☐ *AMENDED***  
**AND MOTIONS FOR VALUATION AND LIEN AVOIDANCE**

## Plan Summary

- A. The Debtor's Plan Payment is scheduled at \_\_\_\_\_ per month [ ☐ Pay Order, ☐ Direct Pay] for \_\_\_\_\_ months. The gross amount to be paid into the plan is \_\_\_\_\_.
- B. The Plan proposes to pay all allowed priority, special class and secured claims and approximately \_\_\_\_\_ % of the unsecured allowed claims. **THIS PLAN DOES NOT ALLOW CLAIMS.** You must file a proof of claim to receive distributions under any plan. Other than adequate protection payments, disbursements will begin after entry of an order of confirmation of the plan.
- C. Value of non-exempt assets \_\_\_\_\_.
- D. Current monthly income \_\_\_\_\_, - expenses \_\_\_\_\_ = available for plan \_\_\_\_\_.
- E. The total amount to be paid into the Plan shall be increased for tax refunds as set forth in the Standing Order for Chapter 13 Case Administration in this Division. These additional receipts shall be disbursed according to the provisions of the Plan. IRS or Debtor(s) are directed to forward refund to the Trustee.

## **Special Plan Provisions**

## **Plan Provisions**

### **I. Vesting of Estate Property**

Upon confirmation of the plan, all property of the estate shall (shall not) vest in the Debtor(s), and shall not (shall) remain as property of the estate subject to the automatic stay of 11 U.S.C. §362.

### **II. Executory Contracts/Unexpired Leases/Contracts for Deed**

Pursuant to 11 U.S.C. §1322(b)(7) of the Bankruptcy Code, the Debtor(s) hereby elects to assume the following executory contracts, if any:

Pursuant to 11 U.S.C. §1322(b)(7) of the Bankruptcy Code, the Debtor(s) hereby elects to reject the following executory contracts, if any:

### **III. Specific Treatment for Payment of Allowed Claims**

#### **1. DIRECT PAYMENTS BY DEBTOR TO CREDITORS; SURRENDER OF COLLATERAL**

A. Debtor shall pay the following creditors directly:

<u>Creditor Name</u>	<u>Remarks</u>	<u>Debt Amount</u>	<u>Monthly Payment</u>
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B. Debtor shall surrender the following collateral:

<u>Creditor Name</u>	<u>In Full Satisfaction (Yes/No)</u>	<u>Debt Amount</u>	<u>Collateral Surrendered</u>
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#### **C. Creditor's Direct Communication With Debtors**

Creditors whose claims are scheduled to be paid directly by the debtor(s), including creditors with claims secured by real property or vehicles, are authorized to send monthly statements to the debtor(s). They are also authorized to communicate directly with the debtor(s) in response to a debtor's questions about monthly payments, escrow accounts, account balances, increases in monthly payments, and other routine customer service inquiries.

#### **2. PAYMENTS BY TRUSTEE**

A. Administrative Expenses (including Attorney's fees)

*The Trustee may receive up to 10% of all sums disbursed, except on any funds returned to the debtor.*

Creditor	Estimated Amount of Debt	Monthly Payment Amount	
----------	--------------------------	------------------------	--

B. Ongoing Mortgage Payments –

The Trustee shall pay all post-petition monthly mortgage payments on claims against real property that were delinquent on the petition date ("Ongoing Mortgage Payments"). The Ongoing Mortgage Payments will be in the amount stated in the allowed proof of claim or as fixed by Court order. If the debtor makes a Plan payment that is insufficient for the Trustee to disburse all Ongoing Mortgage Payments required below, such payments will be disbursed in the order listed below. The Trustee shall hold debtor payments until a sufficient amount is received to make a full Ongoing Mortgage Payment. The debtor shall provide to the Trustee all notices received from Mortgage Creditors including statements, payment coupons, impound and escrow notices, default notifications, and notices concerning changes of the interest rate on variable interest rate loans. The automatic stay is modified to permit Mortgage Creditors to issue such notices. Changes to the monthly Ongoing Mortgage Payment or the addition of post-petition mortgage fees and charges shall be effectuated pursuant to the *Standing Order Relating to Ongoing Mortgage Payments in Chapter 13 Cases in the Austin Division*.

Mortgage Creditor	Property Address	Monthly Mortgage Payment (proof of claim controls)	Monthly Late Charge	Interest Rate	Payment Due Date	Paid by Trustee OR Paid Direct by Debtor (select one)
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**C. Secured Claims – Mortgage Arrearage, Real Property**

The Plan will cure pre-petition arrearage claims pursuant to the payment schedule set forth below. The allowed arrearage claim will be the amount of the allowed proof of claim or as fixed by court order.

Creditor	Property Address/ Description of Collateral	Estimated Claim	Mo. Pmt or Method of Disbursement	Interest Rate (if applicable)	Other remarks
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**D. Secured Claims – Personal Property; Adequate Protection Payments; *MOTIONS TO VALUE COLLATERAL***

The Trustee shall pay allowed secured claims, which require the filing of a proof of claim, to the extent of the value of the collateral or the full amount of the claim, as specified below, plus interest thereon at the rate specified in this Plan. **Failure of the secured creditor to object to the proposed value will be deemed acceptance of the plan under Section 1325(a)(5)(A).** Except for secured claims for which provision is made to pay the full amount of the claim notwithstanding the value of the collateral, the portion of any allowed claim that exceeds the value of the collateral shall be treated as an unsecured claim under Section III(2)(E).

In the first disbursement following the filing of a claim by a creditor holding an allowed claim secured by personal property, the Trustee shall commence making adequate protection payments in the amount set out below, unless otherwise ordered by the Court. Such payments shall cease upon confirmation of the plan.

Creditor/Collateral	Adequate Protection Payment	Other Treatment/Remarks
---------------------	-----------------------------	-------------------------

The Debtor moves to value collateral described below in the amounts indicated. The Debtor(s) declares, under penalty of perjury, that the foregoing values as stated in the above Motion and the Plan for the secured debt are true and correct and to the best of their knowledge represent the replacement value, pursuant to Section 506(a)(2), of the assets held for collateral.

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Co-Debtor

Objections to Valuation of collateral proposed by this plan must be filed no later than ten (10) days prior to the confirmation hearing date. If no timely objection is filed, the relief requested may be granted in conjunction with confirmation of the plan. Following confirmation of the plan, monthly payments shall be made as follows:

Creditor/Collateral	Est. Claim	Value Of Collateral	Monthly Payment	Interest Rate	Pay Value of Collateral (OR) Pay Full Amount of Claim (select one)	
---------------------	------------	---------------------	-----------------	---------------	---	--

Secured creditors shall retain their liens on the collateral which is security for their claims until the earlier of the payment of the underlying debt determined under non-bankruptcy law, or discharge under 11 U.S.C. Section 1328. In addition, if this case is dismissed or converted without completion of the plan, such liens shall also be retained by the creditors to the extent recognized by applicable non-bankruptcy law.

**E. Priority Creditors**

Creditor	Estimated Amount of Debt	Payment Method 1. Before 2. After 3. Along with Secured creditors	Remarks
----------	--------------------------	--	---------

**F. General Unsecured Creditors**, [including claims from rejection of contracts, leases and contracts for deed] Unless otherwise provided below, payments to creditors with allowed general unsecured claims shall be made on a pro rata basis as funds become available after payment of other creditors. It is estimated that distribution to the general unsecured creditors will commence in the \_\_\_\_ month of the Plan.

**G. Cure claims on Assumed Executory Contracts, Contracts for Deed & Leases:**

Creditor	Estimated Amount Of Debt	Monthly Payment or Method of Disbursement	Remarks
----------	-----------------------------	--	---------

**Totals:**

**Administrative Claims**\_\_\_\_\_

**Arrearage Claims** \_\_\_\_\_

**Secured Claims**\_\_\_\_\_

**Priority Claims**\_\_\_\_\_

**Unsecured Claims**\_\_\_\_\_

**Cure Claims**\_\_\_\_\_

**H. Supplemental Plan Provisions**

(a) MOTION TO AVOID LIENS UNDER 11 U.S.C. § 522(f)

Debtor moves to avoid the following liens that impair exemptions. Objections to Lien Avoidance as proposed in this plan must be filed no later than ten (10) days prior to the confirmation hearing date. If no timely objection is filed, the relief requested may be granted in conjunction with confirmation of the plan. (Debtor must list the specific exempt property said lien impairs and the basis of the lien, i.e. judicial, nonpurchase-money security interest, etc.)

Creditor	Property subject to lien	Amount of Lien to be Avoided	Remarks
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**IV. General Information**

**Notice: Local Rule 3002 provides, in part:**

*“Every Creditor filing a Proof of Claim in all cases shall transmit a copy with attachments, if any, to the Debtor’s Attorney (or the Debtor if the Debtor is pro se) and the Trustee appointed in the case.”*

Any special concerns of a creditor may justify attendance at the Meeting of Creditors and such other action as may be appropriate under the circumstances. The deadline for the filing of objections to confirmation is ten days prior to the confirmation hearing.

Respectfully submitted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Debtor  
Address

\_\_\_\_\_  
Co-Debtor  
Address

\_\_\_\_\_  
Attorney for Debtor  
Address/Phone & Fax Number

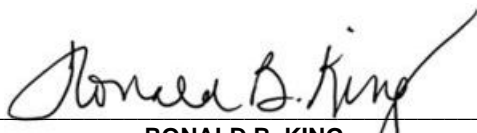
**Certificate of Service**

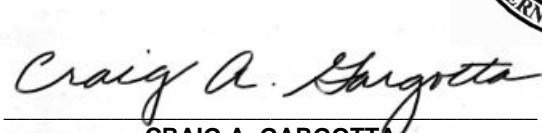
**The Debtor(s) shall be responsible for service of the plan on the Trustee and all parties in interest.**

**ATTACH SCHEDULE OF VARIABLE PLAN PAYMENTS, IF APPLICABLE.**

SIGNED this 18th day of October, 2011.



  
RONALD B. KING  
Chief United States Bankruptcy Judge

  
CRAIG A. GARGOTTA  
United States Bankruptcy Judge

  
H. CHRISTOPHER MOTT  
United States Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION

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**AMENDED STANDING ORDER RELATING TO ATTORNEY FEES IN CHAPTER 13  
CASES IN THE WACO DIVISION**

This Standing Order modifies the *Amended Standing Order Relating to Attorney Fees in Chapter 13 cases in the Waco Division*, entered by the court on January 7, 2008 (referenced herein as “Standing Order”), which remains in effect except as modified herein.

The Standing Order is modified to provide as follows:

**ATTORNEYS’ 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 close or dismissal of



the case (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 Bankruptcy Court for the Western District of Texas may determine and maintain a standard benchmark fee for routine non-business chapter 13 cases. The benchmark fee for routine non-business chapter 13 cases commenced after the entry date of this order shall be \$3,200.

Attorney's fees will be disbursed according to the provisions of the plan. The plan must specifically state 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 \$750 in the first monthly disbursement following confirmation, and then up to \$250 per month thereafter until paid in full. Attorney fees paid shall be payable from available funds after payment of administrative expenses, adequate protection payments, and/or other court ordered payments.

In a routine non-business chapter 13 case, the following services are presumed included in the benchmark fee:

- A. All conferences with the debtor(s);
- B. Preparation of the petition and its associated forms, schedules, statement of financial affairs, plan, and amendments to all such documents;
- C. Attendance at all 341 meetings (including reset meetings);

- D. Attendance at confirmation and discharge hearings (hearing any reset hearings);
- E. Preparation of routine motions, which shall be deemed to include the following:
  - 1. Motions to waive pay order;
  - 2. Motions to pay fees in installments;
  - 3. Objections to claim, and motions to value or avoid lien.
- F. Notwithstanding the foregoing subparagraph E, 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 in a Chapter 13 case may only request and obtain an award of fees for additional services beyond those specified above by court order, on motion, notice, and 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), 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 \$200 per month, or in the amount necessary to complete payment within the remaining term of the plan. An attorney may request payment at a different rate only upon a showing of unusual circumstances.

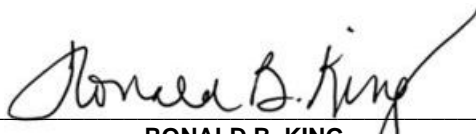
Presumptively reasonable fees for post-confirmation contested matters include:

- (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) Post-confirmation plan modifications - \$450.00
- (5) Applications to Incur Debt - \$200.00
- (6) Application for Tax refund - \$250.00
- (7) Motions for Moratorium - \$200.00
- (8) Motion to Reinstate Case - \$375.00 to be paid direct

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SIGNED this 03rd day of October, 2011.



  
RONALD B. KING  
Chief United States Bankruptcy Judge

  
CRAIG A. GARGOTTA  
United States Bankruptcy Judge

  
H. CHRISTOPHER MOTT  
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT**  
***Western District of Texas***

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**STANDING ORDER AUTHORIZING CHAPTER 7 TRUSTEES TO PAY BANK  
SERVICE FEES FROM CHAPTER 7 ESTATE ACCOUNTS**

IT IS HEREBY ORDERED effective immediately trustees administering cases under Chapter 7 of 11 U.S.C. §101 *et seq.* in the Western District of Texas are authorized, without prior Court approval, to incur and pay from monies in estate accounts, on an ongoing basis, any actual, necessary expense for bank fees and service charges (“the Service Fee”) imposed by third party entities (“the Depository”), related to the administration of estate accounts; and it is further

ORDERED Bankruptcy Local Rule 6004(a) does not apply to the payment of the Service Fee; and it is further

ORDERED the Court retains authority to review and approve the Service Fee during the administration of the case; and it is further

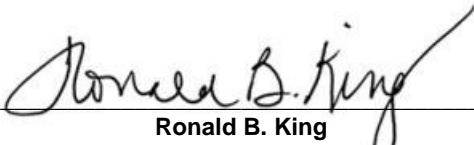
ORDERED this Standing Order is effective as of August 1, 2011, for all Chapter 7 cases pending or filed on or after the date of this Order, including any cases converted to Chapter 7 on or after the date of this Order; and it is further

ORDERED, this Standing Order remains in effect until further Order of the Court.

# # #

SIGNED this 27th day of April, 2011.



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

  
\_\_\_\_\_  
Leif M. Clark  
United States Bankruptcy Judge

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

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

**UNITED STATES BANKRUPTCY COURT**  
*Western District of Texas*

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**STANDING ORDER REGARDING MANDATORY ELECTRONIC FILING**

IT IS HEREBY ORDERED that effective **July 1, 2011**, all petitions, motions, pleadings, briefs, proofs of claim and other documents must be filed electronically pursuant to electronic filing procedures established by this court's Administrative Procedures for Filing, Signing and Verifying Documents by Electronic Means - except as expressly provided below:

1. **Pro Se Debtor Filing** - Debtors without legal representation may not file pleadings and other papers in a case electronically.
2. **Pro Se Creditor Filing** - Creditors that are not represented by counsel are not required to file documents electronically, unless the number of documents filed by an individual creditor exceeds six (6) per month. These documents include but are not limited to reaffirmation agreements, proofs of claims, transfers of claims, notice requests, notice of change of payment

address and notice of payment changes.

3.       **Documents Filed Under Seal** - A motion to file a document(s) under seal shall be filed electronically; however the actual document(s) to be sealed shall be filed conventionally, on paper after the order granting the motion has been entered as in accordance with L.R. 9018. IT IS FURTHER ORDERED that the Clerk of Court is directed to decline to accept for filing any pleading and other documents submitted in paper format after the mandatory date except by those filers specifically set forth above. In an emergency, an attorney not admitted to practice before the Western District of Texas and not having an office in this district, may file a document(s) in paper form if it is impracticable to become a ECF registrant or engage local counsel prior to filing the document(s). However, the paper filing must be accompanied by a separate motion seeking leave to file in paper form and showing cause for not becoming a ECF registrant and for not engaging local counsel in time to file the document(s) electronically. If the motion for leave is not granted, the document(s) may be stricken by the court without prior notice.

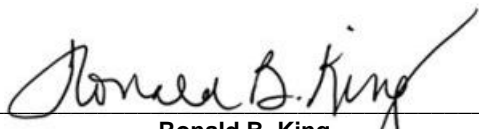
IT IS FURTHER ORDERED that if the Court's ECF site is unable to accept filings for an extended period of time, a party whose filing is made untimely as the result of a technical failure may seek appropriate relief from the Court through the filing of a motion. The Court shall determine whether a technical failure has occurred on a case-by-case basis.


IT SO ORDERED that the Clerk of Court shall give notice of this Order by service through the Clerk's electronic mailing list manager and posting a copy on the Court's official website. A notice regarding the effective date of mandatory electronic filing will be posted in the public intake area of each divisional office.

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SIGNED this 29th day of November, 2010.



  
Ronald B. King  
United States Chief Bankruptcy Judge

  
Leif M. Clark  
United States Bankruptcy Judge

  
Craig A. Gargotta  
United States Bankruptcy Judge

  
H. Christopher Mott  
United States Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

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**STANDING ORDER  
RELATING TO ATTORNEY'S FEES IN CHAPTER 13 CASES  
IN THE EL PASO DIVISION**

This standing order modifies the Standing Order Relating to Attorneys Fees in Chapter 13 Cases in the El Paso and Waco Divisions of January 23, 2007, but only applies in the El Paso Division and not the Waco Division. This standing order also modifies the First Joint Standing Order Relating to Chapter 13 Case Administration under BAPCPA in the El Paso and Waco Divisions of November 8, 2005, and again only applies in the El Paso Division.

Paragraph 16(a)(3) of the First Joint Standing Order is hereby amended as follows:

In an individual non-business case, the Court deems \$3,200.00 ("the Individual Standard fee") as reasonable compensation and reimbursement of expenses for cases confirmed on or after the entry date of this order.

Paragraph 16(a)(4) of the First Joint Standing Order is hereby amended as follows:

In a business case, the Court deems \$3,700.00 ("the Business Standard Fee) as reasonable compensation and reimbursement of expenses for cases confirmed on or after the entry date of this order.



Paragraph 16(a)(2)(g) of the First Joint Standing Order is hereby amended as follows:

The above standard fees shall be inclusive of the following:

- a. Motions to waive the wage withhold order;
- b. Motions to pay filing fees in installments;
- c. Objections to claim(s) and motions to value and or avoid lien(s);
- d. Defense of 2 (two) motions for relief;
- e. Preparation of 1 (one) motion to modify or 1 (one) motion for moratorium.

Paragraph 6(b) of the First Joint Standing Order is hereby amended as follows:

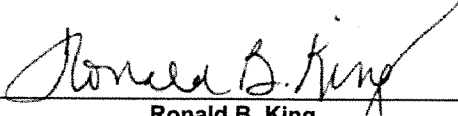
The trustee shall make distribution of the base fee awarded in the confirmation order equal to one month's plan payment for up to the first four months of the term of the plan. Payments to all other creditors under the term of the plan shall commence in the fifth month of the plan. The remainder of the base fee due the attorney (if any) shall be paid at the rate of \$100.00 a month until paid in full.

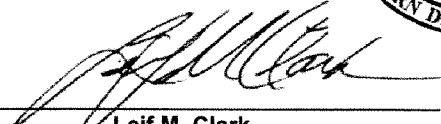
All other provisions of the First Joint Standing Order Relating to Chapter 13 Case Administration under BAPCPA in the El Paso and Waco Divisions of November 8, 2005 and the court's prior standing orders regarding Chapter 13 case administration in El Paso and Waco division dated January 12, 2004 shall remain in effect.

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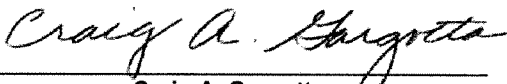
SIGNED this 29th day of May, 2008.



  
Ronald B. King  
United States Chief Bankruptcy Judge

  
Leif M. Clark  
United States Bankruptcy Judge

  
Frank R. Monroe  
United States Bankruptcy Judge

  
Craig A. Gargotta  
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
MIDLAND-ODESSA DIVISION

**STANDING ORDER RELATING TO ATTORNEY FEES IN CHAPTER 13  
CASES IN THE MIDLAND-ODESSA DIVISION**

This Standing Order modifies the Standing Order for Chapter 13 Case Administration for the Midland-Odessa Division entered November 17, 2005 (referred to in this Standing Order as the "Standing Order for Chapter 13 Case Administration"), which remains in effect except as modified herein.

The provisions of this Standing Order shall apply to all Chapter 13 cases with plans confirmed on or after entry of this Standing Order.

Section 12 of the Standing Order for Chapter 13 Case Administration is amended in its entirety as follows:

12. ATTORNEY'S FEES:

The United States Bankruptcy Court for the Western District of Texas, Midland-Odessa Division, may determine and maintain a standard benchmark fee for routine non-business Chapter 13 cases and a standard benchmark fee for routine business Chapter 13 cases.

The benchmark fee for routine Chapter 13 cases with plans confirmed on or after the entry date of this Standing Order shall be \$3,200.00 for non-business cases and \$3,700.00 for business cases.

For an attorney representing a debtor in a routine Chapter 13 case, a fee not exceeding the applicable benchmark fee is presumed (subject to rebuttal for cause shown) to be reasonable compensation for those services rendered and reimbursement of those expenses considered included in the benchmark fee as set forth below.

In a routine Chapter 13 case, the following services and related expenses are considered to be included in the benchmark fee:

- A. All pre-confirmation conferences with debtor(s) and all conferences with debtor(s) after confirmation that pertain to the other services listed below;
- B. Preparation (and service if applicable) of the petition and its associated forms, schedules, statement of financial affairs, plan, all pre-confirmation amendments to all such documents, and any motion to extend time to file such documents;
- C. Attendance at the Section 341 meeting of creditors (including reset meetings);
- D. Attendance at the confirmation and discharge hearings (including reset confirmation and discharge hearings);
- E. Preparation, service, and representation of the debtor in connection with routine motions, responses or other documents or pleadings, which shall be deemed to include the following:
  - 1. Requests for moratorium (whether by motion or by administrative procedure);
  - 2. Motions to waive pay order;
  - 3. Motions to pay filing fees in installments;
  - 4. Motions for waiver of credit counseling;
  - 5. Motions for continuance of the stay under 11 U.S.C. Section 362(c)(3);
  - 6. Objections to claims and motions to value property or to avoid liens;
  - 7. Responses concerning pre-confirmation lift stay motions under 11 U.S.C. Section 362; and
  - 8. Motion and Affidavit requesting issuance of Discharge Order.

- F. Making and performing the disclosures and duties required by 11 U.S.C. Sections 527 and 528, and assisting the debtor in complying with the requirements of 11 U.S.C. Section 521, and in a business case, assisting the debtor in complying with requirements of 11 U.S.C. Section 1304; and
- G. Other miscellaneous normal, customary services including correspondence and communication with debtor, review of correspondence from debtor, and communication with the Trustee, Trustee's office and Clerk's office.

Notwithstanding the foregoing, an attorney may for cause shown request the allowance of fees in excess of the benchmark fee for the routine services and reimbursement of expenses as set out above. Any such request must be made by motion, on notice and opportunity for hearing in the manner provided below.

Debtor's attorney may request an award of fees for additional services and/or reimbursement of expenses beyond those specified above, on motion, notice and opportunity for hearing. Such request may be by separate motion or in the motion that constitutes the additional services. However, any such request for the payment of fees and/or reimbursement of expenses from debtor may not be included in a responsive pleading (such as a response to a motion filed by another party), but instead must be made by separate motion.

Any motion requesting fees and/or reimbursement of expenses in relation to representing the debtor shall set forth in the caption of the motion, in the body of the motion, and in the form of order submitted to approve the award of fees the ordinal number of the request for fees. The body of the motion shall state the total of fees requested to date (including the initial fee and any other additional fee awards), the specific basis for the fee request, the proposed source of payment of the fees and expenses requested (e.g. directly by the debtor, through the plan, from sales proceeds, etc.), and the anticipated effect of the allowance of the additional fees and expenses on the plan (including without limitation its feasibility and the amount of any reduction in the percentage payment of unsecured creditors' claims). Such motion shall be served on all parties-in-interest in the case.

Attorney's fees awarded in the confirmation order that are to be paid through the plan will be disbursed according to the provisions of the plan subject to the following conditions. 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 \$750.00 for the first disbursement following confirmation, and then \$250.00 per month thereafter.

Attorney fees paid after entry of the order confirming the plan shall be payable from available funds after payment of administrative expenses and any payments specifically court ordered, including any court ordered adequate protection payments.

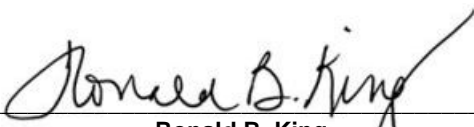
After confirmation, any additional attorney's fees (and/or reimbursement of expenses) awarded that are to be paid through the plan shall be paid only after all fees awarded in the confirmation order have been paid in full. Such additional fees (and/or expenses) shall then be paid at a total rate of not more than \$250.00 per month, or if greater, in the amount necessary to complete payment within the remaining term of the plan. An attorney may request payment at a different rate only upon a showing of unusual circumstances which shall be specifically set forth in the motion requesting such fees.

An attorney representing a Chapter 13 debtor shall not demand or receive a post-petition payment from the debtor without approval by the Court of the fees and/or expenses for which such payment is to be made. Additionally, the establishment herein of a benchmark fee and the procedures for requesting approval of additional fees shall not be construed as any basis to demand or receive any fees or reimbursement of expenses in an amount greater than that otherwise allowed for under the attorney's employment agreement with the debtor.

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SIGNED this 07th day of January, 2008.



  
Ronald B. King  
United States Chief Bankruptcy Judge

  
Leif M. Clark  
United States Bankruptcy Judge

  
Frank R. Monroe  
United States Bankruptcy Judge

  
Craig A. Gargotta  
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS

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AMENDED STANDING ORDER  
RELATING TO ATTORNEY FEES IN CHAPTER 13 CASES  
IN THE WACO DIVISION

This Amended Standing Order modifies the First Joint Standing Order Relating to Chapter 13 Case Administration under BAPCPA in the El Paso and Waco Divisions dated November 8, 2005 ("First Joint Standing Order") and replaces the Standing Order Relating to Attorney Fees in Chapter 13 Cases in the El Paso and Waco Divisions entered on January 23, 2007. This Amended Standing Order applies only to the Waco Division.

Paragraph 6(B) of the First Joint Standing Order is hereby amended as follows:

Attorney fees awarded in the confirmation order that are to be paid through the plan will be disbursed according to the provisions of the plan subject to the following conditions. The plan must specifically state the monthly payment to be disbursed to the attorney. Unless specifically ordered otherwise by the Court, upon motion, notice and opportunity for hearing, disbursements on attorney fees on cases confirmed after entry of this Amended Standing Order shall not exceed \$750 in the first monthly disbursement following entry of the confirmation order and then up to \$250 per month thereafter.

Attorney fees paid after entry of the order confirming the plan shall be payable from available funds after payment of administrative expenses, adequate protection payments and/or other court ordered payments.

Paragraph 16(a)(3) of the First Joint Standing Order is hereby amended as follows:

In an individual non-business case, the Court deems \$3,000 as reasonable compensation and reimbursement of expenses for an attorney representing the debtor in accordance with 11 U.S.C. §330(a)(3)(B).

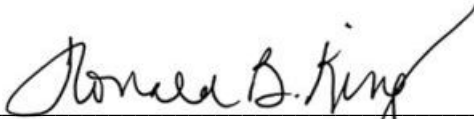
All other provisions of the First Joint Standing Order shall remain in effect as well as any operative

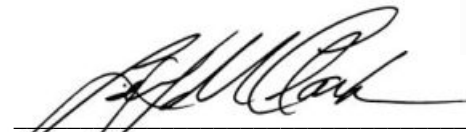
provisions of the First Amended Standing Order Relating to Chapter 13 Case Administration in the Waco Division dated January 12, 2004.

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SIGNED this 23rd day of January, 2007.



  
RONALD B. KING  
Chief United States Bankruptcy Judge

  
LEIF M. CLARK  
United States Bankruptcy Judge

  
FRANK R. MONROE  
United States Bankruptcy Judge

EL PASO BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS

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**STANDING ORDER  
RELATING TO ATTORNEY FEES IN CHAPTER 13 CASES  
IN THE EL PASO AND WACO DIVISIONS**

This standing order modifies the First Joint Standing Order Relating to Chapter 13 Case Administration under BAPCPA in the El Paso and Waco Divisions of November 8, 2005.

Paragraph 16(a)(3) of that order is hereby amended as follows:

In an individual non-business case, the Court deems \$3000 ("the Individual Standard Fee") as reasonable compensation and reimbursement of expenses for cases confirmed on or after the entry date of this order.

Paragraph 6(B) is also hereby amended as follows:

The trustee shall make distribution of the base fee awarded in the confirmation order equal to one month's plan payment for up to the first four months of the term of the plan. Payments to all other creditors under the term of the plan shall commence in the fifth month of the plan. The remainder of the base fee due the attorney (if any) shall be paid at the rate of \$100 a month until paid in full.

All other provisions of the First Joint Standing Order Relating to Chapter 13 Case Administration Under BAPCPA in the El Paso and Waco Divisions of November 8, 2005 and the court's prior standing orders regarding Chapter 13 case administration in El Paso and Waco division dated January 12, 2004 shall remain in effect.

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**SIGNED this 13 day of June, 2006.**



  
Larry E. Kelly  
Chief United States Bankruptcy Judge

  
Leif M. Clark  
United States Bankruptcy Judge

  
Ronald B. King  
United States Bankruptcy Judge

  
Frank R. Monroe  
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

**Standing Order Relating to Attorneys Fees in  
Chapter 13 Cases in the San Antonio Division**

This Standing Order modifies the Amended Standing Order Relating to Chapter 13 Practices in the San Antonio Division, entered by the court on November 7, 2005 (referred to in this order as “Amended Standing Order”), which remains in effect except as modified herein.

Paragraph 16 of the Amended Standing Order is modified as follows:

a. The court may determine and maintain a standard benchmark fee for routine business and non-business chapter 13 cases. The benchmark fee for routine non-business chapter 13 cases confirmed on or after the entry date of this order shall be \$3,200.

b. In a routine non-business chapter 13 case, the following services are presumed included in the benchmark fee:

- (1) all pre-confirmation conferences with the debtor(s);
- (2) preparation of the petition and its associated forms, schedules, statement of affairs, plan, and amendments to all such documents;
- (3) attendance at all § 341 meetings (including reset meetings);
- (4) attendance at confirmation and discharge hearings (including any reset hearings);
- (5) preparation of routine motions, presumed to include the following:
  - (A) motions to waive pay order

- (B) motions to pay filing fees in installments
- (C) motions to avoid liens
- (D) requests for trustee-approved moratoriums
- (E) motions for waiver of credit counseling
- (F) compliance with the requirements of § 521
- (G) assistance with completion of the questionnaire attached as Exhibit D to the Amended Standing Order
- (H) motions for continuation of the stay under § 362(c)(3)(B)

c. An attorney may, for cause shown, request additional fees for routine services as set out in subparagraph (b) above. Any such request must be made by motion, on notice and hearing.

d. An attorney may request and obtain an award for fees for additional services rendered, on motion, notice and hearing. A request for fees in relation to representing the debtor in responding to a motion for relief from stay (and including, where appropriate, services relating to a motion to modify plan to incorporate post-petition arrearages in the plan) must be made by separate motion. A request for fees may otherwise be included in the motion which constitutes the additional services. Any request for fees shall set forth, in the caption of the pleading, in the body of the motion, and in the form of order submitted to approve the award of such fees the ordinal number of the request for additional fees. The body of the motion addressing the fee request shall state the total of fees requested to date (including the base fee and any other additional fee awards), and the specific basis for the fee request. Additional fees, if awarded, shall be paid at the rate of not more than \$100 per month, or in the amount necessary to complete payment within the remaining term of the plan. An attorney may request payment at a different rate only upon a showing of unusual circumstances.

e. The trustee shall make distribution of the base fee awarded in the confirmation order equal to one month's plan payment for up to the first four months of the term of the plan. Payments to all other creditors under the term of the plan shall commence in the fifth month of the plan. The remainder of the base fee due the attorney (if any) shall be paid at the rate of \$100 a month until paid in full.

f. Notwithstanding the foregoing paragraph, an attorney may receive all available funds (after trustee expenses) in payment of any outstanding unpaid fee award if no secured creditors or priority creditors remain unpaid.


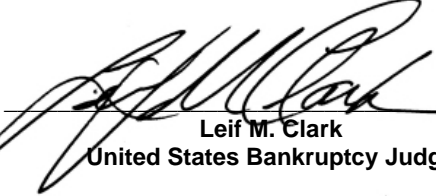


Paragraph 11 is modified in the following respect only:

The trustee is, by this order, authorized to approve a one-time moratorium of plan payment for a period of not more than 60 days. The request shall be submitted directly to the chapter 13 trustee, and need not be filed with the court or served on creditors (other than any secured creditor with an agreed order of adequate protection). No separate order is required for such a moratorium. If the trustee denies the request, then the debtor may file a motion to modify. The attorney for the debtor may not recover fees for filing such a motion unless the motion states that a request was made of the trustee and that the trustee denied the request.

# # #



SIGNED this 17th day of November 2005.

 _____ Larry E. Kelly Chief United States Bankruptcy Judge	 _____ Leif M. Clark United States Bankruptcy Judge
 _____ Ronald B. King United States Bankruptcy Judge	 _____ Frank R. Monroe United States Bankruptcy Judge

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UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
MIDLAND-ODESSA DIVISION

**STANDING ORDER FOR  
CHAPTER 13 CASE ADMINISTRATION  
FOR THE MIDLAND-ODESSA DIVISION**

The Bankruptcy Judges for the United States Bankruptcy Court for the Western District of Texas have determined that the following procedures are necessary for the efficient and orderly administration of Chapter 13 cases in the Midland-Odessa Division.

1. ADOPTION OF CHAPTER 13 PLAN FORMAT:

Attached as Exhibit #1 to this Standing Order is a Chapter 13 Plan Form that shall be used by all Chapter 13 debtors in cases filed after the effective date of this Standing Order.

***The form plan may be revised periodically.*** The Clerk shall make available to the public the Chapter 13 Plan Form.

The current form plan is additionally a Motion to Value Collateral and a Motion to Avoid Liens under 11 U.S.C. Section 522. Objections to the Valuation or Lien Avoidance features of the Plan/Motion must be in writing and filed no later than ten (10) days prior to the confirmation hearing date. All other confirmation objections must be filed no later than ten (10) days prior to the confirmation hearing date.

2. BAR DATE FOR FILING SECURED CLAIMS:

A proof of claim by a secured creditor, other than a governmental agency, is timely filed by the creditor not later than ninety (90) days after the first date set for the meeting of creditors called under Section 341 of the Bankruptcy Code.

3. TRUSTEE RECOMMENDATION CONCERNING CLAIMS:

After the deadline for filing proofs of claims has passed, the Chapter 13 Trustee (hereinafter, "Trustee") shall file a Recommendation Concerning Claims and serve a copy upon the debtor, debtor's counsel, all creditors and other parties in interest. No Order will be entered approving the Recommendation Concerning Claims. Instead, if no objection or other response is timely filed, then the Recommendation Concerning Claims 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 Recommendation Concerning Claims without further Order of the Court. Claims not filed by the deadline to file proofs of claim shall be deemed disallowed and will not be paid by the Trustee except as otherwise allowed in the Recommendation Concerning Claims or other Orders of the Court.

If an objection or other response to the Recommendation Concerning Claims is timely filed, the Trustee may nonetheless make distribution in accordance with the provisions of the Recommendation Concerning Claims, except with respect to the claim that is the subject of an objection or response. The Trustee shall reserve funds attributable to the challenged claim until the allowance or treatment of the claim has been resolved. If, as 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 a further Recommendation Concerning Claims.

The Recommendation Concerning Claims 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  
TWENTY (20) 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 TWENTIETH (20<sup>TH</sup>)  
DAY AFTER THE SERVICE OF THIS 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:

Objections to proofs of claims must be in writing and filed no later than twenty (20) days after service of the Trustee's Recommendation Concerning Claims.

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 as provided in Section III of the Plan Form. Any request by the debtor to value property of the estate or to avoid a lien under 11 U.S.C. Section 522(f), independent of the plan, must be in writing and filed no later than twenty (20) days after service of the Trustee's Recommendation Concerning Claims.

6. RESPONSES TO OBJECTIONS TO CLAIMS;  
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 objection or motion pursuant to Local Bankruptcy

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 PLAN OF REORGANIZATION:

The last date that a debtor may seek to amend its plan of reorganization is not later than thirty (30) days prior to the date scheduled for hearing on the confirmation of the plan. The Court will only consider de minimis, non-substantive, or technical amendments to the plan at the confirmation hearing.

8. SERVICE OF THE PLAN AND PRE-CONFIRMATION AMENDMENTS:

- A. Whether or not the plan is filed with the Chapter 13 petition at the commencement of the case, debtor shall be responsible for serving the plan on all creditors, parties in interest, and the Trustee.
- B. Whenever a Chapter 13 plan is amended prior to confirmation, debtor shall serve the amended plan on all creditors, parties in interest and the Trustee within two (2) business days after filing with the Court.
- C. A certificate of service must be filed with the Clerk of the Court by debtor or debtor's attorney reflecting service of any plan or amended plan and should indicate service was made pursuant to L. Rule 9013.

9. DEBTOR'S DUTY TO FACILITATE NOTICE REGARDING DOMESTIC SUPPORT OBLIGATIONS:

In order to facilitate expedient notice to domestic support claimholders and to the applicable state agency provided for in 11 U.S.C. Section 1302, debtor shall, at the same time the schedules are filed, provide to the Trustee the names, current addresses and telephone numbers of all persons to whom debtor owes a domestic support obligation. At the same time, 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. Section 1302(d)(1)(A)(i) for the states in which the persons to whom debtor owes a domestic support obligation reside.

10. MOTIONS FOR RELIEF FROM THE AUTOMATIC STAY:

Unless the Court orders otherwise, the Trustee will cease disbursement on a claim sixty (60) days after an Order for Relief from the Stay or Notice of Termination of Stay is entered OR once the Trustee receives a Notice of Repossession or Foreclosure, whichever is earlier. The creditor retains the right to file an amended unsecured deficiency claim after the foreclosure has occurred, except to the extent otherwise provided in any confirmed plan. Unless otherwise provided by an Order of the Court, any such deficiency claim shall be filed no later than ninety (90) days after the automatic stay is terminated, as determined by the Order granting Relief from the Stay or the Notice of Termination of Stay.



11. CERTIFICATION REGARDING POST-PETITION DOMESTIC SUPPORT  
OBLIGATIONS AND TAX RETURNS:

No later than twenty (20) days prior to the first scheduled confirmation hearing, debtor shall file an affirmation pursuant to F.R.C.P. 43(d) affirming:

- A. As required by 11 U.S.C. Section 1325(a)(8), that debtor has paid all amounts required to be paid under a domestic support obligation, and that first become payable after the date of the filing of the petition if debtor is required by a judicial or administrative order, or by statute, to pay such domestic support obligation; and
- B. As required by 11 U.S.C. Section 1325(a)(9), that debtor has filed all applicable Federal, State, and local tax returns as required by 11 U.S.C. Section 1308.

In the case of a debtor who is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, debtor shall also file with the Court the certification required by 11 U.S.C. Section 1328(a) within twenty (20) days after the completion by the debtor of all payments under the plan.

12. ATTORNEY'S FEES:

The United States Bankruptcy Court for the Western District of Texas, Midland-Odessa Division, may determine and maintain a standard benchmark fee for routine non-business Chapter 13 cases and a standard benchmark fee for routine business Chapter 13 case.

In a routine non-business Chapter 13 case, the following services shall be included in the benchmark fee:

- A. All conferences with debtor(s);
- B. Preparation and service of the petition, schedules, statement of financial affairs, and the plan and all amendments thereto;
- C. Attendance at the Section 341 meeting of creditors;
- D. Attendance at the confirmation and discharge hearings (including reset confirmation and discharge hearings); and
- E. Preparation and service of routine motions, which shall be deemed to include the following:
  - 1. Requests for moratorium (whether by motion or by administrative procedure);
  - 2. Motions to waive pay order;
  - 3. Motions to pay filing fees in installments;
  - 4. Objections to claims and motions to value or avoid liens; and
  - 5. Motion and Affidavit requesting issuance of Discharge Order.
- F. Notwithstanding the foregoing subparagraph E., debtor's attorney may, for cause shown, request additional fees for the services listed. If so, debtor's attorney must make the request as a request for fees for additional services as set out below.

Debtor's attorney in a Chapter 13 case may only request and obtain an award of fees for additional services beyond those specified above by Court Order, on motion, notice and opportunity for hearing. Such request may be by separate motion or in the motion that 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 captions 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.

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 \$500.00 for the first disbursement following confirmation, and then \$100.00 per month thereafter.

13. APPLICATIONS TO INCUR CONSUMER DEBT;  
REQUESTS FOR MORATORIUM:

Debtor shall not incur consumer debt without written approval of either the Court or the Trustee.

The debtor shall make written application to the Trustee for approval to incur consumer debt. The debtor shall not file the application with the Clerk of the Court. If approved by the Trustee, the Trustee shall file the approval with the Clerk. If not approved by the Trustee within ten (10) days, debtor may then file with the Clerk a motion to incur consumer debt and the motion shall contain as an attachment the Trustee's denial of the application to incur debt.

The Trustee shall have the authority to grant, in Trustee's discretion, one (1) sixty (60) day moratorium. No motion, notice, or other Court approval shall be required, but the circumstances shall be documented in the Trustee's records. Any further suspensions of Chapter 13 plan payments require

motions that must be served on the Trustee, all creditors, and parties in interest.

14. DISPOSITION OF FEDERAL INCOME TAX REFUNDS IN CHAPTER  
13 CASES:

The Internal Revenue Service (hereinafter the "IRS") is authorized to apply any tax refunds of debtors to the payment of any tax obligations due and owing by such debtors, regardless of whether such tax obligations or tax refunds arose before or after the filing of such debtor's case, so long as the tax claims are entitled to priority status under 11 U.S.C. Section 507(a). The base amount of the plan will not be adjusted by reason or any IRS offset.

The balance of any income tax refund issued after the petition date and before debtor has made the final payment under the plan or the debtor's case is converted or dismissed, may be issued and delivered by the IRS directly to the Trustee. If the IRS returns the tax refund to the debtor, the debtor shall immediately forward the refund to the Trustee. The base amount of the plan shall be increased to include the amount of this additional receipt (whether received directly from the IRS or the debtor), less that amount of the tax refund returned by the Trustee to debtor or applied to any plan delinquency.

The Trustee shall return to debtor one thousand two hundred dollars (\$1,200.00) of any such tax refund (or all of the refund if less than \$1,200.00) which is received by the Trustee either directly from the IRS or from the debtor; provided, however, if debtor is delinquent in plan payments the Trustee shall apply any such amount otherwise to be returned to the debtor first to the delinquency. Notwithstanding anything to the contrary herein, if joint debtors file separate tax returns (whether married filing separately or otherwise) for any tax

period, only one (1) single \$1,200.00 amount shall apply to such debtors for that tax period.

The Trustee is hereby authorized to receive, endorse, deposit, and apply as set forth herein to debtor's plan and any plan delinquency, any tax refund issued to debtor by the IRS after the petition date and before the debtor has made the final payment under the plan, or the debtor's case is converted or dismissed.

15. 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:

- A. Debtor's failure to timely file a plan;
- B. Debtor's failure to timely file schedules;
- C. Debtor's unexcused failure to appear at the scheduled Section 341 meeting of creditors (including unexcused failure by either debtor to attend the Section 341 meeting of creditors in a joint case);
- D. Debtor becomes sixty (60) or more days delinquent in payments under a confirmed plan;
- E. Debtor's failure to comply with the provisions of a prior Order that provides for such relief;
- F. Debtor's failure to submit tax returns pursuant to 11 U.S.C. Section 521(e)(2); or
- G. Debtor's failure to submit payment advices pursuant to 11 U.S.C. Section 521(a)(1)(B)(iv).

16. ADEQUATE PROTECTION PAYMENTS:

Unless otherwise ordered by the Court, in lieu of adequate protection payments by debtor as provided in 11 U.S.C. Section 1326, debtor shall make debtor's full plan payment to the Trustee, who shall hold the funds until confirmation or denial of confirmation of the plan. In the first regular disbursement following confirmation or denial of confirmation of the plan, the Trustee shall distribute to the secured creditors with filed and allowed claims the funds that are payable to such secured creditors under the provisions of the plan. The Trustee's fee and expense allowance shall apply with respect to such payments whether or not the plan was confirmed.

If the plan is denied confirmation and funds on hand are not sufficient to pay each such secured creditor all full specific monthly payment(s) otherwise provided for in the plan, then such funds shall be paid, after deduction of the Trustee's fee and expense allowance, to the secured creditors on a pro rata basis based upon the principal balances of their filed and allowed claims.

17. DISCHARGE HEARINGS:

Attached as Exhibit #2 to this Standing Order is a form Motion and Affidavit Requesting Issuance of Discharge Order. If debtor is eligible to receive a discharge, debtor shall complete and file the Motion and Affidavit within twenty (20) days of receipt of notification from the Trustee of debtor's completion of all payments under the plan.

The Motion and Affidavit shall be served by debtor on the Trustee, all creditors, and other parties in interest, including all holders of domestic support obligations and applicable state child support enforcement agencies. Service of

the Motion and Affidavit shall satisfy the requirements of 11 U.S.C. Section 1302(d)(1)(C).

If there are no timely filed objections to debtor's Motion and Affidavit, the Court may waive the discharge hearing and enter a discharge Order.

18. EFFECTIVE DATE:

The above procedures are hereby adopted for the United States Bankruptcy Court for the Western District of Texas, Midland-Odessa Division. The provisions of this Standing Order become effective for all Midland-Odessa Division Chapter 13 cases in which an Order for relief was entered on or after October 17, 2005.

IT IS SO ORDERED.

###

Exhibit #1

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
MIDLAND-ODESSA DIVISION

In re:

}  
}  
} Case No. (Chapter 13)  
}  
}  
Debtor(s) }

**DEBTOR(S)' CHAPTER 13 PLAN [ ] AMENDED PLAN  
AND MOTIONS FOR VALUATION AND LIEN AVOIDANCE**

**Plan Summary**

- A. Debtor's Plan payment is scheduled at \$\_\_\_\_\_ per month for \_\_\_\_ months [\_\_\_\_ Pay Order, \_\_\_\_ Direct Pay]. The gross amount to be paid into the Plan is \$\_\_\_\_\_.
- B. The Plan proposes to pay in full all allowed priority, special class, secured claims to the extent of the value of the collateral or the amount of the claim, whichever amount is provided for in Section III hereof, and approximately \_\_\_\_% of the unsecured allowed claims. **THIS PLAN DOES NOT ALLOW CLAIMS.** You must file a proof of claim to receive distributions under any Plan that may be confirmed.
- C. The value of Debtor's non-exempt assets is \$\_\_\_\_\_.
- D. Debtor's current monthly income of \$\_\_\_\_\_, less monthly expenses of \$\_\_\_\_\_ equals \$\_\_\_\_\_, which is the amount available monthly for the Plan.
- E. The total amount to be paid into the Plan shall be increased for tax refunds as set forth in the Standing Order for Chapter 13 Case Administration in this Division. These additional receipts shall be disbursed according to the provisions of the Plan.

**Plan Provisions**

**I. Vesting of Estate Property**



Upon confirmation of the Plan, all property of the estate shall (shall not) vest in the Debtor and shall (shall not) remain as property of the estate subject to the automatic stay of 11 U.S.C. Section 362.

## **II. Executory Contracts / Unexpired Leases / Contracts for Deed**

Pursuant to 11 U.S.C. Section 1322(b)(7) of the Bankruptcy Code, Debtor hereby elects to assume the following executory contracts, if any:

Pursuant to 11 U.S.C. Section 1322(b)(7) of the Bankruptcy Code, Debtor hereby elects to reject the following executory contracts, if any:

## **III. Specific Treatment for Payment of Allowed Claims**

### **1. Direct Payments by Debtor to Creditors; Surrender of Collateral.**

A. Debtor shall pay the following creditors directly:

Creditor	Remarks	Debt Amount	Monthly Payment
----------	---------	-------------	-----------------

B. Debtor shall surrender the following collateral:

Creditor	Remarks	Debt Amount	Monthly Payment
----------	---------	-------------	-----------------

### **2. Payments by Trustee.**

A. Administrative Expenses (including attorney's fees):

*The Trustee shall receive up to 10% of all sums disbursed, except on any funds returned to the Debtor(s).*

Creditor	Estimated Amount of Debt	Payment Method: 1. Before 2. After 3. Along with secured creditors	Remarks
----------	--------------------------	---	---------

B. Arrearage Claims - Direct Pay Creditors:

Creditor/ Collateral	Est. claim	Est. Value of Collateral	Mon. Pmt. or Method of Dis- bursement	Interest Rate	Anticipa- ted Total to Pay	Other Treatment / Remarks
-------------------------	---------------	--------------------------------	--	------------------	----------------------------------	---------------------------------

C. Secured Creditors; **MOTIONS TO VALUE COLLATERAL:**

The Trustee shall pay allowed secured claims, which require the filing of a proof of claim, to the extent of the value of the collateral or the amount of the claim, whichever amount is provided for in this Section, plus interest thereon at the rate specified in this Plan. **Failure of the secured creditor to object to the Plan will be deemed acceptance of the Plan under 11 U.S.C. Section 1325(a)(5)(A).** Except for secured claims for which provision is made to pay the full amount of the claim notwithstanding the value of the collateral, the portion of any allowed claim that exceeds the value of the collateral indicated shall be treated as an unsecured claim under Section III(2)(E).

Unless otherwise ordered by the Court upon objection to the Plan, the payments provided herein for secured creditors shall be deemed to provide adequate protection to such creditors during the term of the Plan.

Debtor moves to value collateral described below in the amounts indicated. Debtor affirms that the values as stated in the Plan for the secured debt are accurate and to the best of Debtor's knowledge represent the replacement value, pursuant to 11 U.S.C. Section 506(a)(2), of the assets held for collateral.

Objections to Valuation of collateral proposed by this Plan must be filed no later than ten (10) days prior to the confirmation hearing date. If no timely objection is filed, the relief requested may be granted in conjunction with confirmation of the Plan.

Creditor/ Collateral	Est. claim	Est. Value of Collateral	Monthly Payment	Interest Rate	Anticipa- ted Total to Pay	Other Treatment / Remarks
-------------------------	---------------	--------------------------------	--------------------	------------------	----------------------------------	---------------------------------

Secured creditors shall retain their liens on the collateral that is security for their claims until the earlier of the payment of the underlying debt determined under non-bankruptcy law or discharge under 11 U.S.C. Section 1328. In addition, if this case is dismissed or converted without completion of the Plan, such liens shall also be retained by the creditors to the extent recognized by applicable non-bankruptcy law.

D. Priority Creditors:

Creditor	Estimated Amount of Debt	Payment Method: 1. Before 2. After 3. Along with secured creditors	Remarks
----------	-----------------------------	--	---------

E. General Unsecured Creditors (including claims from rejection of contracts, leases, and contracts for deed):

Unless otherwise provided below, payments to creditors with allowed general unsecured claims shall be made on a pro rata basis as funds become available after payment of other creditors. It is estimated that distribution to the general unsecured creditors will commence in the \_\_\_\_ month of the Plan.

F. Cure claims on Assumed Executory Contracts, Contracts for Deed, and Leases:

Creditor	Estimated Amount of Debt	Monthly Payment or Method of Disbursement	Remarks
----------	-----------------------------	---	---------

TOTALS:

Administrative Claims	\$
Arrearage Claims	\$
Secured Claims	\$
Priority Claims	\$
Unsecured Claims	\$
Cure Claims	\$

G. Supplemental Plan Provisions:

(1). **MOTION TO AVOID LIENS UNDER 11 U.S.C. SECTION 522(f):**

Debtor moves to avoid the following liens that impair exemptions. Objections to Lien Avoidance as proposed in this Plan must be filed no later than ten (10) days prior to the confirmation hearing date. If no timely objection is filed, the relief requested may be granted in conjunction with confirmation of the Plan. If a lien is avoided, the claim will not be treated as a secured claim but as an unsecured claim under Section III(2)(E).

*Debtor must list the specific exempt property said lien impairs and the basis of the lien, e.g., judicial, nonpurchase-money security interest, etc.*

Creditor	Property Subject to Lien	Amount of Lien to be Avoided	Remarks
----------	--------------------------	------------------------------	---------

(2). Secured claims not otherwise provided for herein:

In the event a creditor timely files a proof of claim that evidences a perfected security interest in collateral, which claim and collateral were not dealt with elsewhere herein, the collateral shall be deemed valued by the Court and the claim shall be paid at the amount set forth in the Trustee's Recommendation Concerning Claims, unless a response is timely filed to such Recommendation. The interest rate to be paid on any such claim shall be \_\_\_\_% per annum.

(3). The following additional Supplemental Plan Provisions:

None.

#### IV. General Information

**Notice: Local Rule 3002 provides, in part:**

*"Every Creditor filing a Proof of Claim in all cases shall transmit a copy with attachments, if any, to the Debtor's Attorney (or the Debtor, if the Debtor is pro se) and the Trustee appointed in the case."*

- A. Use of the singular word "Debtor" in this Plan includes the plural in a joint case.
- B. **Creditors are hereby notified that WITHOUT FURTHER NOTICE** the Plan may be amended in the Meeting of Creditors. Any amendment may affect your status as a creditor. Debtor's estimate of how much the Plan will pay, projected payments, and estimates of the allowed claims may also change. The following information is an attempt to advise creditors of the status of the case based on the information known at the time of its preparation. Any special concerns of a creditor may justify attendance at the Meeting of Creditors and such other actions as may be appropriate under the circumstances.
- C. For information on deadlines for filing proofs of claims, creditors are referred to the Federal Rules of Bankruptcy Procedure, the local bankruptcy rules for the Western District of Texas, and the Standing Order for Chapter 13 Case Administration in this Division.
- D. The deadline for the filing of objections to confirmation is ten (10) days prior to the confirmation hearing. More detailed information is on file at the office of the United States Bankruptcy Clerk in Midland, Texas. Local bankruptcy rules and the Standing Order for Chapter 13 Case Administration are available at the United States Bankruptcy Clerk's office and online at [www.txwb.uscourts.gov](http://www.txwb.uscourts.gov).

Respectfully submitted this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Debtor  
Address

\_\_\_\_\_  
Debtor  
Address

\_\_\_\_\_  
Attorney for Debtor(s)  
Address  
Telephone Number  
Fax Number

### CERTIFICATE OF SERVICE

<i>Debtor(s) are responsible for service of the Plan on the Chapter 13 Trustee, the creditors, and all parties-in-interest.</i>
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**ATTACH PROPOSED PAYMENT SCHEDULE, IF AVAILABLE.**

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
MIDLAND-ODESSA DIVISION

```

    }
    }
}
Case No.
}
(Chapter 13)
}
Debtor(s)
}

```

**THIS PLEADING REQUESTS RELIEF THAT MAY BE ADVERSE TO YOUR INTERESTS.**

**IF NO TIMELY RESPONSE IS FILED WITHIN TWENTY (20) DAYS FROM THE DATE OF SERVICE, THE RELIEF REQUESTED HEREIN MAY BE GRANTED WITHOUT A HEARING BEING HELD.**

**A TIMELY FILED RESPONSE IS NECESSARY FOR A HEARING TO BE HELD.**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW the above-named Debtor(s) and request the Court to issue a Discharge Order in this Chapter 13 bankruptcy case. In furtherance thereof, Debtor(s) make the following affidavit:

1. I (or we, in a joint case) received notice from the Chapter 13 Trustee of final payment in this case and I/we request the Court to issue a discharge in this case.

\_\_ 2. I (or we, in a joint case) completed an instructional course concerning personal financial management described in 11 U.S.C. Section 111 provided by the following entity:

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY/STATE/ZIP: \_\_\_\_\_



\_\_\_ 3.A. I (or we, in a joint case) have not been required by a judicial or administrative order, or by statute, to pay any domestic support obligation as defined in 11 U.S.C. Section 101(14A) either before this bankruptcy was filed or at any time after the filing of this bankruptcy.

OR

**(NOTE: If 3.B. is applicable, all information required in questions 3.B.1 through 3.B.4 must be provided.)**

\_\_\_ 3.B.1. I (or we, in a joint case) certify that, prior to the date of this affidavit, I/we have paid all amounts due under any domestic support obligation [as defined in 11 U.S.C. Section 101(14A)] required by a judicial or administrative order, or by statute, including amounts due before this bankruptcy was filed, to the extent provided for by the plan. The name and address of each holder of a domestic support obligation is as follows:

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY/STATE/ZIP: \_\_\_\_\_

\_\_\_ 3.B.2. My/Our most recent address(es) is:

ADDRESS: \_\_\_\_\_

CITY/STATE/ZIP: \_\_\_\_\_

\_\_\_ 3.B.3. The name and address of my/our most recent employer(s)  
is: NAME: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY/STATE/ZIP: \_\_\_\_\_

MOTION AND AFFIDAVIT  
REQUESTING ISSUANCE OF DISCHARGE ORDER  
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\_\_\_ 3.B.4. The following creditor(s) hold claim(s) that are not discharged under 11 U.S.C. Section 523(a)(2) or Section 523(a)(4) or a claim that was reaffirmed under 11 U.S.C. Section 524(c):

NAME: \_\_\_\_\_

NAME: \_\_\_\_\_

NAME: \_\_\_\_\_

NAME: \_\_\_\_\_

\_\_\_ 4. I (or we, in a joint case) have not received a discharge in a Chapter 7, 11, or 12 bankruptcy case within four (4) years prior to filing this Chapter 13 case.

\_\_\_ 5. I (or we, in a joint case) have not received a discharge in another Chapter 13 bankruptcy case within two (2) years prior to filing this Chapter 13 case.

\_\_\_ 6.A. I (or we, in a joint case) did not have, either at the time of filing of this bankruptcy case or at the present time, equity in excess of \$125,000.00 in the type of property described in 11 U.S.C. Section 522(p)(1) [generally, the debtor's homestead];

**OR**

\_\_\_ 6.B. There is not currently pending any proceeding in which I (in an individual case) or either of us (in a joint case) may be found guilty of a felony of the kind described in 11 U.S.C. Section 522(q)(1)(A) or liable

for a debt of the kind described in 11 U.S.C. Section  
522(q)(1)(B).

MOTION AND AFFIDAVIT  
REQUESTING ISSUANCE OF DISCHARGE ORDER  
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By signing this affidavit, I (or we, in a joint case) acknowledge that all of the statements contained herein are true and accurate and that the Court may rely on the truth of each of these statements in determining whether to grant me/us a discharge in this Chapter 13 bankruptcy case. The Court may revoke my/our discharge if the statements relied upon are not true and accurate.

FURTHER AFFIANT(S) SAYETH NOT.

\_\_\_\_\_  
\_\_\_\_\_  
Debtor

Debtor

STATE OF \_\_\_\_\_ }  
COUNTY OF \_\_\_\_\_ }

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_/\_\_\_\_/\_\_\_\_

Notary Public  
State of \_\_\_\_\_  
My Commission Expires:

WHEREFORE, Debtor(s) pray that this Court enter a Discharge Order in this case and grant such other and further relief to which Debtor(s) may be entitled.

Respectfully submitted this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name:

Address:

Phone/Fax:

---

CERTIFICATE OF SERVICE

*Debtor(s) shall be responsible for service of this Motion and Affidavit on the Chapter 13 Trustee, the creditors, and all parties-in-interest including all holders of domestic support obligations and applicable state child support enforcement agencies.*

MOTION AND AFFIDAVIT  
REQUESTING ISSUANCE OF DISCHARGE ORDER

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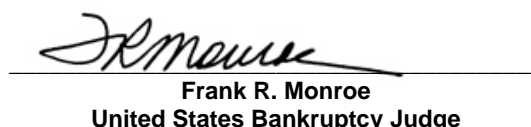
SIGNED this 8th day of November, 2005.



  
Larry E. Kelly  
Chief United States Bankruptcy Judge

  
Leif M. Clark  
United States Bankruptcy Judge

  
Ronald B. King  
United States Bankruptcy Judge

  
Frank R. Monroe  
United States Bankruptcy Judge

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UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS

§  
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§  
§

FIRST JOINT STANDING ORDER  
RELATING TO CHAPTER 13 CASE ADMINISTRATION UNDER BAPCPA  
IN THE EL PASO AND WACO DIVISIONS

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IT IS HEREBY ORDERED:

1. EFFECTIVE DATE AND NOTICES HEREOF:

Unless otherwise provided herein or ordered by the Court in an individual case, this First Joint Standing Order governs and supersedes prior Standing Orders relating to Chapter 13 Case Administration in the El Paso and Waco Divisions for the Western District of Texas in all cases filed on or after October 17, 2005. The Chapter 13 Trustee for each of these two Divisions shall place a copy of this Standing Order on the Trustee's website and, upon request, shall furnish a copy of it to any party in interest in any pending case.

2. ADOPTION OF CHAPTER 13 PLAN FORMAT:

Attached as **Exhibit # 1** to this Standing Order is a Chapter 13 Plan Form dated October 17, 2005, that shall be used by all Chapter 13 debtors in cases filed on or after that date. This Plan Form also includes a motion to value collateral and a motion to avoid liens under 11 U.S.C. § 522. Notwithstanding Local Bankruptcy Rule 3015, no separate plan summary shall be filed or served. ***The Plan Form may be revised periodically, by amendment or supplement to this Order.*** The Clerk shall

make available to the public the then applicable Chapter 13 Plan Form at the court's website at <http://www.txwb.uscourts.gov>.

**3. ADOPTION OF FORMS:**

**a.** Attached as **Exhibit # 2** to this Standing Order is a Supplement to the Confirmation Order. Such form may be used in cases where the debtor has not filed all required tax returns (of whatever kind). Use of this form will allow the Court to confirm plans where the debtor has not filed the required tax returns. The debtor may request an extension of the time allowed in the Supplement by filing with the Court a "Motion to Extend Time to File Returns," which the Court, upon notice and hearing, may grant. Such motion should be filed prior to the date the returns first come due under the Supplement to the Confirmation Order. In no case shall such extension exceed 120 days after the completion of the Section 341 Meeting of Creditors.

**b.** Attached as **Exhibit # 3** to this Standing Order is a Declaration of the Debtor(s) Concerning Confirmation Requirements. Such Declaration shall be completed by the debtor(s) and presented to the person presiding at the Section 341 Meeting of Creditors. If the case can be confirmed no later than ten days after completion of the Section 341 Meeting, this completed form will satisfy the confirmation requirements of §§ 1325(a)(8) and (9) regarding domestic support obligations, as that term is defined in 11 U.S.C. § 101(14A), and tax returns.

**c.** Attached as **Exhibit # 4** to this Standing Order is a Questionnaire for Debtors. Such Questionnaire shall be sent to all debtors by the Trustee and completed by all debtors and returned to the Trustee within 30 days of receipt. If not returned to the Trustee within the 30-day period, the Trustee shall file a motion to compel the debtor(s) to appear and show cause why they have not cooperated. Upon the Trustee's receipt of the completed Questionnaire, the Trustee shall file a motion, with 20 day negative notice, for issuance of a discharge. The Trustee in filing the motion, and the Court in ruling on it, may rely on the factual representations of the debtor(s) made in the Questionnaire, for purposes of satisfying the discharge requirements of 11 U.S.C. § 1328(a). The Trustee's motion shall be served on all creditors, all holders of domestic support obligations and any state child support enforcement agency required to receive notice under the Bankruptcy Code. Service of this motion shall satisfy the Trustee's notice requirements of 11 U.S.C. § 1302(d)(1)(C). If no objection to the Trustee's Motion is timely filed, the discharge hearing shall be deemed to have been waived and an order discharging the debtors shall be entered.

**4. DEBTOR'S DUTY TO FACILITATE NOTICE REGARDING DOMESTIC SUPPORT OBLIGATIONS:**

In order to facilitate the expeditious notice to domestic support obligation claim holders and the applicable state agencies required by 11 U.S.C. § 1302(d)(1)(A) and (B), the debtor shall, at the time the schedules are filed, provide to the Trustee: (1) the names and current addresses and telephone numbers of all persons to whom the debtor owes a domestic support obligation; and (2) the name, address and telephone number of the state child support enforcement agency in each state where a person described in clause (1) above resides. For purposes of this paragraph, a domestic support obligation claim holder must be listed even if the debtor is current on the obligation.



**5. SERVICE OF THE PLAN AND PRE-CONFIRMATION AMENDMENTS:**

a. Whether or not the plan is filed with the Chapter 13 petition at the commencement of the case, the debtor shall be responsible for serving the plan on all creditors.

b. Whenever a Chapter 13 plan is amended prior to confirmation, the debtor shall serve the amended plan on all creditors, parties in interest and the Chapter 13 Trustee within two (2) business days after the filing with the court.

c. Absent leave of court, the last date that a debtor may file a pre-confirmation amended plan is thirty (30) days prior to the confirmation hearing date. The court will only consider de minimis, nonsubstantive, or technical amendments to the plan at the confirmation hearing.

d. 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 on the Chapter 13 Trustee.

**6. PRE-CONFIRMATION DISBURSEMENTS BY THE CHAPTER 13 TRUSTEE:**

a. The Court hereby orders that all pre-confirmation adequate protection payments to those secured claimants that the debtor proposes to pay through the plan shall be made by the Trustee in the form of pre-confirmation, or “interim” disbursements made monthly, on the same dates the Trustee makes post-confirmation disbursements in other cases. The debtor is hereby ordered to remit such payments to the Trustee commencing 15 days after the filing of the petition. Provided all conditions for disbursement are met, the Trustee shall begin disbursing to creditors under this paragraph on the first regularly scheduled disbursement after 30 days after the petition is filed, unless otherwise provided herein or by separate order. Such interim disbursements by the Chapter 13 Trustee shall be in lieu of direct adequate protection payments by debtors to those secured claimants that the debtor proposes to pay through the plan, as provided in 11 U.S.C. § 1326(a)(1)(C), and no direct adequate protection payments by debtors to those creditors shall be required unless otherwise ordered by the Court.

b. In addition, the Court hereby orders that the Trustee shall include in such interim disbursements, payments on administrative expenses, including the Trustee’s Fee and Expense Allowance and, if and when the fee for filing the case has been paid in full, the debtor’s attorney’s fees as provided in the plan, but not to exceed the greater of: (a) 25% of the debtor’s total monthly plan payment or (b) \$100, provided that if the amount available after payment of other prior claims from the debtor’s monthly plan payment is less than \$100 per month, then such available amount may be paid on debtor’s attorney’s claim for fees and expenses.

c. With respect to interim disbursement payments made to priority or secured claimants other than the Trustee and debtor’s counsel, the following conditions must be met: (a) the claim must be listed in the debtor’s Schedules and must not be listed as contingent, unliquidated or disputed; (b) the claimant must have a timely proof of claim on file; and (c) the classification of the claim as filed must agree with its classification in the debtor’s Schedules. If there is a difference between the amount of the claim set out in the proof of claim and the amount scheduled by the debtor, for purposes of interim disbursements the Trustee will use the lower amount.

**7. ADDITIONAL ADEQUATE PROTECTION TO VEHICLE LENDERS:**

Pursuant to 11 U.S.C. § 363, the debtor shall not use a vehicle post-petition unless the

debtor: (i) maintains insurance on the vehicles in the amount required by the debtor's pre-petition contract; (ii) provides proof of insurance to the lienholder upon request; and (iii) provides the Trustee with all necessary information for a wage order not later than the date of the initial Section 341 Meeting of Creditors (if the debtor is a wage or salaried employee and the Court has not ordered otherwise).

**8. DEADLINE FOR FILING OBJECTIONS TO CLAIMS; LATE-FILED CLAIMS:**

a. Objections to proofs of claim must be in writing and filed no later than thirty (30) days after the later of: (1) the bar date applicable to the particular claim being objected to, or (2) the date the particular amended claim being objected to was amended. However, if a proof of claim is filed within thirty (30) days of the confirmation hearing, parties have thirty (30) days from date of that filing to file any objections to such claim.

b. No objection to a late-filed claim shall be necessary; such claims are deemed disallowed unless otherwise ordered by the court. The burden is on the claimant to request, by motion, allowance of a late-filed claim.

**9. DEADLINE FOR FILING RESPONSES TO OBJECTIONS TO CLAIMS:**

Responses to objections to claims must be filed by the deadline provided in the notice included in the particular objection, pursuant to Local Bankruptcy Rule 9014. If no such notice is included in the objection to claim, no response is necessary and the objection to claim shall be set for hearing.

**10. ALLOWANCE OF CLAIM FOR PURPOSES OF TRUSTEE'S DISBURSEMENTS ON CLAIM:**

For purposes of the Trustee's disbursements on a claim under the plan, as soon as the deadline (as established herein) for filing an objection to a particular claim has passed, if no objection to the claim is then pending, the Trustee is authorized to rely on the most recent order determining the allowance of the claim or, if no such order has been entered, on the Court's official record of filed claims in the case.

**11. MOTIONS TO VALUE COLLATERAL OR TO AVOID LIENS INDEPENDENT OF THE PLAN, AND RESPONSES THERETO:**

a. While some motions under 11 U.S.C. § 506 to value collateral or under 11 U.S.C. § 522(f) to avoid lien may be contained within the debtor's plan as provided in Section IV or Section V of the Plan Form, the debtors may elect to separately file a motion to value collateral or to avoid a lien, independent of the plan. Any such independent motion must be in writing.

b. Responses or objections to motions to value collateral or to avoid liens that are filed separately from the plan must be in writing and filed by the deadline provided in the notice included in such motion, pursuant to Local Bankruptcy Rule 9014. If no such notice is included, no response is necessary and the motion shall be set for hearing.

**12. DEADLINE FOR FILING OTHER OBJECTIONS TO THE DEBTOR'S PLAN:**

Any objection to the confirmation of the debtor's plan, including responses and objections to the motions to value collateral and to avoid liens that are contained in the plan, must be in writing and shall be filed no later than ten (10) days prior to the confirmation hearing date. All objections to a plan, including responses and objections to the motions to value collateral and to avoid liens that are contained in the plan, will be considered at the confirmation hearing.

**13. AMENDMENTS TO THE PLAN OF REORGANIZATION, MOTIONS FOR MORATORIUM, MOTIONS TO CURE PLAN ARREARAGE, MOTIONS TO SELL PROPERTY, AND MOTIONS TO INCUR DEBT:**

**a.** All motions to modify Chapter 13 plans must:

- (1) be noticed to all creditors and parties in interest, including the Chapter 13 Trustee, within two days of filing;
- (2) contain negative notice language affording creditors a twenty-day opportunity to file objections to the proposed relief;
- (3) specifically indicate the number of months (if any) which the motion proposes to extend the term of the plan from the date of confirmation through completion; and
- (4) reference the debtor's Schedules I & J and indicate what material changes have occurred, if any.

**b.** A "Motion for Moratorium," a "Motion to Cure Plan Arrearage," and a "Motion to Temporarily Suspend Plan Payments" are motions to modify a Chapter 13 plan within the meaning of this paragraph. Such motions shall state clearly the reasons for such request and indicate if any prior moratorium has been granted and, if so, give the details and time period(s) covered. These motions do *not* require "pre-approval" from the Chapter 13 Trustee. The granting of a moratorium does NOT excuse a debtor's obligation to make up the missed payments under the plan.

**c.** The debtor shall not incur consumer debt without prior approval of either the Court or the Trustee. Trustee's approval shall be sought by the submission of a written request to the Trustee by the debtor's attorney (or the debtor, if not represented by counsel), and such request shall not be filed with the Clerk. At the time the request is submitted to the Trustee, however, the debtor shall also file with the Clerk Amended Schedules I & J. In the written request to the Trustee, the debtor shall state:

- (1) the reason or need for the incurring of the debt; and
- (2) the item to be purchased or refinanced, the amount of the debt and other relevant financing terms.

If the request is approved by the Trustee, the Trustee shall file such approval with the Clerk. If the application is not approved by the Trustee within ten (10) days, a motion to incur debt, which shall contain the same information as the request to the Trustee and shall also reference the Trustee's lack of approval of the request, may then be filed with the Clerk.

**14. PLAN PROVISIONS FOR “SURRENDER” OR PROPERTY AND IMPACT ON THE AUTOMATIC STAY; PLAN DISBURSEMENTS AFTER TERMINATION OF THE AUTOMATIC STAY:**

a. Entry of an order confirming a plan that provides for surrender of property as treatment of a secured claim shall operate to modify the automatic stay imposed pursuant to 11 U.S.C. § 362(a) or 1301(a) to permit the holder of the claim to exercise its rights with respect to obtaining possession and title to the property. Unless otherwise provided by the plan or confirmation order, this modification of the automatic stay becomes effective ten (10) days after entry of an order of confirmation and no separate motion for relief from the automatic stay need be filed by the affected secured creditor.

b. Unless the Court orders otherwise, the Trustee will cease disbursements on a claim after the earlier of (a) sixty (60) days after an order for relief from the stay is entered or a notice of termination of stay is filed, or (b) the date the Trustee receives a Notice of Repossession or Foreclosure. For the purposes of this paragraph, the “modification” described in the paragraph above is considered to be an order granting relief from the stay.

c. The creditor retains the right to file an amended unsecured deficiency claim after the foreclosure has occurred except to the extent otherwise provided in any confirmed plan. Unless otherwise provided by an order of the court, any such deficiency claim shall be filed no later than ninety (90) days after the automatic stay is terminated, as determined by the order granting relief from the stay or the Notice of Termination of Stay.

**15. DUTIES OF TRUSTEE:**

It is sufficient for the purposes of Local Bankruptcy Rules 2016(c)(1) and 3015(e)(3) that the Trustee note his or her recommendation concerning confirmation of the debtor’s Chapter 13 plan by signing off on the confirmation order.

**16. DEBTOR’S COUNSEL: SCOPE OF REPRESENTATION AND COMPENSATION:**

**a. Scope of Representation; Benchmark Fee:**

(1) An attorney representing the debtor(s) in a Chapter 13 case shall represent the debtor(s) in *all* matters in or related to that case, from the earlier of the filing of the petition (if the attorney signs the petition) or the filing of a notice of appearance by the attorney (if the debtor originally filed the petition pro se) until the case is dismissed or otherwise closed (including disposition of any motion to reinstate the case), absent court approval of counsel’s withdrawal from representation.

(2) The Bankruptcy Court for the Western District of Texas may from time to time establish a standard benchmark fee for debtor’s counsel in a routine non-business Chapter 13 case, and a standard benchmark fee for debtor’s counsel in a routine business case (see subparagraphs (3) and (4) below). An attorney may not receive a post-petition retainer or payment from the debtor other than as specified in this Standing Order without leave of court. As guidelines, the Court contemplates that the following matters will be included in the standard benchmark fee:

- (a)** all conferences with the debtor, including budget consultations and timely responses to debtor inquiries, whether by telephone or in writing;
  - (b)** preparation of the bankruptcy petition, schedules, statement of affairs, plan and pre-confirmation amendments thereto;
  - (c)** representation of the debtor at the § 341 meeting of creditors, including any continuances thereof;
  - (d)** representation of the debtor at confirmation and discharge hearings (including reset confirmation hearings);
  - (e)** representation of the debtor in connection with two motions under 11 U.S.C. § 362;
  - (f)** representation of the debtor on motions to dismiss, including Trustee motions to dismiss with or without prejudice;
  - (g)** preparation of and representation of the debtor on routine motions, which include the following:
    - (i)** motions for moratorium;
    - (ii)** motions to waive pay order;
    - (iii)** motions to pay filing fees in installments;
    - (iv)** a first motion to reinstate the case;
    - (v)** objections to claims and motions to value collateral and to avoid liens;
    - (vi)** motions to extend time to file paperwork; and
    - (vii)** motions to convert or dismiss the case;
  - (h)** providing notices to creditors, where appropriate, such as explaining the automatic stay;
  - (i)** making and performing, or assisting the debtor in making or performing, the disclosures and duties required by 11 U.S.C. §§ 521, 527, 528 and 1308 including completion of the Questionnaire required at the end of the case (see Paragraph 3c above); and
  - (j)** other miscellaneous normal, customary services including correspondence with clients, review of correspondence from clients, communication with the Trustee, Trustee's office and Clerk's office.
- (3)** In an individual non-business case, the Court deems \$2750 ("the Individual Standard Fee") as reasonable compensation and reimbursement of expenses for an attorney representing the debtor in accordance with 11 U.S.C. § 330(a)(3)(B).
- (4)** In an individual business case, the Court deems \$3250 ("the Business Standard Fee") as reasonable compensation and reimbursement of expenses for an attorney representing the debtor in accordance with 11 U.S.C. § 330(a)(3)(B).

(5) The Court will therefore allow an Individual Standard Fee or a Business Standard Fee and the bankruptcy clerk filing fees without the requirement of an application for compensation under 11 U.S.C. § 330 and Fed.R.Bankr.P. 2016(a).

**b. Additional Compensation:**

(1) Notwithstanding the foregoing, an attorney may for cause shown request additional fees for the services listed. Such request may be made through the filing of a formal application for compensation and following the National and Local Rules for such procedure. Alternatively Debtor's counsel may follow the expedited procedure provided hereafter. In no event however shall counsel condition representation upon payment of an additional fee prior to undertaking a task. Counsel's choice is to undertake the work and then seek compensation or to decline the work and file an application for permission to withdraw from further representation in the case.

**(2) Expedited Application for Additional Compensation:**

(a) If (and only if) debtor's counsel's employment agreement with the debtor regarding attorneys fees and scope of employment authorizes fees and expenses to be charged beyond the amount originally agreed to be paid, as disclosed by counsel pursuant to Fed.R.Bankr.P. 2016(b), and only if and when the fee for filing the case has been paid in full, counsel may seek the allowance and payment of additional fees and expenses. In the interest of establishing *a simpler, more expeditious, and less expensive process* for requesting and obtaining allowance of such additional attorneys' fees and expenses in Chapter 13 cases, as an alternative to the procedure established under Local Rule 2016(4), the following procedure may be used. This abbreviated procedure may be used not more than three times in any case, and the total additional fees and expenses that are requested in a case using this abbreviated procedure may not be more than the amount originally charged.

(b) Except as provided below in subsection (b)(2), such additional fees may only be requested by the filing by counsel of a **"Motion for Additional Fees."** If previous motions for additional fees have been filed, then subsequent motions shall be identified numerically as "Second Motion for Additional Fees," etc. The content of the motion shall:

(i) include the 20-day negative notice language of Local Bankruptcy Rule 9014(a) and be served on all creditors with allowed claims, the debtor(s) and the Trustee;

(ii) state the amount agreed to be paid under the original fee agreement, and the amount of any pre-petition retainer;

(iii) state the dates and amounts of all previous requests for additional fees and expenses, and the amount awarded on each;

- (iv) briefly describe the services performed for the current request;
- (v) state the proposed source of payment of the fees and expenses requested (e.g., directly by the debtor, through the plan, by a third party, from sales proceeds, etc.);
- (vi) briefly describe the anticipated effect of the allowance of the additional fees and expenses on the plan (i.e., on its feasibility, the amount of any reduction in the dividend to unsecured creditors, etc.); and
- (vii) contain a certificate of service indicating service on the trustee, debtor, and all other parties in interest in the case.

(3) **Exceptions:** In the few limited instances listed below, a request for additional attorneys fees and expenses may be included in a pleading that requests other relief. That a request for additional fees and expenses is included shall be noted in the caption of the pleading (and in the caption of the form of the order submitted with the pleading), which caption shall also indicate how many such requests have preceded the current request (*e.g.*, “**. . . and Fourth Request for Additional Debtor’s Attorneys Fees**”). The pleading shall comply with the requirements of subsection 2(b)(i) through (vii), above, and may include 20-day negative notice. If 20-day negative notice is included, and if no party in interest files a timely response, the court may approve the request for additional attorneys fees and expenses, in addition to the other relief requested, without further notice or hearing.

The *only* pleadings which may include such requests for additional attorneys fees and expenses are:

- (a) applications to sell property where the proceeds of the sale will be the source of payment of any authorized additional fees and expenses; and
- (b) motions or other pleadings where a third party, not the bankruptcy estate or the debtor, will be the source of payment of any authorized additional fees and expenses.

Notwithstanding the foregoing, responsive pleadings may not include requests for additional attorneys fees and expenses of counsel for the debtor.

## 17. **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:

- a. failure of the debtor to timely pay the filing fee;
- b. failure of the debtor to timely file a plan or use the applicable Plan Form;

- c. failure of the debtor to timely file Schedules;
- d. unexcused failure of the debtor to appear at the scheduled Meeting of Creditors (Section 341 Meeting);
- e. delinquency of the debtor of sixty (60) days or more days on payments under a proposed or confirmed plan;
- f. failure of the debtor to comply with the provisions of a prior order which provides for such relief;
- g. failure of the debtor to submit tax returns pursuant to § 521(e)(2); or
- h. failure of the debtor to submit payment advices pursuant to § 521(a)(1)(B)(iv).

**18. EFFECTIVE DATE AND APPLICABILITY:**

- a. For purposes of enforcement, the provisions of this Order become effective November 7, 2005.
- b. The provisions of Paragraph 3c of this Order apply to all Chapter 13 cases in the El Paso and Waco Divisions of the Western District of Texas where the Order for Relief was entered on or after April 20, 2005.
- c. The provisions of paragraph 16 of this Order apply to all Chapter 13 cases in the El Paso and Waco Divisions of the Western District of Texas pending or filed on or after October 17, 2005.
- d. All remaining provisions of this Order apply to all Chapter 13 cases in the El Paso and Waco Divisions of the Western District of Texas where the Order for Relief was entered on or after October 17, 2005.
- e. The Court's prior Standing Orders regarding Chapter 13 case administration in the El Paso and Waco Divisions, dated January 12, 2004, shall remain in effect and continue to apply to all Chapter 13 cases in the El Paso and Waco Divisions of the Western District of Texas to which this Order does not apply.

IT IS THEREFORE ORDERED that the above procedures are hereby adopted for the Bankruptcy Court for the Western District of Texas in the El Paso Division and in the Waco Division.

IT IS FURTHER ORDERED that the Clerk of the Court shall give notice of this Order by serving a copy on the Chapter 13 Trustees for the El Paso Division and the Waco Division of the Western District of Texas, and by posting a copy on the Court's official web site at <http://www.txwb.uscourts.gov>.

# # #



**Exhibit #1**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO AND WACO DIVISIONS

IN RE:

Debtor(s)

§  
§  
§  
§  
§

CASE NO.

Chapter 13 Proceeding

☐ **AMENDED** ☐ **MODIFIED**  
**DEBTOR(S)' CHAPTER 13 PLAN**  
**AND MOTIONS FOR VALUATION AND LIEN AVOIDANCE**

*Creditors are hereby notified that the following Plan may be amended at any time before confirmation. Any amendment may affect your status as a creditor. The Debtor's estimate of how much the Plan will pay, projected payments, and estimates of the allowed claims may also change. The following information advises creditors of the status of the case based on the information known at the time of its preparation. Any special concerns of a creditor may justify attendance at the Meeting of Creditors and such other action as may be appropriate under the circumstances. More detailed information is on file at the Office of the United States Bankruptcy Clerk in El Paso or Waco, Texas. Local Bankruptcy Rules and Standing Orders on procedures are available at the Clerk's Office and online at [www.txwb.uscourts.gov](http://www.txwb.uscourts.gov).*

*Use of the singular word "Debtor" in this Plan includes the plural where appropriate.*

**Plan Summary**

- A. The Debtor's plan payment will be \$\_\_\_\_\_ per month, paid by ☐ Pay Order or ☐ Direct Pay, for \_\_\_\_\_ months. The gross amount to be paid into the Plan is \$\_\_\_\_\_.
- B. The Plan proposes to pay all allowed priority claims in full, all secured claims to the extent of the value of the collateral or the amount of the claim, whichever amount is provided for in Section VI below, and approximately \_\_\_\_\_% of each unsecured allowed claim.

THIS PLAN DOES NOT ALLOW CLAIMS. YOU MUST FILE A PROOF OF CLAIM BY THE APPLICABLE DEADLINE TO RECEIVE DISTRIBUTIONS UNDER ANY PLAN THAT MAY BE CONFIRMED. CREDITORS ARE REFERRED TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE, THE LOCAL BANKRUPTCY RULES FOR THE WESTERN DISTRICT OF TEXAS, AND THE APPLICABLE STANDING ORDER RELATING TO CHAPTER 13 CASE ADMINISTRATION FOR THIS DIVISION, FOR INFORMATION ON THESE AND OTHER DEADLINES.

- C. The value of the Debtor's non-exempt assets is \$\_\_\_\_\_.
- D. If the payment of any debt is proposed to be paid directly by the Debtor outside the Plan, it is so noted in Section VI(1), set forth below.

## **Plan Provisions**

### **I. Vesting of Estate Property**

- ☐ Upon confirmation of the Plan, all property of the estate shall vest in the Debtor and shall not remain as property of the estate.
- ☐ Upon confirmation of the Plan, all property of the estate shall not vest in the Debtor, but shall remain as property of the estate.
- ☐ Other (describe):

### **II. Pre-Confirmation Disbursements**

In accordance with the applicable Standing Order Relating to Chapter 13 Case Administration, the Debtor requests and consents to disbursement by the Chapter 13 Trustee of payments prior to confirmation of the Plan to evidence the Debtor's good faith, promote successful completion of the case, and to provide adequate protection to secured creditors. The Debtor shall remit such payments to the Trustee commencing 15 days after the filing of the petition. Provided all conditions for disbursement are met and unless otherwise ordered by the Court, the Trustee shall begin disbursing to creditors as provided below, on the first regularly scheduled disbursement after 30 days after the petition is filed. Payments under this paragraph will cease upon confirmation of the Plan.

Creditor/Collateral	Pre-Confirmation Payment Amount	Other Treatment Remarks
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### **III. Executory Contracts/Unexpired Leases/Contracts for Deed**

Pursuant to 11 U.S.C. § 1322(b)(7) of the Bankruptcy Code, the Debtor hereby elects to assume the following executory contracts, unexpired leases, and/or contracts for deed, if any:

Pursuant to 11 U.S.C. § 1322(b)(7) of the Bankruptcy Code, the Debtor hereby elects to reject the following executory contracts, unexpired leases, and/or contracts for deed, if any:

### **IV. Motion to Value Collateral Pursuant to 11 U.S.C. § 506**

The Trustee shall pay allowed secured claims, which require the filing of a proof of claim, to the extent of the value of the collateral or the amount of the claim, whichever amount is provided for in Section VI(2), hereof, plus interest thereon at the rate specified in this Plan. Except for secured claims for

which provision is made to pay the full amount of the claim notwithstanding the value of the collateral, the portion of any allowed claim that exceeds the value of the collateral shall be treated as an unsecured claim under Section VI(2)(F).

The Debtor(s) move(s) to value the collateral described below in the amounts indicated. The values as stated below represent the replacement values of the assets held for collateral, as required under Section 506(a)(2). Objections to valuation of collateral proposed by this Motion and Plan must be filed no later than ten (10) days prior to the confirmation hearing date. If no timely response or objection is filed, the relief requested may be granted in conjunction with confirmation of the Plan.

Creditor/Collateral	Estimated Claim	Value of Collateral	Monthly Payment or Method of Disbursement	Interest Rate	Anticipated Total to Pay	Other Treatment/Remarks
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*"I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on \_\_\_\_\_, 200\_\_."*

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Co-Debtor

## **V. Motion to Avoid Lien Pursuant to 11 U.S.C. § 522(f)**

The Bankruptcy Code allows certain liens to be avoided. If a lien is avoided, the claim will not be treated as a secured claim but as an unsecured claim under Section VI (2)(F).

The Debtor moves to avoid the following liens that impair exemptions. Objections to lien avoidance as proposed in this Plan must be filed no later than ten(10) days prior to the confirmation hearing date. If no timely objection is filed, the relief requested maybe granted in conjunction with confirmation of the Plan. (Debtor must list the specific exempt property that the lien impairs and the basis of the lien—e.g., judicial lien, nonpurchase-money security interest, etc.)

Creditor	Property Subject to Lien	Amount of Lien to Be Avoided	Remarks
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## **VI. Specific Treatment for Payment of Allowed Claims**

### **1. PAYMENTS TO BE MADE BY THE DEBTOR DIRECTLY TO CREDITORS. INCLUDING POST-PETITION DOMESTIC SUPPORT OBLIGATIONS**

**A.** Debtor(s) shall pay the following creditors directly. Creditors with claims based on a post-petition domestic support obligation ("DSO"), including all governmental units to which a DSO claim has been assigned, or is owed, or that may otherwise recover a DSO claim, *must* be paid directly. Minors

should be identified by their initials only. If no DSO creditor is listed, the Debtor represents he/she has no domestic support obligation.

All direct payments listed below shall be made in addition to the Plan payments made by Debtor to the Chapter 13 Trustee as herein set forth. Secured creditors who are paid directly shall retain their liens, and the Debtor(s) shall maintain insurance on the collateral, in accordance with the terms of the documents creating the lien on the collateral.

Creditor/Collateral, if any (including the name of each DSO creditor)	Remarks	Debt Amount	Payment Amount/Interval
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**B.** Debtor surrenders the following collateral. Confirmation of the Plan shall operate to lift the automatic stay provided by 11 U.S.C. § 362(a) with respect to the collateral listed, and any unsecured deficiency claim may be filed in accordance with the procedures set forth in the Standing Order Relating to Chapter 13 Case Administration for this Division.

Creditor/Collateral	Collateral to Be Surrendered
---------------------	------------------------------

## **2. PAYMENTS TO BE MADE BY TRUSTEE TO CREDITORS**

### **A. Administrative Expenses**

Administrative Expenses shall include the Trustee's commission and debtor's attorney's fees. The Trustee shall receive up to 10% of all sums disbursed, except on any funds returned to the Debtor. No fees or expenses of counsel for the debtor(s) may be paid until the filing fee is paid in full, and any fees and expenses that are allowed in addition to the fees and expenses originally agreed to be paid, may be paid only after all prior allowed fees and expenses have been paid.

Creditor	Estimated Amount of Debt	Payment Method: before secured creditors, after secured creditors, or along with secured creditors	Remarks
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**B. Priority Claims, Including Domestic Support Obligation Arrearage Claims**

Creditor	Estimated Amount of Debt	Payment Method: before secured creditors, after secured creditors, or along with secured creditors	Remarks
----------	--------------------------	---	---------

**C. Arrearage Claims**

Creditor/Collateral	Estimated Claim	Estimated Value of Collateral	Monthly Payment or Method of Disbursement	Interest Rate	Anticipated Total to Pay	Other Treatment/Remarks
---------------------	-----------------	-------------------------------	---	---------------	--------------------------	-------------------------

**D. Cure Claims on Assumed Contracts, Leases, and Contracts for Deed:**

Creditor/Subject Property, if any	Estimated Amount of Cure Claim	Monthly Payment or Method of Disbursement	Remarks
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**E. Secured Creditors**

Secured creditors shall retain their liens on the collateral that is security for their claims until the earlier of the date the underlying debt, as determined under non-bankruptcy law, has been paid in full, or the date of discharge under 11 U.S.C. § 1328. Therefore, if the debtor's case is dismissed or converted without completion of all Plan payments, the liens shall be retained by the creditors to the extent recognized by applicable non-bankruptcy law.

Creditor/Collateral	Estimated Claim	Value of Collateral	Monthly Payment or Method of Disbursement	Interest Rate	Anticipated Total to Pay	Other Treatment/ Remarks (specifically note if claim amount to be paid although greater than value of collateral)
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F. General Unsecured Creditors (including claims from rejection of contracts, leases and contracts for deed). *Describe treatment for the class of general unsecured creditors.*

Totals:

Administrative Claims \_\_\_\_\_  
Priority Claims \_\_\_\_\_  
Arrearage Claims \_\_\_\_\_  
Cure Claims \_\_\_\_\_  
Secured Claims \_\_\_\_\_  
Unsecured Claims \_\_\_\_\_

## VII. Supplemental Plan Provisions

The following are the Supplemental Plan Provisions:

Respectfully submitted this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
Attorney for Debtor

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Address, Phone & Fax Numbers

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Co-Debtor

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

### Certificate of Service

**ATTACH PROPOSED PAYMENT SCHEDULE, IF AVAILABLE**

**Exhibit # 2**

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
EL PASO AND WACO DIVISIONS**

**IN RE:**

	§	
	§	
	§	<b>CASE NO.</b>
	§	
<b>Debtor(s)</b>	§	<b>Chapter 13 Proceeding</b>

**SUPPLEMENT TO CONFIRMATION ORDER**

If the following tax returns are not filed with the Internal Revenue Service by the deadline indicated below, the Trustee may orally request Summary Dismissal of the case at any scheduled hearing on confirmation of the Debtor's(s') Plan.

- ☐ Form 1040 for the following periods: \_\_\_\_\_
- ☐ Form 940 for the following periods: \_\_\_\_\_
- ☐ Form 941 for the following periods: \_\_\_\_\_
- ☐ Other: \_\_\_\_\_

The deadline for filing all of the above is: \_\_\_\_\_

For purposes of this Supplement, a return is considered "filed" if any of the following are provided to the Trustee:

- (1) a Receipt of Tax Return form from the IRS, or a receipt from the Presiding Officer at the Section 341 Meeting of Creditors stating that the return(s) were provided at that Meeting;
- (2) a file-stamped copy of the return from the local IRS Office; or
- (3) the "green card" return receipt requested, showing the return(s) were mailed to the following address:  
  
Internal Revenue Service  
Special Procedures Staff  
300 E. 8th Street  
Stop 5026 AUS  
Austin, Texas 78701
- (4) An affidavit of the Debtor, swearing that the return has been mailed on a stated date to the IRS at the above address, with a copy of the mailed return attached.

Approved:

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Chapter 13 Trustee

Exhibit # 3

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
EL PASO AND WACO DIVISIONS

IN RE:

§  
§  
§  
§  
§

CASE NO.

Debtor(s)

Chapter 13 Proceeding

**DECLARATION OF THE DEBTOR(S)**  
**CONCERNING CONFIRMATION REQUIREMENTS**

The Debtor(s) in the above captioned case, \_\_\_\_\_,  
\_\_\_\_\_, being duly sworn upon oath, state as follows (check all applicable statements):

1. ☐ Since the filing of this bankruptcy case, I/we have not been required by a judicial or administrative order or by statute to pay any domestic support obligation as defined in 11 U.S.C. § 101(14A).

**OR**

- ☐ I/We have paid all amounts that first became due and payable under a domestic support obligation (as defined in 11 U.S.C. § 101(14A)) after the filing of this bankruptcy case that I/we am/are required by a judicial or administrative order or by statute to pay.

2. ☐ I/We have filed all federal, state and local tax returns required by law to be filed for all taxable periods ending during the four year period prior to the filing of this bankruptcy case.

**OR**

- ☐ I/We have signed a Supplement to the Confirmation Order certifying that all required tax returns will be filed no later than \_\_\_\_\_.

**By signing this Affidavit, I/we acknowledge that all statements contained herein are true and accurate and that the Court may rely on the truth of each of these statements in determining whether to confirm my/our Chapter 13 Plan. The Court may revoke confirmation of the Chapter 13 Plan if the statements herein are not accurate. Debtor(s) understand that, should any of the above declarations change prior to entry of a confirmation order, Debtor(s) will have to present an updated Declaration to the Chapter 13 Trustee.**

*I/We declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on \_\_\_\_\_, 200\_\_.*

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Debtor



**Exhibit #4**  
**(Revised Effective 9/3/2013)**

**DEBTOR QUESTIONNAIRE UPON COMPLETION  
OF PLAN PAYMENTS IN BANKRUPTCY CASE NO.**

**CIRCLE THE CORRECT ANSWERS:**

1. YES / NO      I/We have completed an instructional course concerning personal financial management, as described in 11 U.S.C. § 111, provided by the following entity:

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2. YES / NO      I/We have received a discharge in a Chapter 7, 11 or 12 bankruptcy case within four years of the date I/we filed this bankruptcy case.

3. YES / NO      I/We have received a discharge in another Chapter 13 bankruptcy case within two years of the date I/we filed this bankruptcy case.

4. YES / NO      Did you elect to use State exemptions? If yes, then the following two questions must be answered.

- a. YES / NO      I/We had, either at the time of the filing of this bankruptcy case, or at the present time, equity in excess of \$155,675 (\$311,350 if married and filing this case jointly) in the type of property described in 11 U.S.C. § 522(p)(1). [generally, your homestead]

- b. YES / NO      There is currently pending a proceeding in which I [in an individual case] or either of us [in a joint case] may be found guilty of a felony [a felony is an offense punishable by a minimum term of imprisonment of more than one year] of the kind described in 11 U.S.C. § 522(q)(1)(A) [one where the circumstances of the felony demonstrated that the filing of this case was an abuse of the Bankruptcy Code] or liable for a debt of the kind described in 11 U.S.C. § 522(q)(1)(B) [violation of federal or state securities laws or regulations or orders issued thereunder; fraud, deceit or manipulation in a position of trust in connection with the purchase or sale of certain registered securities; civil remedies under the racketeering statute; or criminal acts, intentional civil injuries, or willful or reckless misconduct causing serious physical injury or death to another in the preceding five years].

5. a. YES / NO I/We have been required by a judicial or administrative order or by statute to pay any domestic support obligation, as defined in 11 U.S.C. § 101(14A) [a debt owed to or recoverable by a spouse, former spouse, or child or the child's parent or legal guardian, or a government unit, for alimony, maintenance or support of those persons, that was established by a separation agreement, divorce decree, property settlement, or order of the court or, where applicable, a determination of a governmental unit] either before this bankruptcy case was filed, or at any time after the filing of this bankruptcy case.

**IF THE ANSWER TO QUESTION 5a IS "YES," THEN ALL OF THE FOLLOWING QUESTIONS MUST BE COMPLETED/ANSWERED:**

- b. YES / NO I/We certify that, prior to the date of this Questionnaire, I/we have paid all amounts due under any domestic support obligation [as defined in 11 U.S.C. § 101(14A)] required by a judicial or administrative order or by statute, including amounts due before this bankruptcy case was filed, to the extent provided for by my/our Plan. The name and address of each holder of a domestic support obligation is as follows:

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- c. My/Our most recent address is:

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- d. The name and address of my/our most recent employer(s) is:

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- e. The following creditors hold a claim that is not discharged under 11 U.S.C. § 523(a)(2) or (a)(4), or a claim that was reaffirmed under 11 U.S.C. § 524(c):

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**I/we acknowledge that all statements contained herein are true and accurate. The Court may rely on the truth of each of these statements in determining whether to grant me/us a discharge in this Chapter 13 bankruptcy case. The Court may revoke my discharge if the statements herein are not accurate.**





**I/We declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.** Executed on \_\_\_\_\_, 201\_\_.

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Debtor

SIGNED this 7th day of November, 2005.



 Larry E. Kelly Chief United States Bankruptcy Judge	 Leif M. Clark United States Bankruptcy Judge
 Ronald B. King United States Bankruptcy Judge	 Frank R. Monroe United States Bankruptcy Judge

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IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

AMENDED STANDING ORDER RELATING TO  
CHAPTER 13 PRACTICES IN THE SAN ANTONIO DIVISION

The following Amended Standing Order supersedes the Amended Standing Order Relating to Chapter 13 Practices in the San Antonio Division and is applicable in the San Antonio Division only. It sets out certain practices and procedures relating to Chapter 13 practice and procedure.

**If you are involved in Chapter 13 cases in the Western District of Texas in the San Antonio Division, please review the terms of this Order carefully. The procedures set out herein will directly affect your practice. Please note that the procedures discussed in this Standing Order apply in the San Antonio Division only. The procedures in the Austin, Waco, El Paso and Midland Divisions, may be different and may be subject to other standing orders applicable to those Divisions. Please consult the Clerk of the Court for copies of any other applicable standing orders.**

**1. ADOPTION OF CHAPTER 13 PLAN FORMAT**

Attached as Exhibit A, to this Standing Order is a Chapter 13 Plan Form which shall be used by all Chapter 13 debtors in cases where the plan is filed after the effective date of this Order. The form plan may be revised periodically by the Court. Any proposed revision will be sent to active bankruptcy practitioners who will have 30 days to provide comments to the Judges and the Chapter

13 Trustee. The Clerk shall make available to the public the Chapter 13 Plan Form.

**2. ADOPTION OF CERTAIN FORMS TO BE USED IN CHAPTER 13 CASES**

a. Attached as Exhibit B, to this Standing Order, is a form entitled INTERIM RULE 4002(b)(3) EXTENSION. Such form is to be used in cases where the debtor(s) have not filed all required tax returns (of whatever kind). Use of this form will allow the Court to confirm cases wherein required tax returns have not been filed. Debtor(s) may extend the time allowed in the Supplement by filing a Motion to Extend Time to File Returns with the Court which, upon notice and hearing, may be allowed. Such Motion should be filed prior to the date the returns first come due under the Supplement to the Confirmation Order. In no case shall such extension exceed 120 days after the completion of the §341 meeting. (See 8(f) below.)

b. Attached as Exhibit C, to this Standing Order, is a DECLARATION OF THE DEBTOR(S) CONCERNING CONFIRMATION REQUIREMENTS. Such Declaration shall be completed by the Debtor(s), and presented to the person presiding at the 11U.S.C. §341 Meeting. If the case can be early confirmed (i.e. 10 days after completion of the §341 Meeting) this Document will satisfy the requirements of the Bankruptcy Code concerning domestic support obligations and tax returns.

c. Attached as Exhibit D, to this Standing Order, is a QUESTIONNAIRE FOR DEBTORS. Such Questionnaire shall be sent to all debtor(s) by the Trustee and filled out by all debtors and returned to the Trustee within 30 days of receipt. If not returned to the Trustee within the 30 day period, the Trustee will file a Motion for the debtors to appear and show cause why they have not cooperated. Upon receipt of the completed Questionnaire, the Trustee will file a Motion for Issuance of a Discharge, with negative notice language, with the Court. This Motion will be served on all creditors, all holders of domestic support obligations and any State child support agency involved. Service of this Motion shall satisfy the requirements of 11 U.S.C. §1302(d)(1)(C).

**3. DEBTOR'S DUTY TO FACILITATE NOTICE REGARDING DOMESTIC SUPPORT OBLIGATION**

In order to facilitate notice regarding domestic support claim holders and the applicable state agency provided for in 11 U.S.C. §1302, the debtor shall, at the same time the schedules are filed, provide to the Trustee the names, current addresses and telephone numbers, if known, of all persons to whom the debtor(s) owe a domestic support obligation. If the case is one under the auspices of a state attorney general, the address of the applicable attorney general's office may be supplied. At the same time debtor(s) shall provide to the Trustee the name, addresses and telephone numbers, if known, of the state child support enforcement agencies as set forth under §1302(d)(1)(A)(i) for the states in which the persons to whom debtor owes a domestic support obligation resides.

4. **PRE-CONFIRMATION PAYMENTS**

a. Debtors will make all pre-confirmation plan payments to the Chapter 13 Trustee.

b. Pre-confirmation adequate protection payments under 11 U.S.C. §1326(a)(1):

(1) All pre-confirmation payments required by §1326(c) will be made by the Chapter 13 Trustee. Unless the Court orders otherwise pursuant to a motion filed under paragraph 4b(4) below, the monthly installments proposed by the debtor(s) plan will be considered to provide adequate protection to such creditor.

(2) To be paid adequate protection payments, each secured creditor must file a claim, with adequate proof of security interest attached, with the Clerk of the Court, and serve it on the Chapter 13 Trustee, the debtor(s) and the debtor(s) attorney.

(3) If no claim objection is made by the debtor(s) or other party in interest, payments to secured creditors will commence, in accordance with the plan, with the next regular trustee disbursement after the 90th day following the filing of the petition if the plan has not been confirmed. The Trustee will retain one months plan payment to be paid to the attorney upon confirmation of the plan.

(4) A secured creditor may file a Motion for Adequate Protection Payment pursuant to 11 USC §363(e) if the creditor was not provided for in the plan or objects to the monthly payment proposed in the debtor's plan.

(5) If the case is dismissed prior to confirmation, the debtor(s) have filed a plan and made payments, then the money on hand with the Trustee, up to one month's plan payment, will be disbursed to the debtor's attorney and any remaining balance shall be disbursed in satisfaction of adequate protection payments in paragraph 4b(1) above, to the extent due.

(6) Any adequate protection payments made hereunder will reduce the principal amount of the recipient's claim unless otherwise ordered by the Court.

(7) The Trustee is allowed to take the statutory fee allowed on all such payments under this heading.

c. If the debtor(s) have not made a payment by the date the §341 Meeting of Creditors is first set, then the Trustee will file a Trustee's Motion to Dismiss (TMTD) and will ask the Court for an expedited hearing thereon.

**5. RETIREMENT LOAN REPAYMENT**

Debtor(s) are required to inform the Trustee, at the First Meeting of Creditors, of the expected final payment date of all retirement loans.

**6. VALUATION OF COLLATERAL**

- a. Except for the value of collateral securing the claim of a taxing authority, the value of collateral set out in the debtor's plan shall be the value fixed by the Court by confirmation of the plan, unless a timely objection is filed. The objection must specifically object to the proposed valuation and request a hearing thereon. Any objection to valuation will be heard at the confirmation hearing and no plan will be confirmed until the valuation objection is resolved, except for the value of collateral securing a claim of a taxing authority. Valuation by the Court does not relieve a secured creditor from the duty to file a proof of claim in order to be paid under the plan.
- b. In the event a creditor timely files a proof of claim which evidences a perfected security interest in collateral, which claim and collateral was not dealt with by the debtor's plan, or was treated as unsecured therein, the claim will be treated as secured and the collateral will be deemed valued by the Court at the amount set forth in the Trustee's Recommendation Concerning Claims, unless an objection or other response to the TRCC is timely filed.

**7. OBJECTIONS TO CONFIRMATION**

With the exception of objections to valuation of secured debt of taxing authorities, any objections to confirmation of the plan (including any objections to the valuation of specific creditors' collateral as set out in the plan), must be raised at or prior to the Meeting of Creditors (the §341 Meeting). The objection must be reduced to writing within ten (10) days after the Meeting of Creditors, or within 20 days of service of an amended Plan, and filed with the Court. Failure to affirmatively object to a proposed plan pursuant to the requirements of this paragraph constitutes acceptance of the plan under 11 U.S.C. §1325(a)(5)(A).

**8. GENERAL PROCEDURES REGARDING CONFIRMATION OF CERTAIN CASES**

- a. When, at the original §341 Meeting, the Trustee requires additional or corrected paperwork, the Meeting will be reset to a date two (2) weeks in the future. If the debtor(s) or their attorney can submit the required paperwork to the Trustee by the Wednesday of the week following the original §341 Meeting, neither the debtor(s) nor their attorney will be required to attend the reset meeting. If the paperwork is completed but not within the one week period, the debtor's attorney will have to attend the reset meeting and provide the required paperwork to the Trustee. If the

paperwork is not completed by the two week reset date, the debtor's attorney will be required to attend the reset §341 meeting and give the Trustee the status of the required paperwork. In the latter case, the Trustee will file an Objection to Confirmation for delay in not providing required "paperwork" and the debtor(s) and their attorney will then be required to attend the Confirmation hearing.

- b. In those cases where an Objection to Confirmation for "paperwork" has been filed by the Trustee, any paperwork which requires notice to creditors must be served, by the debtor(s) attorney or the pro se debtor(s), on all creditors and parties in interest, including the Trustee, at least 15 days prior to the scheduled confirmation hearing.
- c. In those cases where an Objection to Confirmation for "paperwork" has been filed but the necessary paperwork does not require notice to creditors, all "paperwork" needed by the Trustee must be provided to the Trustee at least 15 days prior to the scheduled confirmation hearing.
- d. In those cases where an Objection to Confirmation for "paperwork" reasons has NOT been filed but the Trustee requires documentation, such documentation must be provided to the Trustee at least 15 days prior to the scheduled confirmation hearing.
- e. In those cases where situations exist precluding confirmation, and there are "paperwork" problems (amended schedules, SOFA etc.) which would also preclude confirmation, the required documentation resolving the "paperwork" problems must be provided to the Trustee at least 15 days prior to the first confirmation hearing date.
- f. If debtor(s) have executed a Supplement to the Confirmation Order concerning unfiled tax returns, the Court may confirm a plan without all required tax returns having been filed. Should debtor(s) not timely file any required return within the time allowed by such Supplement, and the case is not confirmed, the Court may dismiss the case at the scheduled confirmation hearing on the oral motion of the Chapter 13 Trustee. The debtor(s) may request and receive an extension of time to file such returns upon showing to the Court that such failure was for cause or beyond their control.
- g. If no timely objection to confirmation is received by the Court, and the Trustee recommends confirmation, the Court may waive the confirmation hearing and an order may be submitted confirming the Plan.

## 9. **GENERAL PROCEDURES REGARDING AMENDED PLAN**

- a. If the plan is amended prior to Confirmation, the debtor/debtor's attorney shall file the amended plan and, when required, shall serve a copy of such amended plan prominently displaying the notice of the 20-day objection language.



- b. The amended plan shall be served, within two (2) days after filing, upon all adversely affected creditors and parties in interest, and, in all cases, upon the Chapter 13 Trustee.

10. **DUTIES OF TRUSTEES UNDER CHAPTERS 12 AND 13**

- a. Report of §341 Meeting and Recommendation Concerning Confirmation. After the conclusion of the first meeting of Creditors and prior to the scheduled hearing on confirmation of the plan, the Chapter 12 or 13 Trustee shall submit a report advising the Court of the Trustee's recommendation as to confirmation.
- b. Recommendation Concerning Claims. After the deadline for filing proofs of claims has passed, the Trustee shall file a Recommendation Concerning Claims and serve a copy thereof upon all creditors and parties in interest.
- c. No order will be entered approving the Chapter 13 Trustee's Recommendation Concerning Claims. Instead, if no objection or other response is timely filed, the Recommendation shall be binding upon all parties in interest, and the Chapter 13 Trustee is authorized to make disbursements according to the provisions of said Recommendation, without further order of the Court.
- d. If an objection or other response to the Recommendation Concerning Claims is timely filed, the Chapter 13 Trustee may nonetheless make distribution in accordance with the provisions of said Recommendation, except with respect to the claim which is the subject of the response or objection. The Chapter 13 Trustee shall 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 amount of money available for distribution to creditors, the Chapter 13 Trustee may adjust the payments to creditors accordingly, without having to file a further Recommendation Concerning Claims.
- e. The Recommendation Concerning Claims must prominently display the following notice:

**NO HEARING WILL BE CONDUCTED ON THE RECOMMENDATION CONCERNING CLAIMS (OR ITS TREATMENT OF ANY CLAIM) UNLESS A WRITTEN RESPONSE IS FILED WITH THE CLERK OF THE COURT AND SERVED UPON THE CHAPTER 13 TRUSTEE AT THE FOLLOWING ADDRESS: 1020 NE LOOP 410, SUITE 800, SAN ANTONIO, TEXAS 78209. SUCH RESPONSE MUST BE FILED AND SERVED WITHIN THIRTY (30 ) DAYS FROM THE DATE OF SERVICE INDICATED ON THE RECOMMENDATION CONCERNING CLAIMS, UNLESS**

**THE COURT, UPON MOTION, EXTENDS THE TIME FOR SUCH FILING. IF NO RESPONSE IS TIMELY FILED AND SERVED, THE TREATMENT OF CLAIMS REFLECTED IN THIS RECOMMENDATION CONCERNING CLAIMS SHALL BE DEEMED APPROVED BY THE COURT WITHOUT FURTHER HEARING OR ORDER. IF A RESPONSE IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING THEREON ON NOT LESS THAN 30 DAYS NOTICE.**

- f. In addition, the Recommendation Concerning Claims must contain the following paragraph, in bold face type:

**By order of the Court, the Trustee's Recommendation Concerning Claims shall be deemed to set a BAR DATE for objecting to claims, for contesting the validity or priority of liens, and for challenging the priority of claims. Said BAR DATE shall be deemed to be the 30<sup>th</sup> (thirtieth) day after the service of the Recommendation Concerning Claims, as reflected in the certificate of service attached thereto. Any objection, motion or adversary proceeding contesting the validity or priority of any claim 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 Standing Chapter 13 Trustee, the debtor, the debtor's counsel, claimants and all parties in interest.**

**11. GENERAL PROCEDURES REGARDING MOTIONS TO MODIFY PLANS (INCLUDING MOTIONS FOR "MORATORIA"), MOTIONS TO CURE PLAN ARREARAGES, MOTIONS TO SELL PROPERTY, AND MOTIONS TO INCUR DEBT**

- a. All post-confirmation Motions to Modify Chapter 13 Plans (other than modifications which increase plan payments without extending the plan term) must:
- (1). Be noticed to all creditors and parties in interest (including the Chapter 13 Trustee);
  - (2). Unless a hearing is specifically requested, contain negative notice language affording creditors a twenty-day opportunity to file objections to the proposed relief;

- (3). Specifically indicate the number of months (if any) which the motion proposes to extend the term of the Plan from the date of Confirmation through completion and,
    - (4). Contain an amended Schedule I and J if there are any changes. The only exception to this requirement are Motions to Modify for Suspension of Plan Payments (Moratoriums).
  - b. These motions do not require "pre-approval" from the Chapter 13 Trustee. A motion for "moratorium" or to "cure plan arrearages" or "to temporarily suspend plan payments" is a motion to modify the plan.
  - c. Special procedures apply to motions to modify plan which are filed in response to a Trustee's Motion to Dismiss. See ¶ 14, *infra*.
  - d. Unless a hearing is specifically requested, all debtors' Motions to Sell Property and all Motions to Incur Debt may be filed with 20 day negative notice language. Such motions do not require the Trustee's "pre-approval."
12. **EXPEDITED PROCEDURES REGARDING MOTIONS TO MODIFY PLANS (INCLUDING MOTIONS FOR "MORATORIA"), MOTIONS TO CURE PLAN ARREARAGES, MOTIONS TO SELL PROPERTY, AND MOTIONS TO INCUR DEBT**

- a. If expedited consideration of any of the foregoing motions in ¶ 11, *supra*, is required, then the following procedures apply:
  - (1). The motion must be entitled as follows:

***Expedited Motion, with Ten (10) Day Notice,  
to [Relief Requested]***
  - (2). The motion must be served on all creditors and parties in interest, including the Chapter 13 Trustee, and must contain the following notice prominently indicated on the first page of the motion:

**YOU HAVE TEN (10) DAYS TO OBJECT TO THIS MOTION. IF THE COURT DETERMINES THAT THIS MOTION DOES NOT QUALIFY FOR EXPEDITED CONSIDERATION, THIS MOTION MAY BE SET FOR HEARING IN THE ORDINARY COURSE. YOU WILL RECEIVE NOTICE OF THAT SETTING.**

**OTHERWISE, IF NO OBJECTIONS ARE TIMELY FILED TO THIS MOTION, AND THE COURT IS SATISFIED THAT THIS MOTION**

**QUALIFIES FOR EXPEDITED CONSIDERATION, NO HEARING WILL BE SET, AND THE COURT WILL ENTER AN ORDER GRANTING THE RELIEF REQUESTED.**

- (3). The motion must set out specific grounds for expedited consideration.
- b. These motions do not require "pre-approval" by the Chapter 13 Trustee. Failure to include either the appropriate title, as required in ¶ 12(a)(1), or to include the required notice language as set out in ¶ 12(a)(2), may result in the motion being set in the ordinary course.
- c. The foregoing procedure is to be employed in lieu of motions for expedited hearing. The Court may, in its discretion, deny the request for expedited hearing and may set the motion for hearing in the ordinary course.

**13. EMERGENCY REFUNDS**

- a. In a valid emergency, when the debtor can demonstrate the need for an immediate refund, the Chapter 13 Trustee is authorized to issue an immediate refund of plan payments to the debtor, upon the following conditions:

- (1). A motion must be filed which must bear the following title:

**Motion for Emergency Refund**

- (2). A copy of the motion is to be furnished to the Chapter 13 Trustee, accompanied by a Trustee Refund Request Form (forms available from the office of the Chapter 13 Trustee).
- (3). The motion must set out specific grounds for the emergency refund.
- (4). The motion must include provision for positive cure (i.e., affirmative repayment) of the amount refunded without an extension of plan payments.
- b. The Trustee is authorized to issue the refund prior to the Court's ruling on the motion.

**14. TRUSTEE'S MOTIONS TO DISMISS CASE AND DEBTORS' MOTIONS TO MODIFY IN RESPONSE TO THE TRUSTEE'S MOTION**

- a. A Trustee's Motion to Dismiss Case (TMTD) shall be set for hearing not less than 60 days from the date of service of the motion.

- b. If the debtor desires to cure the default and continue the Chapter 13 case, then the debtor must respond to the TMTD with a Motion to Modify Plan in Response to Trustee's Motion to Dismiss. The debtor's motion must be entitled:

**DEBTOR'S MOTION TO MODIFY PLAN IN  
RESPONSE TO TRUSTEE'S MOTION TO DISMISS CASE**

- c. The Motion to Modify Plan in Response to Trustee's Motion to Dismiss Case must contain the following special twenty-day notice language prominently indicated on the first page of the pleading:

**IF YOU OBJECT TO THIS MOTION TO MODIFY PLAN, YOU MUST FILE A WRITTEN OBJECTION WITH THE CLERK OF THE COURT WITHIN TWENTY (20) DAYS OF THE DATE OF SERVICE OF THIS MOTION. IF AN OBJECTION IS FILED, THEN A HEARING ON THE MOTION WILL BE HELD ON [DATE OF HEARING] AT [TIME OF HEARING]. FAILURE TO FILE A TIMELY OBJECTION AND TO APPEAR AT THE HEARING MAY RESULT IN THE COURT'S GRANTING THE RELIEF REQUESTED.**

- d. The foregoing notice must supply (where indicated), the date and time of hearing on the Trustee's Motion to Dismiss Case (as any objection to the Motion to Modify Plan will be heard at the same time). If no objections are timely filed, then no hearing will be held on the Motion to Modify Plan.
- e. The Motion to Modify Plan in Response to Trustee's Motion to Dismiss Case must be filed and served not less than twenty-five (25) days prior to the scheduled hearing on the Trustee's Motion to Dismiss.
- f. If the Motion to Modify Plan in Response to Trustee's Motion to Dismiss proposes a cure for the default, the month in which the plan payment is to resume must be stated in such Response and the Plan payment must commence in the stated month.
- g. Agreed Orders in conjunction with TMTD cases, are prepared by the Trustee and must be signed by the debtor, or the debtor's attorney, and returned to the Trustee no later than ten (10) days after the TMTD hearing date. If not returned to the Trustee within the ten (10) days the Trustee will submit the agreed order to the Court without the debtor attorney's signature.
- h. The Trustee's "pre-approval" is not required for Motions to Modify Plans in Response to Motions to Dismiss Case.

- i. If a Motion to Modify Plan in Response to Trustee's Motion to Dismiss Case fails to contain the foregoing title, requisite notice, or hearing date and time, or if the motion is not timely filed, then the Court may dismiss the debtor's motion to modify for failure to comply with these procedures.
- j. If, prior to the hearing, the debtor(s) cure the default that is the basis of the TMTD, then no written response is necessary and the Trustee and the debtor may submit an appropriate Order.

**15. FEDERAL INCOME TAX RETURNS IN CHAPTER 13 CASES**

Debtor(s) are required to send a copy of any federal income tax return that is due after the filing of the petition to the Chapter 13 Trustee at the same time the return is filed with the IRS. The Debtors may send a transcript in lieu of the actual return. Transcripts are available free from the IRS by calling 1-800-829-1040, or filing Form 4506-T. This form is located at [www.irs.gov](http://www.irs.gov).

**16. FEES FOR ATTORNEYS REPRESENTING DEBTORS**

- a. The Bankruptcy Court for the Western District of Texas, San Antonio Division, may determine and maintain a standard benchmark fee for routine business and non-business Chapter 13 cases.
- b. In a routine non-business chapter 13 case, the following services are presumed to be included in the benchmark fee:
  - (1). All pre-confirmation conferences with the debtor(s);
  - (2). Preparation of Petition, Schedules, Statement of Financial Affairs, Plan and any amendments thereto;
  - (3). Attendance at all §341 First Meetings of Creditors and any reset meetings;
  - (4). Attendance at confirmation and discharge hearings (including any reset confirmation hearings);
  - (5). Preparation of routine motions, which are presumed to include, but not limited to, the following:
    - A. Motions to waive pay order;

- B. Motions to pay filing fees in installments;
  - C. Motion for pre-confirmation modifications for moratorium;
  - D. Motions to avoid liens.
- (6). Representing the Debtor in responding to one Motion to Lift Stay on the debtor(s) residence and modification of the plan if required.
  - (7). Responses to motions to lift stay concerning debtor(s) vehicles;
  - (8). One motion to modify for post confirmation moratorium;
  - (9). Assisting debtor(s) with the Questionnaire required at the end of the case. (See paragraph 2.c. above.)
- c. Notwithstanding the foregoing paragraphs, 1 through 9, an attorney may, for cause shown, request additional fees for the services listed. If so, the attorney must file a request for additional fees as set forth below.
  - d. An attorney in a Chapter 13 case may only request and obtain an award for fees for additional services beyond those specified above by court order, on motion, notice, and an opportunity for hearing. Such requests may be by separate motion, 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, any additional fees previously awarded or pending), and the basis for the request. Absent unusual circumstances, any additional attorney fees awarded pursuant to court order will be paid monthly at the rate of \$100, or in the amount necessary to complete payment within the remaining term of the Plan.
  - e. In the first disbursement following confirmation, the Trustee shall make distribution of attorney's fees equal to one month's plan payment plus an amount equal to the monthly payment of attorney fees, not to exceed \$100.00 per month, times the number of months of payments due as monthly payments of attorney fees. In subsequent disbursements, distribution of attorney's fees shall be limited to not more than \$100 per month. The plan must specifically state the monthly amount to be disbursed in attorney's fees.

- f. Notwithstanding “e” above, debtor attorneys may receive all available funds, after Trustee expenses, where the Plan payment is sufficiently large, where no secured or higher priority creditors remain unpaid or in order to complete the term of the plan.

#### 17. **DISMISSAL**

Should the debtor(s) fail to file the documents required under §521, then, upon the filing of a motion to dismiss by a party in interest, the case may be dismissed without hearing if no objections are filed.

#### 18. **DEBTOR EDUCATION**

To receive a discharge from their debts, debtor(s) must attend the instructional course in personal financial management offered by the Chapter 13 Trustee immediately before the §341 First Meeting of Creditors. Exceptions to this requirement may be granted upon notice and hearing before the Court. Debtors will not be charged for attendance at this mandatory class.

#### 19. **DISCHARGE HEARINGS**

- a. Within fifteen (15) days of disbursement of the final payment under the plan, the Trustee will send the Questionnaire at Exhibit “D” to the debtor(s) and the debtor(s) attorney. The debtor(s) must complete and return this Questionnaire to the Trustee within (30) days of receipt. Upon the Trustee’s receipt of the Questionnaire, and if debtor(s) qualify for such relief, the Trustee will file a Motion, with 20 day negative notice language, to Enter a Discharge. If no objections to the Trustee’s motion are filed within the 20 day negative notice period, the discharge hearing may be waived by the Court and a discharge entered.
- b. If, for some reason, the Trustee does not believe that the debtor(s) qualify for a discharge, he will file a Motion to Set Discharge Hearing and will set out therein the grounds he believes preclude discharge.

#### 20. **NOTICE**

The substantive provisions of this Standing Order shall be noticed by the Chapter 13 Trustee.

The Clerk of the Court shall give notice of this Order by serving a copy on the Chapter 13 Trustee for the San Antonio Division of the Western District of Texas.

**IT IS SO ORDERED**

###



**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

<b>IN RE:</b>	§	<b>Case No.</b>
<b>Debtor(s)</b>	§	
	§	<b>CHAPTER 13 PLAN</b>

To the Honorable United States Bankruptcy Judge:

Comes now the Debtor(s) herein and, as required by 11 U.S.C. §1321, files this Debtor's Chapter 13 plan, and in support thereof would show the Court as follows:

**Monthly Plan Payment**

Debtor(s) shall each month submit such portion of Debtor's future earnings (or other future income) to the supervision and control of the Chapter 13 Trustee as is necessary for the execution of this plan. Payments by Debtor to the Trustee shall begin within thirty (30) days after the date the Order for relief is entered unless otherwise allowed by the Court. The Debtor's monthly plan payment shall be an amount equal to the Debtor's monthly disposable income or an amount sufficient to pay the claims of general unsecured creditors in full over the term of the plan, whichever first occurs.

**Duration of Plan**

The term of the plan shall not exceed sixty (60) months from the date the first monthly plan payment is due or until the claims of general unsecured creditors are paid in full, whichever first occurs, provided that the term may be extended by the granting of a moratorium by the Court after proper notice and opportunity for hearing, or other modification of the plan granted by the Court after proper notice and opportunity for hearing. Regardless of the total term, unless there has been a change in circumstances, the plan shall be deemed to have been completed when the Chapter 13 Trustee has received from or on behalf of the Debtor(s) an amount equal to the number of months specified in the Plan times the monthly plan payment or an amount necessary to pay the claims of general unsecured creditors in full, whichever first occurs, and as adjusted by any post-confirmation modifications of the amount of the monthly plan payment.

**Payment of Claims**

Allowed claims shall be paid to the holders thereof in accordance with the terms hereof. From the monthly payments described above, the Chapter 13 Trustee shall pay the following

allowed claims in the manner and amounts specified. Claims filed by a creditor designated as secured or priority but which are found by the Court to be otherwise shall be treated as set forth in the Trustee's Recommendation Concerning Claims (TRCC).

**Local Rule 3002 provides, in part, that EVERY creditor filing a proof of claim in all cases SHALL transmit a copy with attachments, if any, to the Debtor's attorney (or the Debtor if the Debtor is pro se) and the Trustee appointed in the case.**

**A. Administrative Expenses:** The Trustee shall pay the expenses, as prescribed by the Court, for administering the plan. The first monthly plan payment shall be paid to the Debtor's attorney as attorney's fees. The balance, if any, of Debtor's attorney's fees shall be paid concurrently with allowed secured claims in consecutive monthly installments. Such fees shall be paid in full prior to any payments being made to general unsecured creditors. Once Debtor's attorney fees are paid in full, those funds will be paid, pro rata, first to secured creditors then, to priority creditors and then to unsecured creditors.

**B. Priority Claims:** Other than Debtor's attorneys' fees, payment of which is provided for in the preceding paragraph, claims entitled to priority under 11 U.S.C. §507, except a claim entitled to priority under §507(a)(1)(B), shall be paid in full, pro rata, unless a specific payment amount is assigned to a particular priority claim, in deferred installments as funds become available upon completion of payment of attorneys' fees and allowed secured claims. The holder of any such claim may agree to a different treatment of such claim. Claims allowed under §507(a)(1)(B) are not dischargeable and may be paid less than the full amount only if the Debtor's disposable income is paid into the plan for 5 years.

**C. Secured Claims:** In the event a secured claim is treated pursuant to 11 U.S.C. § 1325(a)(5)(B), secured creditors whose claims are allowed shall be paid, in consecutive monthly installments, a principal amount equal to the value of their collateral or the amount of their net claim, whichever is less, plus interest thereon at the applicable rate. Unless objected to, the monthly installments proposed by the Debtor will be considered to provide adequate protection to such creditor during the term of the plan. The holders of such claims shall retain their liens on the collateral which is security for such claims (except for those liens which the Debtor(s) avoids by proper pleading and opportunity for hearing thereon) until the earlier of the payment of the underlying debt (determined under non-bankruptcy law) or discharge pursuant to §1328. If the case is dismissed or converted without completion of the plan, such lien is retained to the extent allowed by applicable non-bankruptcy law. The value of the collateral shall be deemed to be the value established by the Debtor, subject to objection, and, accordingly, the amount of the secured claim shall be established in the manner provided by the Local Rules and Standing Order of the United States Bankruptcy Court for the Western District of Texas, San Antonio Division, and the *Notice of Chapter 13 Bankruptcy Case, Meeting of Creditors, & Deadlines*. In the event a creditor timely

files a proof of claim which evidences a perfected security interest in collateral, which claim and collateral was not dealt with by the Debtor's plan, the collateral will be deemed valued by the Court at the amount set forth in the Trustee's Recommendation Concerning Claims (TRCC), unless a response and objection to the TRCC is timely filed.

**D. Unsecured Claims:** Unsecured claims may be separately classified provided, however, that all claims within a particular class shall be treated the same. Any unsecured claim not over \$50.00 may be paid pro rata, in equal installments or in full, at the election of the Trustee. The classes, generally, will be as follows:

**1. General unsecured:** The class of "general unsecured" claims shall comprise the claims of all creditors holding unsecured nonpriority claims, not otherwise designated as "special class" unsecured claims, including the unsecured portion of a secured creditor's bifurcated claim (i.e., the difference between the value of the collateral and the total amount of the claim) and secured claims the liens securing which have been avoided. Payments to general unsecured creditors shall be made on a pro rata basis as funds become available after secured and priority claims have been paid in full. The amount paid to general unsecured claimants shall depend on such factors as the total amount of claims actually filed and allowed, but the total amount paid to unsecured creditors shall be equal to or greater than the amount such creditors would receive, as of the effective date of the plan, if the Debtor's estate were liquidated under Chapter 7 of the United States Bankruptcy Code. In the event the Debtor owns non-exempt assets the liquidation of which would result in the immediate payment in full of all allowed general unsecured claims were the Debtor's estate liquidated under Chapter 7 of the United States Bankruptcy Code, then the Debtor shall pay the holders of such claim interest at the rate of five percent (5 %) per annum on allowed claims over the term of the Chapter 13 plan. Interest that would otherwise accrue during the life of the plan is discharged upon completion of the plan, except for any interest accruing on a debt to any general unsecured creditor whose debt (and/or interest) is nondischargeable under the law.

**2. Special class:** The class of "special class" claims shall comprise those claims that would otherwise be general unsecured claims but that the Debtor(s) has elected to pay in full despite the fact that general unsecured claims are not paid in full. Such claims include, but are not limited to, claims arising out of consumer debts for which any individual is liable with the Debtor by way of co-signature, guarantee, endorsement or otherwise ("co-signed debts"), claims based on NSF checks (or any other claims which might result in criminal prosecution), and student loans.

### **Vesting of Estate Property**

Upon confirmation of the plan, all property of the estate shall not vest in the Debtor(s), but shall remain as property of the estate subject to the automatic stay of 11 U.S.C. §362.

### **Executory Contracts/Unexpired Leases:**

Pursuant to 11 U.S.C. §1322(b)(7) of the Bankruptcy Code, the Debtor(s) hereby elects to assume or assign the following executory contracts, if any:

Pursuant to 11 U.S.C. §1322(b)(7) of the Bankruptcy Code, the Debtor(s) hereby elects to reject the following executory contracts, if any:

### **Direct Payments to Creditors**

Certain claims may be paid directly to the holders thereof, not by the Chapter 13 Trustee, but rather by the Debtor(s) or some other party who shall be deemed acting as disbursing agent of the Trustee for payment of such claims. Creditors receiving such direct payments outside the plan may continue to issue payment books, coupons and any other method normally used to make and receive periodic payments and this shall not violate the provisions of 11 U.S.C. §362.

Such payments shall be made in addition to the payments by Debtor to the Trustee as herein set forth.

If a creditor is allowed by Court Order to foreclose on, or otherwise take back his/her property, such creditor must notify the Chapter 13 Trustee immediately upon regaining the property. Upon entry of an Order Lifting Stay, the Trustee shall stop any further payment on that claim.

Any creditor who has obtained an order lifting the automatic stay, or an inferior lienholder in the case desiring to file a deficiency claim, must file such claim by amending or replacing their claim within 90 days of the property's reversion to the first lienholder.

### **Long Term Debts**

Any amount not paid during the term of the plan on secured debts upon which the last payment is due after the final payment under the plan is due ("long term debts") shall not be discharged. In the event the debt is secured by any real or personal property and either the holder of such secured claim obtains relief from the stay of 11 U.S.C. §362 for the purpose of foreclosing its lien on or security interest in such property or the Debtor elects to surrender the property to the creditor, then the entire debt shall be discharged pursuant to 11 U.S.C. §1328(a) or 11 U.S.C. §1328(b) and shall not be excepted from such discharge by 11 U.S.C. § 1328(a)(1) or 11 U.S.C. § 1328(c)(1). A creditor may file an unsecured claim in the amount of any resulting deficiency after the collateral is liquidated and the proceeds thereof applied against the claim within ninety (90) days of such liquidation unless the Court orders otherwise.

### **Additional Provisions**

Additional information, provisions and requirements are set forth in the Local Rules and Standing Orders of the United States Bankruptcy Court for the Western District of Texas, San Antonio Division, and in the *Notice of Chapter 13 Bankruptcy Case, Meeting of Creditors, & Deadlines* which will be mailed to all parties affected hereby. These documents should be consulted in connection with any analysis of this plan and the effect thereof.

Proposed payments to individual creditors and the amount of payments to unsecured creditors may change as a result of the Meeting of Creditors or as Proofs of Claim are filed and allowed. Creditors may wish to attend the meeting of creditors and should be aware of any changes. All changes will be listed in the TRCC which will be served on all creditors after the deadline for filing proofs of claim has expired.

## Specific Treatment for Payment of Allowed Claims

These are proposed treatments. Actual treatment may be different. When claims are finalized, you will be served with the "Trustee's Recommendation Concerning Claims" and the opportunity to object.

### **1. Direct Payments to Creditors**

Creditor Name	Remarks	Debt Amount	Monthly Payment
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### **2. SECURED CREDITORS:** (Refer to paragraph C)

Creditor/Co llateral	Est. Amount	Est. Value	Unsecured Portion	Mo. Pmt or Method of Disb.	Insured (yes/no) Name of Insurance	Indicated if to be Sold or Returned	Interest Rate	Remarks
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### **3. PRIORITY CREDITORS:** (Refer to paragraph B)

Creditor	Estimated Amount of Debt	Payment Method 1. Before 2. After 3. Along with Secured Creditors	Remarks
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### **4. SPECIAL CLASS UNSECURED CREDITORS:** (Refer to paragraph D-2)

Creditor	Special Condition	Est. Debt	Mo. Pmt or Method of Disb. on Est. Value	Remarks
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### **5. GENERAL UNSECURED CREDITORS:** (Refer to paragraph D-1)

Creditor	Estimated Debt	Remarks
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**Totals:**

**Priority** \_\_\_\_\_ **Secured** \_\_\_\_\_ **Special Class** \_\_\_\_\_ **Unsecured** \_\_\_\_\_

General Information

**Notice: Local Rule 3002 provides, in part:**

***"Every Creditor filing a Proof of Claim in all cases shall transmit a copy with attachments, if any to the Debtor's Attorney (or the Debtor if the Debtor is pro se) and the Trustee appointed in the case."***

Creditors are hereby notified that WITHOUT FURTHER NOTICE the Plan may be amended at the Meeting of Creditors (341(a) meeting). Any amendment may affect your status as a creditor. The Debtor's estimate of how much the Plan will pay, projected payments and estimates of the allowed claims may also change. The following information is an attempt to advise Creditors of the status of the case based on the information known at the time of its preparation. Any special concerns of a creditor may justify attendance at the First Meeting of Creditors and such other action as may be appropriate under the circumstances. More detailed information is on file at the office of the United States Bankruptcy Clerk in San Antonio, Texas.

1. The Debtor's Plan Payment is scheduled at \_\_\_\_\_ per month. ☐ Pay Order, ☐ Pay Order waived.
  2. The Plan proposes to pay in full all allowed priority, special class and secured claims to the extent of the value of the collateral and a total of no less than \$ \_\_\_\_\_ will be paid to nonpriority unsecured creditors with allowed claims during the Plan. Unsecured creditors will receive approximately \_\_\_\_% of allowed claims. (See Note 1).
  3. Value of non-exempt assets \_\_\_\_\_, ☐ Federal or ☐ State exemptions; ☐ Consumer Debtor or ☐ Business Debtor.
  4. Current Monthly Income \_\_\_\_\_, - Amounts Reasonably Necessary to Be Expended \_\_\_\_\_ =  
Monthly Disposable Income \_\_\_\_\_. (From Form B22C)
- and/or
5. Monthly net income from Schedule I \_\_\_\_\_, - Expenses from Schedule J \_\_\_\_\_ =  
Excess income
  6. If the payment of any debt is proposed to be paid directly by the Debtor outside the Plan, it is so noted in the "Specific Treatment of Allowed Claims" set forth above.

Note 1: Creditors should note that the Debtor's projection of the percentage payment of allowed general unsecured claims is only an estimate. Such percentage is based upon the amount of debt of all classes listed by the Debtor(s) in the Debtor(s) schedules filed with the Court. If claims or amended claims are filed and allowed by the Court in an amount greater or lesser than that scheduled by the Debtor(s), the percentage paid to unsecured creditors may be different than is estimated here.

**SUPPLEMENTAL PLAN PROVISIONS**

The above plan is a uniform Chapter 13 plan adopted for use in the San Antonio Division of the Western District of Texas. None of its provisions can be altered except as hereinafter set forth in this Supplemental Plan Provision. To the extent any provision of the Supplemental Plan is in conflict with the provisions in the uniform plan, the Supplemental Plan shall prevail. Any provisions in the Supplemental Plan not provided for in the uniform plan shall become a part of the plan in addition to the provisions of the uniform plan.

The following are the Supplemental Plan Provisions:

Respectfully submitted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Debtor

**EXHIBIT A**

## **Additional Court-Ordered Notices**

### **Plan**

A Plan is attached. Please review it carefully. It sets out the proposed treatment of all creditors, including the proposed valuation of all collateral. The Plan may be amended without further notice at the first meeting of creditors, and such amendments may affect your treatment as a creditor.

### **Amended Plan**

If the plan is amended prior to Confirmation, the Debtor/Debtor's attorney shall file the Amended Plan and shall serve a copy of such Amended Plan prominently displaying the notice of 20-day objection language upon all adversely affected creditors and parties in interest, and, upon the Chapter 13 Trustee, in all cases, within two (2) days after filing. Creditors may object to confirmation of any such amended plan.

### **Proofs of Claim**

Proofs of claim must be filed and a copy (with all attachments) shall be served on the debtor's attorney (or the debtor, if the debtor is pro se) and the Chapter 13 Trustee appointed in the case. Secured creditors must attach proof of their perfected secured status. Secured and priority creditors are strongly urged to file their claims *prior to* the meeting of creditors so that the Plan's feasibility can be determined at that time.

### **Objections to Confirmation**

With the exception of objections to valuations of secured debt of the taxing authorities, any objections to Confirmation of the Plan (including any objections to the valuation of specific creditors' collateral as set out in the Plan Summary), must be raised *at or prior to* the meeting of creditors (the §341 meeting). The objection must be reduced to writing within ten (10) days after the completion of the meeting of creditors and filed with the Court.

### **Confirmation Hearings**

If there are no timely objections to Confirmation of the debtor's Plan (or to the proposed valuations of creditors' collateral) and the Trustee otherwise recommends Confirmation, the actual Confirmation Hearing will be deemed waived by all parties, and the Court may enter an Order Confirming the Plan prior to the scheduled Confirmation Hearing date, and the debtor is excused from attending. Absent a specific objection to Confirmation from a taxing authority, valuation issues concerning taxing authorities will not preclude the Confirmation of a Plan and will be addressed through either the claims objection process or the Trustee's Recommendation Concerning Claims.

If there is a timely objection to the debtor's Plan or to the proposed valuation of any item of collateral, then the Confirmation Hearing will be held on the date set, at which hearing the Court may consider and decide all Confirmation and valuation issues raised by the objections. If there are no timely objections, but the Trustee *does not* recommend Confirmation, then there shall be a Confirmation Hearing.

### **The Debtor and the Debtor's Attorney Shall Attend This Confirmation Hearing.**

### **Valuation of Collateral**

Except for the value of collateral securing a claim of a taxing authority, the value of collateral set out in the debtor's Plan (see the Plan) shall be the value fixed by the Court by Confirmation of the Plan, unless a timely Objection to Confirmation is filed. The objection must specifically object to the proposed valuation and request a hearing thereon. Any objection to valuation will be heard at the Confirmation Hearing, and no Plan will be confirmed until the valuation objection is resolved, except for the value of collateral securing a claim of a taxing authority. The valuation of collateral by the Court shall not relieve a secured creditor from the duty to file a Proof of Claim in order to be paid under the Plan.

In the event a creditor timely files a Proof of Claim which evidences a perfected security interest in collateral, which claim and collateral were not dealt with by the debtor's Plan, the collateral will be deemed valued by the Court at the amount set forth in the Trustee's Recommendation Concerning Claims, unless a response or objection is timely filed.



### **Bar Date for Objection to Claims**

All objections to any Proof of Claim must be filed no later than thirty (30) days after the date of service of the Trustee's Recommendation Concerning Claims (which will be served on all creditors). Absent objections, all claims will be deemed allowed as set forth in the Trustee's Recommendation Concerning Claims.

### **Summary Dismissal**

The Court may dismiss a Chapter 13 case upon certification from the Clerk of the Court or the Chapter 13 Trustee, with notice to the debtor and/or the debtor's attorney and a ten-day opportunity to cure, for the debtor's failure to pay filing fees (including installment filing fees) when due.

The Court may dismiss a Chapter 13 case upon certification from the Chapter 13 Trustee of the debtor's failure to appear at the first meeting of creditors, when such nonappearance has not otherwise been excused by an order of this Court.

The Court may, at the Confirmation Hearing and upon request of the Chapter 13 Trustee at said hearing, dismiss a Chapter 13 case for failure of the debtor to obtain Confirmation of the Chapter 13 Plan.

**By Order of the Court  
United States Bankruptcy Judge**

EXHIBIT A-1

**Insert with 341 Notice on cases filed *without* Schedules and Plan**

**Additional Court-Ordered Notices**

**SERVICE REQUIREMENTS**

The Schedules and/or Plan were not filed with the original petition. The debtor and/or the debtor's attorney must file these documents and must serve a copy of the Plan on all creditors and parties in interest within two (2) days after filing. A certificate of such service shall be filed with the Clerk, and a copy thereof shall be sent to the Chapter 13 Trustee.

**Notice to the Debtor and the Debtor's Attorney of reasons for Summary Dismissal**

If the Plan and Schedules are not filed and either a file-stamped copy or a Declaration for Electronic Filing shall be served on the Chapter 13 Trustee within 15 days of the filing of the case (unless the time for filing has been extended by the Court), or if the debtor fails to serve the Plan as directed herein, then the Trustee may certify these facts to the Court, and the Court may summarily dismiss this case without further notice of hearing.

The Court may dismiss a Chapter 13 case upon certification from the Clerk of the Court or the Chapter 13 Trustee, with notice to the debtor and/or the debtor's attorney and a ten-day opportunity to cure, for the debtor's failure to pay filing fees (including installment filing fees) when due.

The Court may dismiss a Chapter 13 case upon certification from the Chapter 13 Trustee of the debtor's failure to appear at the first meeting of creditors, when such nonappearance has not otherwise been excused by an order of this Court.

The Court may, at the Confirmation Hearing and upon request of the Chapter 13 Trustee at said hearing, dismiss a Chapter 13 case for failure of the debtor to obtain Confirmation of the Chapter 13 Plan.

**Plan**

A Plan has not yet been filed but will be served on all creditors when filed or the case will be summarily dismissed. Please review the Plan carefully. It sets out the proposed treatment of all creditors, including the proposed valuation of all collateral. The Plan may be amended without further notice at the first meeting of creditors, and such amendments may affect your treatment as a creditor.

**Amended Plan**

If the Plan is amended prior to Confirmation, the Debtor/Debtor's attorney shall file the Amended Plan and shall serve a copy of the Amended Plan prominently displaying the notice of 20-day objection language upon all adversely affected creditors and parties in interest, and upon the Chapter 13 Trustee, in all cases, within two (2) days after filing. Creditors may object to confirmation of any such amended plan.

**Proofs of Claim**

Proofs of Claim must be filed and a copy (with all attachments) shall be served on the debtor's attorney (or the debtor, if the debtor is pro se) and the Chapter 13 Trustee appointed in the case. Secured creditors must attach proof of their perfected secured status. Secured and priority creditors are strongly urged to file their claims *prior to* the meeting of creditors so that the Plan's feasibility can be determined at that time.

**Objections to Confirmation**

With the exception of objections to valuations of secured debt of the taxing authorities, any objections to Confirmation of the Plan (including any objections to the valuation of specific creditors' collateral as set out in the Plan), must be raised *at or prior to* the meeting of creditors (the § 341 meeting). The objection must be reduced to writing within ten (10) days after the meeting of creditors and filed with the Court.

**Confirmation Hearings**

If there are no timely objections to Confirmation of the debtor's Plan (or to the proposed valuations of creditors' collateral), and the Trustee otherwise recommends Confirmation, the actual Confirmation Hearing will be deemed waived by all parties, and the Court may enter an Order Confirming the Plan prior to the scheduled Confirmation Hearing date, and the debtor is excused from attending. Absent a specific objection to Confirmation from a taxing authority, valuation issues concerning taxing authorities will not preclude the Confirmation of a Plan and will be addressed through either the claims objection process or the Trustee's Recommendation Concerning Claims.

If there is a timely objection to the debtor's Plan or to the proposed valuation of any item of collateral, then the Confirmation Hearing will be held on the date set, at which hearing the Court may consider and decide all confirmation and valuation issues raised by the objections. If there are no timely objections, but the Trustee *does not* recommend Confirmation, then there shall be a Confirmation Hearing.

**The Debtor and the Debtor's Attorney Shall Attend This Confirmation Hearing.**

**Valuation of Collateral**

Except for the value of collateral securing a claim of a taxing authority, the value of collateral set out in the debtor's Plan (see the Plan ) shall be the value fixed by the Court by Confirmation of the Plan, unless a timely Objection to Confirmation is filed. The objection must specifically object to the proposed valuation and request a hearing thereon. Any objection to valuation will be heard at the Confirmation Hearing, and no Plan will be confirmed until the valuation objection is resolved, except for the value of collateral securing a claim of a taxing authority. The valuation of collateral by the Court shall not relieve a secured creditor from the duty to file a Proof of Claim in order to be paid under the Plan.

In the event a creditor timely files a Proof of Claim which evidences a perfected security interest in collateral, which claim and collateral were not dealt with by the debtor's Plan, the collateral will be deemed valued by the Court at the amount set forth in the Trustee's Recommendation Concerning Claims, unless a response or objection is timely filed.

**Bar Date for Objection to Claims**

All objections to any Proof of Claim must be filed no later than thirty (30) days after the date of service of the Trustee's Recommendation Concerning Claims (which will be served on all creditors). Absent objections, all claims will be deemed allowed as set forth in the Trustee's Recommendation Concerning Claims.

**By Order of the Court  
United States Bankruptcy Judge**

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

IN RE: § CHAPTER 13  
DEBTOR(S) § CASE NO.:

INTERIM RULE 4002(b)(3) EXTENSION

If the following tax returns are not filed with the Internal Revenue Service by the deadline indicated below, and the case has not been confirmed, the Trustee may orally request Summary Dismissal of the case at the scheduled Confirmation hearing. If your case has been confirmed and the required returns are not filed by the deadline below, the Trustee will file, and move to expedite, a Motion to Dismiss the case.

(1040/940/941) Tax returns for the following tax year(s)

Other:

Deadline for filing all of the above: \_\_\_\_\_

A return is considered filed in the following circumstances:

1. Receipt of Tax Return form from the IRS or Substitute Presiding Officer stating that the return(s) were provided at the §341 Meeting of Creditors.
2. File stamped copy of the return from the local IRS office.
3. Possession of the "green card" return receipt showing the return(s) were mailed to the following address:

Special Procedures  
300 E. 8<sup>th</sup> Street  
Stop 5026 AUS  
Austin, Texas 78701

Approved:

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

Marion A. Olson, Jr.  
Chapter 13 Trustee

EXHIBIT B

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

**IN RE:**  
**DEBTOR(S)**

§  
§  
§  
§

**BANKRUPTCY NO:**

**CHAPTER 13**

**DECLARATION OF THE DEBTOR(S) CONCERNING CONFIRMATION REQUIREMENTS**

The Debtor(s), \_\_ (Name(s)) \_\_\_\_, in the above captioned case, being duly sworn upon oath, state as follows (check all applicable statements):

1. \_\_\_\_ A. Since the filing of this bankruptcy, I/We have not been required by a judicial or administrative order or, or by statute, to pay any domestic support obligation as defined in 11 U.S.C. §101(14A).

**OR**

- \_\_\_\_ B. I/We have paid all amounts that first became due and payable after the filing of this bankruptcy, which I/We am/are required to pay under a domestic support obligation [as defined in 11 U.S.C. §101(14A)] required by a judicial or administrative order, or by statute.

2. \_\_\_\_ A. I/We have filed all federal, state and local tax returns required by law to be filed for all taxable periods ending during the 4 year period prior to the filing of this bankruptcy.

**OR**

- \_\_\_\_ B. I/We have signed an Interim Rule 4002(b)(3) Extension certifying that all required tax returns will be filed no later than \_\_\_\_.

**By signing this affidavit, I/We acknowledge that all statements contained herein are true and accurate and that the Court may rely on the truth of each of these statements in determining whether to confirm the Chapter 13 Plan. The Court may revoke confirmation of the Chapter 13 Plan if the statements relied upon are not accurate. Debtor(s) understand that, should any of the above declarations change prior to entry of a confirmation order, they will have to present an updated Declaration to the Chapter 13 Trustee. I/We declare under penalty of perjury that I/we have read the answers contained in the foregoing Declaration and that they are true and correct.**

/s/\_\_\_\_\_  
**Debtor**

/s/\_\_\_\_\_  
**Co-Debtor**

**EXHIBIT C**

DEBTOR(S) QUESTIONNAIRE UPON COMPLETION OF PLAN  
PAYMENTS IN BANKRUPTCY # \_\_\_\_\_

**CIRCLE THE CORRECT ANSWERS**

1.     YES/NO     I/We have completed an instructional course concerning personal financial management described in 11 U.S.C. §111 provided by the following entity:
- Marion A. Olson, Jr  
Chapter 13 Trustee  
1020 N. E. Loop 410, Suite 800   **OR**  
San Antonio, Texas 78239
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
2.     YES/NO     I/We have not received a discharge in a Chapter 7, 11 or 12 bankruptcy case within 4-years of the date I/We filed this Chapter 13 bankruptcy.
3.     YES/NO     I/We have not received a discharge in another Chapter 13 bankruptcy case within 2-years of the date I/we filed this Chapter 13 bankruptcy.
4.     YES/NO     Did you elect to use state exemptions? If yes then the following two questions must be answered.
- YES/NO     a.     I/We did not have either at the time of filing this bankruptcy or at the present time, equity in excess of \$125,000.00 (\$250,000 if married filing jointly) in the type of property described in 11 U.S.C. §522(p)(1)[generally your homestead]
- YES/NO     b.     There is not currently pending any proceeding in which I [in an individual case] or either of us [in a joint case] may be found guilty of a felony (A felony is an offense punishable by a minimum term of imprisonment of more than one year) of the kind described in 11 U.S.C. § 522 (q)(1)(A) (circumstances of the felony demonstrated that the filing was an abuse of the bankruptcy code) or liable for a debt of the kind described in 11 U.S.C. §522 (q)(1)(B) (violation of the Federal or State Securities Laws or regulations or orders issued thereunder; fraud, deceit or manipulation in a position of trust in connection with the purchase or sale of certain registered securities; civil remedies under the racketeering statute; or criminal acts, intentional civil injuries, or willful or reckless misconduct causing serious physical injury or death to another in the preceding 5 years.)

5. YES/NO a. I/We have been required by judicial or administrative order, or by statute to pay any domestic support obligation as defined in 11 U.S.C. §101(14A) (a debt owed to or recoverable by a spouse, former spouse, or child or the child's parent or legal guardian, or a government unit, for alimony, maintenance or support of those persons/entities, that was established by a separation agreement, divorce decree, property settlement, order of a court or, where applicable, a governmental entity) either before this bankruptcy was filed or at any time after the filing of this bankruptcy.

**IF THE ANSWER TO 5.a IS YES, THEN ALL OF THE FOLLOWING QUESTIONS MUST BE COMPLETED/ANSWERED**

- YES/NO b. I/We certify that prior to the date of this Questionnaire I/We have paid all amounts due under any domestic support obligation [as defined in 11 U.S.C. §101(14A)] required by a judicial or administrative order, or by statute including amounts due before this bankruptcy was filed, to the extent provided for by the plan. The name and address of each holder of a domestic support obligation are as follows:  
(NAME) \_\_\_\_\_  
(ADDRESS) \_\_\_\_\_  
\_\_\_\_\_
- c. My/Our most recent address is as follows:  
(ADDRESS) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- d. The name and address of my/our most recent employer(s) is as follow:  
(NAME) \_\_\_\_\_  
(ADDRESS) \_\_\_\_\_  
\_\_\_\_\_
- e. The following creditors hold a claim that is not discharged under 11 U.S.C. §523 (a)(2) or (a)(4) or a claim that was reaffirmed under 11 U.S.C. §524(c) (if more than 2 attach a continuation sheet):  
(NAME) \_\_\_\_\_  
(NAME) \_\_\_\_\_

**I/We acknowledge that all of the statements contained herein are true and accurate. The Court may rely on the truth of each of these statements in determining whether to grant me/us a discharge in this Chapter 13 Bankruptcy case. The Court may revoke my discharge if the**

**statements relied upon are not accurate. I/We declare under penalty of perjury that I/we have read the answers contained in the foregoing Declaration and that they are true and correct.**

**/s/** \_\_\_\_\_  
**Debtor**

**/s/** \_\_\_\_\_  
**Co-Debtor**

EXHIBIT D



**SO ORDERED.**  
**SIGNED this 20th day of April 2005.**



  
Leif M. Clark  
United States Bankruptcy Judge

  
Ronald B. King  
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT**  
Western District of Texas  
San Antonio Division

**General Order Regarding Debtor's  
Attorneys Fees in Chapter 13 Cases**

Effective the date of entry of this order, the chapter 13 trustee in the San Antonio Division shall make distributions of attorney's fees to debtor's bankruptcy counsel as follows:

1. With regard to distributions made on the base fee awarded at confirmation, the trustee shall disburse the entire amount of the first month's plan payment, plus an amount equal to the number of additional complete plan payments received by the trustee as of confirmation, times \$100. Thereafter, the trustee shall make distributions of not more than \$100 per month out of plan payments.
2. With regard to distributions made on any post-confirmation additional awards, the trustee shall make disbursements of not more than \$100 per month out of plan payments commencing with the month following entry of the order allowing such fees.
3. In the event plan payments are interrupted for any reason, such that distributions on


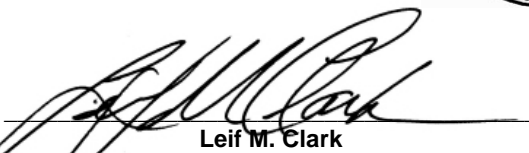


fee awards are interrupted, then distributions on any outstanding unpaid fee awards shall recommence at the rate of \$100 per month per award, without “catch-up.”

This order shall take effect on all cases pending and all pleadings filed on or after May 1, 2005.

# # #



SIGNED this 6th day of December 2004.

 Larry E. Kelly Chief United States Bankruptcy Judge	 Leif M. Clark United States Bankruptcy Judge
 Ronald B. King United States Bankruptcy Judge	 Frank R. Monroe United States Bankruptcy Judge

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UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS

THIRD AMENDED STANDING ORDER RELATING TO  
ATTACHMENTS TO PLEADINGS AND PROOF(S) OF CLAIM

If a filed document includes exhibits or attachments in excess of forty (40) pages, then such exhibits or attachments must be:

1. an accurate summary of such document; or
2. an excerpt of such portion of such document as may be directly germane to the issue being presented to the Court provided; however, that the excerpted material is clearly and prominently identified as such.

However, for purposes of service on parties in interest pursuant to L. Rule 9013(g), the entire pleading, including its exhibits and attachments, must be served; provided, that with respect to lift stay motions in cases under chapters 12 and 13, the ten largest unsecured creditors should be served only with a summary of such exhibits. The exhibit shall be made available upon request at no cost. If the filed document is set for hearing, the exhibits or attachments shall be introduced at the hearing for possible admission to the official record.

Pleading attachments to the following pleadings are excepted from the summary/excerpt requirement expressed in the foregoing paragraph and shall be instead filed in their entirety:

1. Chapter 9 or Chapter 11 Plan of Reorganization;


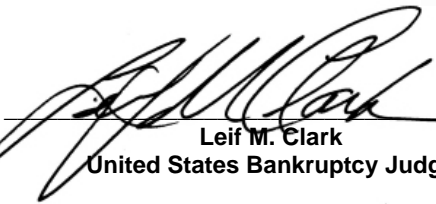

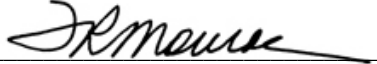
2. Disclosure Statement;
3. Application for Compensation and/or Reimbursement of Expenses;
4. Applications to Employ pursuant to Fed. R. Bankr. P. 2014;
5. Motion to Dismiss pursuant to Fed. R. Bankr P. 7012;
6. Motion for Summary Judgment pursuant to Fed. R. Bankr. P. 7056;
7. Motion for TRO/Injunctive Relief pursuant to Fed. R. Bankr. P. 7065;
8. Motion for New Trial or Alter/Amend Judgment pursuant to Fed R. Bankr. P. 9023;
9. Motion for Relief From Judgment/Order pursuant to Fed. R. Bankr. P. 9024;
10. Motion for Remand pursuant to Fed. R. Bankr. P. 9027;
11. Trustee's Final Report and Account (in all chapters);
12. Any documents containing affidavits or verified statements; and
13. Proofs of Claim.

This procedure is included in the Administrative Procedures for Filing, Signing, and Verifying of Documents by Electronic Means in Texas Bankruptcy Courts and is effective immediately.

# # #



SIGNED this 30th day of November 2004.

 Larry E. Kelly Chief United States Bankruptcy Judge	 Leif M. Clark United States Bankruptcy Judge
 Ronald B. King United States Bankruptcy Judge	 Frank R. Monroe United States Bankruptcy Judge

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UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS

**ORDER ADOPTING NEW ADMINISTRATIVE PROCEDURES FOR  
ELECTRONIC FILING**

The United States Bankruptcy Court for the Western District of Texas hereby adopts the attached *Administrative Procedures for the Filing, Signing, and Verifying of Documents by Electronic Means in Texas Bankruptcy Courts*. These procedures shall become effective on December 1, 2004. The court has adopted these procedures to provide more uniformity in electronic filing with the Texas Eastern, Texas Northern, and Texas Southern Bankruptcy Courts.

These procedures may be amended from time to time by order of the court.

IT IS ORDERED that the court adopts the attached *Administrative Procedures for Electronic Case Filing*, effective December 1, 2004.

###

***ADMINISTRATIVE PROCEDURES  
FOR THE FILING, SIGNING, AND  
VERIFYING OF DOCUMENTS  
BY ELECTRONIC MEANS  
IN TEXAS BANKRUPTCY COURTS***

**Effective December 1, 2004**

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## **I. THE ELECTRONIC CASE FILING SYSTEM**

### **A. Statewide ECF Administrative Procedures.**

The United States Bankruptcy Courts for the Northern, Southern, Eastern, and Western Districts of Texas (collectively, the “Texas Bankruptcy Courts”) have each authorized the filing, signing and verification of documents by electronic means. The precise scope of documents authorized or required to be filed in an electronic format varies by district.<sup>1</sup> The purpose of this Appendix is to provide attorneys and other parties who seek to file documents by electronic means a convenient means by which to ascertain the appropriate electronic filing procedures for a particular Texas Bankruptcy Court (hereafter referenced as the “Authorizing Court”).

### **B. Participation in the Electronic Filing Program.**

- 1. Registration Requirement.** An approved participant (an “Electronic Filer”), including any attorney admitted to practice before the Authorizing Court, must register for an authorization through which such person can accomplish the electronic filing of documents with such Authorizing Court.<sup>2</sup>
- 2. Authorization.** An approved participant (an “Electronic Filer”) will be assigned a login and password combination with which to access the Electronic Filing System (the “System”) for a particular Authorizing Court.

### **C. Electronic Filing by Creditors and Agents for Creditors.**

A creditor or an agent for a creditor (including an attorney-agent not admitted to practice before the Authorizing Court) may also become an Electronic Filer for the purpose of filing by electronic means proofs of claim and a limited range of claim-related documents with the Authorizing Court. Each Authorizing Court shall determine the precise scope of documents which may be filed through a creditor authorization. Any creditor who routinely files claims and other documents in any Authorizing Court may be required to become an Electronic Filer.

### **D. Electronic Filing by Other Persons.**

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<sup>1</sup> Though permissive language is utilized in this Appendix, please consult the electronic filing information provided on the Internet homepage of each particular Texas Bankruptcy Court to determine whether the filing of documents by electronic means is required. Those websites are identified in Sections II(A)(1) and VI(A)(1) of this Appendix.

<sup>2</sup> In the Northern District, this includes government attorneys exempted from admission requirements under LR 83.11.



Documents to be filed by any person who is not an Electronic Filer may be filed by electronic means at any office of the Clerk of the Authorizing Court. Each Authorizing Court shall determine the precise methodologies and procedures to accomplish such filings.

## **II. REGISTRATION AND TRAINING**

### **A. Registration.**

- 1. Registration Forms.** Registration forms are available from the Clerk of each Authorizing Court for which electronic filing registration is sought or through the Authorizing Court's website:

**Northern District:** [www.txnb.uscourts.gov](http://www.txnb.uscourts.gov)

**Southern District:** [www.txs.uscourts.gov](http://www.txs.uscourts.gov)

**Eastern District:** [www.txeb.uscourts.gov](http://www.txeb.uscourts.gov)

**Western District:** [www.txwb.uscourts.gov](http://www.txwb.uscourts.gov)

The completed application must be returned to the applicable Clerk as follows:

**Northern District:** Clerk, United States Bankruptcy Court  
Attn: Electronic Filing Registration  
1100 Commerce Street, Suite 1254  
Dallas, TX 75242.  
Phone: (214) 753-2600

**Southern District:** Electronic Registration  
United States District Court  
515 Rusk Avenue  
P. O. Box 61010  
Houston, TX 77208-1010  
Phone: (866) 358-6201

**Eastern District:** ECF HelpDesk  
United States Bankruptcy Court  
Plaza Tower  
110 N. College, Ninth Floor  
Tyler, TX 75702.  
Phone: (903) 590-3233

**Western District:** ECF HelpDesk  
United States Bankruptcy Court

615 E. Houston St.  
San Antonio, TX  
Phone: (210) 472-6720 ext. 272

[or if mailed]: P. O. Box 1439  
San Antonio, TX 78295-1439

A separate registration form must be submitted for each attorney within a particular law firm.

2. **Login/Password Assignments.** An approved participant (an “Electronic Filer”) will be assigned a login and password combination with which to access the Electronic Filing System (the “System”) for a particular Authorizing Court. Additional login/password combinations may be authorized by the Clerk of the Authorizing Court. Only the Electronic Filer, or an authorized representative, may receive the electronic notice of the assigned login and password combination(s). Unless the Clerk of the Authorizing Court grants a request for delivery of the login/password assignment by first class mail or through some other approved means, the Electronic Filer shall receive notice of such assignments by electronic mail. Each Authorizing Court reserves the right to revoke or to change any assigned login and/or password from time to time as may become necessary.
3. **System Access.** The assignment of a login and password combination will initially be utilized for training purposes only and such combination will not be activated for use on the “live” System until such time as the Electronic Filer has successfully completed all training requirements imposed by the Authorizing Court and has received full authorization from that Court to utilize its System.
4. **Consent to Electronic Notice from Court.** By accepting a login and password from the Authorizing Court, an Electronic Filer consents, in lieu of any right to receive notice by first class mail, including notice issued pursuant to Fed. R. Bankr. P. 2002(a) and 9022, to the receipt of notice by electronic means from the Authorizing Court or from the Bankruptcy Noticing Center.
5. **Consent to Electronic Notice from Parties.** By accepting a login and password from the Authorizing Court, an Electronic Filer consents, in lieu of any right to service of any document by personal service or by first class mail from interested parties, to accept service from such parties by electronic means through the transmission facilities of the Authorizing Court, excepting the service of process of a summons and complaint in an adversary proceeding under Fed. R. Bank. P. 7004, or the service of a subpoena under Fed. R. Bankr. P. 9016.
6. **Password Security.** An Electronic Filer may find it desirable to change his/her

password periodically. This may be accomplished through procedures set forth in the User's Manual available on the website of the Authorizing Court. In the event that an Electronic Filer believes that the security of an existing password has been compromised, the Electronic Filer shall give immediate notice to the Clerk of the Authorizing Court in order to prevent access to the System by the use of that password. Such notice may be given in the manner set forth in the User's Manual issued by the Authorizing Court.

7. **Change of Address.** In the event of a change in any registration information (e.g., mailing address, e-mail address, etc.), an Electronic Filer assumes sole responsibility for updating such registration information with the Authorizing Court through the Utilities section of the System.

**B. Training.**

1. **Prerequisite to Live Access.** An Electronic Filer must demonstrate the ability to docket pleadings satisfactorily to the Authorizing Court's training system as a prerequisite to obtaining access to such Court's "live" System.
2. **Training Sessions.** To assist prospective Electronic Filers in fulfilling the above prerequisite, each Authorizing Court shall conduct classroom training sessions as needed to train prospective Electronic Filers and shall reserve the right to organize such training sessions according to party-type (e.g., trustees, debtor attorneys, creditor attorneys, etc.). Staff members associated with prospective Electronic Filers, such as paralegals and legal assistants, are strongly encouraged to attend these sessions.
3. **Reciprocity.** Attorneys who are admitted to practice before an Authorizing Court and who have been authorized to file documents by electronic means in another federal district may become an Electronic Filer in the Authorizing Court upon a demonstration of the ability to docket pleadings successfully to that Court's training system. Such reciprocity requests should be presented to the Clerk of the Authorizing Court who shall exercise sole discretion as to whether such reciprocity request should be granted or whether additional training requirements should be imposed.
4. **Telephonic Training.** Certain Electronic Filers who require only limited access to electronic document filing, such as for proofs of claim only, may not be required to attend classroom training, but instead may receive training assistance by telephone. However, each Authorizing Court reserves the right to require classroom training for any prospective Electronic Filer and those trained via telephone shall still be required to demonstrate the ability to docket pleadings satisfactorily to the Court's training system prior to gaining access to the "live" system of the Authorizing Court.

### III. ELECTRONIC FILING AND SERVICE OF DOCUMENTS

#### A. Filing.

1. **Scope.** Except as stated otherwise below, any petition, complaint, motion, answer, objection, comment, response, memorandum of law, proof of claim, or other document in connection with a case may be filed by electronic means. Such document must be in a portable document format (“PDF”) at the time of submission to the System.
2. **Methodology.** Any such document, together with any pleading attachments thereto, shall be electronically filed under one docket entry and the Electronic Filer will be responsible for designating an appropriate title for the document by utilizing one of the docket event categories authorized by the System.
3. **Certificate of Service.** Any required certificate of service shall be included in the main document.  
*[Exception (Southern District): Certificates of service may also be filed separately.]*
4. **Proposed Orders Due Upon Filing.** See Section IV of this Appendix for specific instructions for the submission of proposed orders in each particular district.
5. **Pleading Attachments.** See Section III(C) of this Appendix for specific instructions regarding the filing of any document in conjunction with any pleading or proof of claim.
6. **PDF File Limitations.** No single PDF file, whether containing a document or an attachment, may exceed forty (40) pages in length. Documents and/or attachments in excess of forty pages must be divided into multiple PDF files and accurately described to the Authorizing Court. If a document, together with any attachments thereto, exceeds one hundred (100) pages in length, please call the Clerk of the Authorizing Court for guidance prior to filing such document by electronic means.
7. **Motion for Leave.** A motion for leave of court to file a document must be filed by electronic means. The document for which such leave is sought shall be submitted for review as a pleading attachment to the main document. Upon receipt of an order granting leave, an Electronic Filer shall file the authorized document by electronic means.
8. **Motion to File Document Under Seal.** A motion to file a document under seal shall be filed electronically *without* attachment of the subject document(s) for which protection is sought. The Authorizing Court may require the submission of paper copies of the subject document(s) in a sealed envelope prior to the issuance of any ruling on the motion. Upon the granting of the motion, and only if paper copies of the

protected subject document(s) have not previously been provided, the Electronic Filer shall file paper copies of the protected document(s) in a sealed envelope, with a copy of the order authorizing the filing of the documents under seal affixed to such envelope.

- 9. Adversary Complaint and Summons.** A complaint, with a proposed summons as an attachment, must be filed electronically with the Court. Because service of the summons by electronic means is currently precluded under the Federal Rules of Civil Procedure, the Court will print the proposed summons, affix the appropriate signature and seal upon it, and issue the executed original to the filing party by mail.

*[Exception (Southern District): The filing party must deliver the summons form in paper format to the Clerk's office for execution.]*

- 10. Emergency and Expedited Hearing Requests.** Upon the filing of documents which require the immediate attention of the Authorizing Court, such as requests for emergency or expedited hearings, an Electronic Filer shall immediately notify the applicable Courtroom Deputy or Case Manager by telephone or by e-mail. Telephone and e-mail information for each of the Texas Bankruptcy Courts are as follows:

**(a) Northern District:**

Hon. Steven Felsenthal:	Traci Davis, Courtroom Deputy Phone: (214) 753-2046 Email: <a href="mailto:saf_settings@txnb.uscourts.gov">saf_settings@txnb.uscourts.gov</a>
Hon. Harlin Hale:	Flo Coleman, Courtroom Deputy Phone: (214) 753-2060 Email: <a href="mailto:hdh_settings@txnb.uscourts.gov">hdh_settings@txnb.uscourts.gov</a>
Hon. Barbara Houser:	Viola Salcido, Courtroom Deputy Phone: (214) 753-2059 Email: <a href="mailto:bjh_settings@txnb.uscourts.gov">bjh_settings@txnb.uscourts.gov</a>
Hon. Robert Jones:	Julie Combs, Courtroom Deputy Phone: (806) 472-5006 Email: <a href="mailto:rlj_settings@txnb.uscourts.gov">rlj_settings@txnb.uscourts.gov</a>
Hon. Michael Lynn:	Sandy Chonody, Courtroom Deputy Phone: (817) 333-6016 Email: <a href="mailto:dml_settings@txnb.uscourts.gov">dml_settings@txnb.uscourts.gov</a>
Hon. Russell Nelms	Jana McCrory, Courtroom Deputy

Phone: (817) 333-6036  
Email: [rfn\\_settings@txnb.uscourts.gov](mailto:rfn_settings@txnb.uscourts.gov)

**(b) Southern District:**

Hon. Jeff Bohm: Robin Stennis, Case Manager  
Phone: (713) 250-5405  
Email: [cmA420@www.txs.uscourts.gov](mailto:cmA420@www.txs.uscourts.gov)

Hon. Karen Brown: Maureen Bryan, Case Manager  
Phone: (713) 250-5445  
Email: [cmA487@www.txs.uscourts.gov](mailto:cmA487@www.txs.uscourts.gov)

Hon. Letitia Clark: Maria Rodriguez, Case Manager  
Phone: (713) 250-5410 (**preferred**)  
Email: [cmA330@www.txs.uscourts.gov](mailto:cmA330@www.txs.uscourts.gov)

Hon. Marvin Isgur: Anita Ainsworth, Case Manager  
Phone: (713) 250-5421  
Email: [cmA671@www.txs.uscourts.gov](mailto:cmA671@www.txs.uscourts.gov)

Hon. Richard Schmidt: Letitia Garza, Case Manager  
Phone: (361) 888-3452 (**preferred**)  
Email: [cmA417@www.txs.uscourts.gov](mailto:cmA417@www.txs.uscourts.gov)

Hon. Wesley Steen: Jean Kell, Case Manager  
Phone: (713) 250-5779 (**preferred**)  
Email: [cmA580@www.txs.uscourts.gov](mailto:cmA580@www.txs.uscourts.gov)

**(c) Eastern District:**

Hon. Bill Parker: Chasha Traylor, Courtroom Deputy  
(Tyler & Marshall Divisions) Phone: (903) 590-3237  
Email: [Chasha\\_Traylor@txeb.uscourts.gov](mailto:Chasha_Traylor@txeb.uscourts.gov)

Hon. Bill Parker: Debra Theriot, Courtroom Deputy  
(Beaumont & Lufkin Divisions) Phone: (409) 839-2617, ext. 225  
Email: [Debra\\_Theriot@txeb.uscourts.gov](mailto:Debra_Theriot@txeb.uscourts.gov)

Hon. Brenda Rhoades: Shirley Rasco, Courtroom Deputy  
Phone: (972) 509-1240, ext. 226

Email: [Shirley\\_Rasco@txeb.uscourts.gov](mailto:Shirley_Rasco@txeb.uscourts.gov).

**(d) Western District:**

Hon. Leif Clark: Lisa Elizondo, Courtroom Deputy  
Phone: (210) 472-6720, ext. 236  
Email: [lisa\\_elizondo@txwb.uscourts.gov](mailto:lisa_elizondo@txwb.uscourts.gov)

Hon. Larry Kelly: Pete Guerrero, Courtroom Deputy  
Phone: (512) 916-5237, ext. 317  
Email: [pete\\_guerrero@txwb.uscourts.gov](mailto:pete_guerrero@txwb.uscourts.gov)

Hon. Ronald King: Jana Brisiel, Courtroom Deputy  
Phone: (210) 472-6720, ext. 235  
Email: [jana\\_brisiel@txwb.uscourts.gov](mailto:jana_brisiel@txwb.uscourts.gov)

Hon. Frank Monroe: Anita Chapman, Courtroom Deputy  
Phone: (512) 916-5237, ext. 319  
Email: [anita\\_chapman@txwb.uscourts.gov](mailto:anita_chapman@txwb.uscourts.gov)

**11. Designation of Appellate Record.** A designation of the items to be included in the record on appeal pursuant to Fed. R. Bankr. P. 8006 must be filed by electronic means. However, copies of the designated documents to be delivered to the Clerk of the Authorizing Court pursuant to the applicable local rule shall be delivered in a paper format, with the format of all subsequent filings to be determined by the appropriate District Court.

**12. Unavailability of System.** If there is a technical failure of the Court's System which renders it inaccessible to an Electronic Filer on the last day prescribed under any applicable rule or court order for the timely filing of a document, such prescribed period shall be extended until the end of the next business day after access to the System has been restored.

***Practice Note:** Parties should be aware that the Authorizing Court may lack authority to relieve a party from the operation of any applicable statute of limitations based upon the unavailability of the Court's System. In such event, alternative filing means should be utilized in a timely manner.*

**B. Signatures.**

**1. Signature Requirement.** A document filed by electronic means shall either:

- (a) contain a scanned image of any manual signature or an electronic signature affixed thereto; or
- (b) display an “/s/” with the name typed in the location at which the signature would otherwise appear such as:

/s/ Jane Doe;           OR

/s/ Jane Doe, Notary Public<sup>3</sup>; OR

/s/ Jane Doe, President, ABC Corporation.

2.    **Consequence of Login/Password Usage.** Without relieving an Electronic Filer of the duty to comply with the signature requirement outlined above in Section III(B)(1), the filing of any document using a login/password combination issued by the Authorizing Court shall constitute an Electronic Filer’s signature for purposes of signing the document under Fed. R. Bankr. P. 9011 or any other signature requirement imposed by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, or any local rule of the Authorizing Court. No person shall knowingly utilize or cause another person to utilize the password of an Electronic Filer unless such a person is an authorized agent of the Electronic Filer.
3.    **Declarations for Electronic Filing.** Within five (5) business days of the filing by electronic means of a bankruptcy petition, list, schedule, or statement that requires verification or an unsworn declaration under Fed. R. Bankr. P. 1008, the Electronic Filer shall tender to the Court in paper format the appropriate “Declaration for Electronic Filing,” substantially conforming either to Exhibit “B-1,” “B-2,” or “B-3,” which has been executed by any individual debtor or by the authorized representative of any corporate or partnership debtor. Such Declaration shall be thereafter maintained by the Clerk of the Authorizing Court in paper format.
4.    **Retention of Documents With Third-Party Signatures.** Except as otherwise set forth in this Appendix, or as otherwise ordered by the Authorizing Court, documents which contain the original signature of any party other than the Electronic Filer, other than a Declaration for Electronic Filing as referenced above, shall be retained by the Electronic Filer for a period of not less than five (5) years after the case or adversary proceeding is closed and, upon request, such original document must be provided to the Court or other parties for review.

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<sup>3</sup> If the “/s/” signature option is utilized for a notary public, the commission date for such notary public should be typed on the electronically-submitted document.



**C. Pleading Attachments.**

- 1. Definition.** A “pleading attachment” is any document filed in support of, or in conjunction with, any pleading or proof of claim filed with the Authorizing Court. A pleading attachment shall be submitted as a PDF attachment to (and docketed with) the main document.

***Exception<sup>1</sup>: Memorandum of Law.** A memorandum of law pertaining to a pleading must be filed separately and linked as a related document to such pleading.*

***Exception<sup>2</sup>: Trial Exhibits.** No trial exhibit shall be filed by electronic means.*

- 2. Summary or Excerpt Required.** Except as stated below or otherwise authorized by separate court order, no document in excess of forty (40) pages shall be filed as a pleading attachment. In lieu thereof, the Electronic Filer shall either create and thereafter file as the pleading attachment:
- (a) an accurate summary of such document; or
  - (b) an excerpt of such portion of such document as may be directly germane to the issue being presented to the Court provided; however, that the excerpted material is clearly and prominently identified as such.
- 3. Service of Complete Copy Upon Request.** If a summary or excerpt is filed with the Court as a pleading attachment, any party entitled to service of the pleading under the Federal Rules of Bankruptcy Procedure, the Local Rules of any Authorizing Court or any court order has a right to request service of a complete copy of the source document for which the summary or excerpt is submitted and the filing party shall immediately comply with such request at no charge to the requesting party. A complete copy of the source document must also be available for distribution to the Court and opposing parties at any scheduled hearing pertaining to the matter.
- 4. Exceptions to the Summary/Excerpt Requirement.** Pleading attachments to the following pleadings are excepted from the summary/excerpt requirement expressed above and shall instead be filed in their entirety by electronic means, subject to the PDF file limitations imposed by Section III(A)(6) of this Appendix:
- (a) Chapter 9 or Chapter 11 Plan of Reorganization;
  - (b) Disclosure Statement;
  - (c) Application for Compensation and/or Reimbursement of Expenses;
  - (d) Applications to Employ pursuant to Fed. R. Bankr. P. 2014;

- (e) Motion to Dismiss pursuant to Fed. R. Bankr. P. 7012;
- (f) Motion for Summary Judgment pursuant to Fed. R. Bankr. P. 7056;
- (g) Motion for TRO/Injunctive Relief pursuant to Fed. R. Bankr. P. 7065;
- (h) Motion for New Trial or to Alter/Amend Judgment pursuant to Fed. R. Bankr. P. 9023;
- (i) Motion for Relief from Judgment/Order pursuant to Fed. R. Bankr. P. 9024;
- (j) Motion for Remand pursuant to Fed. R. Bankr. P. 9027;
- (k) Trustee's Final Report and Account (in all chapters);
- (l) Any documents containing affidavits or verified statements; and
- (m) Proofs of Claim.

**5. Paper Copy for Chambers Required.** Unless otherwise ordered, a complete paper copy of the following pleadings, including all attachments thereto, should be delivered within 24 hours of the electronic filing to the Clerk of the Authorizing Court for use by the assigned judge. Such pleadings are designated below according to district:

**(a) Northern District:**

- (1) Chapter 9 or Chapter 11 Plan of Reorganization;
- (2) Disclosure Statement;
- (3) Motion for Summary Judgment;
- (4) Application for Compensation and/or Reimbursement of Expenses; and
- (5) Motion to Dismiss pursuant to Fed. R. Bankr. P. 7012.

**(b) Southern District:**

- (1) Chapter 9 or Chapter 11 Plan of Reorganization;
- (2) Disclosure Statement;
- (3) Any motion or application filed under Fed. R. Bankr. P. 2014, 7012, 7056, 7065, 9023 or 9024;
- (4) Trustee's Final Report and Account (in all chapters); and
- (5) Any documents containing affidavits or verified statements.

**(c) Eastern District:**

- (1) Chapter 9 or Chapter 11 Plan of Reorganization;
- (2) Disclosure Statement;
- (3) Motion for Summary Judgment;
- (4) Application for Compensation and/or Reimbursement of Expenses  
(only when fee exhibit exceeds 25 pages); and
- (5) Motion to Dismiss pursuant to Fed. R. Bankr. P. 7012 (if over 25 pages).

**(d) Western District:**

None at this time.

6. **Affidavits.** The digital representation of an affidavit filed pursuant to the directives of this Section shall be construed as a valid affidavit upon which the Authorizing Court shall be entitled to rely. At the request of the Court or upon any dispute regarding the validity of the underlying affidavit, the Electronic Filer shall produce the originally-executed affidavit at any scheduled hearing pertaining to the matter.
7. **Trial Exhibits.** No trial exhibit shall be filed by electronic means.

**D. Special Instructions Regarding Fees.**

**1. Northern District:**

Please consult the ECF On-Line Credit Card Payment Guide which is available at: [http://www.txnb.uscourts.gov/ecf/cc\\_attorney\\_guide.pdf](http://www.txnb.uscourts.gov/ecf/cc_attorney_guide.pdf). Electronic Filers who choose to pay filing fees for multiple filings in a single payment or those using a “quick filing” or “flash filing” feature offered in certain bankruptcy filing software must settle their accounts by the close of business each day.

**2. Southern District:**

None at this time.

**3. Eastern District:**

Please consult the ECF On-Line Credit Card Payment Guide which is available at <http://www.txeb.uscourts.gov/Finance/Internet Credit Card Manual.pdf>. Electronic Filers may elect to pay the required filing fee after each transaction or make a single payment for all accumulated filing fees.

**4. Western District:**

None at this time.

**E. Service.**

1. **Notice of Electronic Filing.** Whenever a document is filed by electronic means in accordance with these procedures, the System will automatically generate for the Electronic Filer a “Notice of Electronic Filing” at the time of docketing in a format substantially conforming to Exhibit “A.”
2. **Fulfillment of Service Requirements.** The System will serve either the “Notice of Electronic Filing” or, if so elected by the recipient, a “Daily Summary Report of Bankruptcy Filings” containing notice of the electronic filing of the document, upon all

parties who have consented to electronic service. The service of the “Notice of Electronic Filing” or the “Daily Summary Report of Bankruptcy Filings” upon such parties is the equivalent of service of the document upon such parties by first class mail, postage prepaid, by the Electronic Filer.

3. **Service of Paper Documents.** The Electronic Filer must serve the document in paper format upon the debtor(s), if required, as well as upon any party entitled to service who is not registered for electronic service and is not, therefore, listed as a recipient of electronic notice on the Notice of Electronic Filing. Any supplemental certification regarding the service of paper documents must be filed by electronic means.
4. **Electronic Service of Summons/Complaint/Subpoena Prohibited.** Service of a summons and complaint under Fed. R. Bankr. P. 7004 or of a subpoena under Fed. R. Bankr. P. 9016 by electronic means is prohibited by the Federal Rules of Civil Procedure.

5. **Miscellaneous Service Provisions.**

(a) **Northern District:**

- (1) **Notice of Hearing Required.** A Notice of Hearing must be filed and served by the movant for all matters requiring a hearing, and for all subsequent continuances of that matter. When the movant is given a hearing date and time for a matter by the Court, it is the movant’s responsibility to file and serve the Notice of Hearing.

(b) **Southern District:**

- (1) **Service of Paper Documents.** A debtor must serve manually signed paper copies of required schedules and statements upon the case trustee.

(c) **Eastern District:**  
None at this time.

(d) **Western District:**  
None at this time.

F. **Consequences of Electronic Filing.**

When a document has been transmitted to the System in a manner consistent with these Procedures and the System has generated to the Electronic Filer a responsive “Notice of Electronic Filing,” the document is filed as of the date and time noted on such

Notice. A document is filed on a particular day if the transmission of the document is completed prior to midnight in the Central time zone.

#### **IV. SUBMISSION OF ORDERS.**

##### **A. General Provisions.**

- 1. Cover Sheet Not Required.** A cover sheet is not required for any order submitted by electronic means.
- 2. Restrictions on Fonts.** The proper processing of orders through the Bankruptcy Noticing Center requires the use of designated fonts in any proposed order. The fonts used with Adobe Acrobat Writer version 3 or 4 must be Courier, Helvetica, or Times New Roman (regular, bold, italic, and bold italic). The fonts used with Adobe Acrobat Writer version 5 must be Arial, Courier, or Times New Roman (regular, bold, italic, and bold italic).
- 3. Affixing Signatures.** Required signatures of parties or their respective attorneys on any agreed order or judgment may be documented through any means authorized under Section III(B) of this Appendix.

##### **B. Specific Directives on Orders: Northern District.**

- 1. Submission of Proposed Order Upon Filing.** If a proposed order is required to be submitted to the Court, an Electronic Filer in the Northern District of Texas must submit the proposed order in either WordPerfect or Microsoft Word format using the Court's order processing system and may separately submit the order in PDF format. The User's Manual explains this requirement.
- 2. Submission of Court-Directed Orders and Judgments.** When directed by the Court to submit a proposed order or judgment, the proposed order or judgment shall be submitted using the Court's order processing system.
- 3. Specifications.** All orders submitted by electronic means in the Northern District of Texas must conform to the following specifications:
  - (a) The top margin on the FIRST PAGE must be four (4) inches. All other pages of the order will have a top margin of one (1) inch.
  - (b) To assist the Court in verifying that the "entire" body of the submitted order has been properly transmitted, the LAST LINE in the order must consist of "# # #

END OF ORDER # # #” which is centered in the middle of the page to indicate that the order is completed. Any signatures and/or attachments will be placed below this line.

- (c) A line for the date and a signature line for the judge is to be omitted. All orders will be signed electronically by the judge in the space provided at the top of the first page.
- (d) All orders prepared by legal counsel shall indicate the name of the law firm, the signature of the attorney responsible for the order, the mailing address and phone number for the firm and the fax number and/or e-mail address, if applicable, below the “# # # END OF ORDER # # #” line.
- (e) If the submitting party wishes to indicate to whom copies of the signed order should be sent, those parties’ names and addresses shall be included on the order below the “# # # END OF ORDER # # #” line.

**C. Specific Directives on Orders: Southern District.**

- 1. **Submission of Proposed Order Upon Filing.** If a proposed order is required to be submitted to the Court, an Electronic Filer in the Southern District of Texas must submit the proposed order as an attachment to the main document at the time of filing.
- 2. **Submission of Agreed and Court-Directed Orders and Judgments (“Greensheet Orders”).** Unless otherwise ordered by the Court, the submission of orders and judgments to the Court, whether by agreement of the parties prior to a scheduled hearing or trial, or pursuant to a directive of the Court issued at the conclusion of a hearing or trial, shall be accomplished by electronic means through the selection of the following event: *“proposed order submission after hearing (greensheet).”*

**D. Specific Directives on Orders: Eastern District.**

- 1. **Submission of Proposed Order Upon Filing.** If a proposed order is required to be submitted to the Court, an Electronic Filer in the Eastern District of Texas must submit the proposed order as an attachment to the main document at the time of filing.
- 2. **Submission of Agreed and Court-Directed Orders and Judgments.** The submission of orders and judgments to the Court, whether by agreement of the parties prior to a scheduled hearing or trial, or pursuant to a directive of the Court issued at the conclusion of a hearing or trial, shall be accomplished by electronic means:

- (a) For orders pertaining to contested matters, the “Upload for Agreed and Court-Directed Orders” link in the “Bankruptcy Event” section of the System should be used.
  - (b) For judgments or orders pertaining to adversary proceedings, the “Upload for Agreed and Court-Directed Orders and Judgments” link in the “Adversary Event” section of the System should be used.
- 3. **Submission Prior to Hearing.** If an agreed order or judgment which completely resolves all matters in dispute is submitted to the Court by electronic means at any time prior to a scheduled hearing or trial, the scheduled hearing or trial shall be canceled and the attendance of the parties at that scheduled hearing or trial shall be excused.
- 4. **Specifications.** Any type of order or judgment submitted by electronic means in the Eastern District shall be submitted in a traditional format, concluding with an open space of not less than 1.5 inches in length for the affixing of the judge's signature. This space shall be in lieu of the traditional dateline and signature block.

**E. Specific Directives on Orders: Western District.**

- 1. **Submission of Proposed Order Upon Filing.** For all motions, applications, objections to claims, and other requests for relief, including those with “negative notice language” (bankruptcy case or adversary proceeding) filed in the Western District of Texas, the Electronic Filer at the time of filing must separately submit a proposed order by electronic means using the Court’s Order Upload feature in the System.

*Exception<sup>1</sup>: Orders Pertaining to Wage Withholding and Filing Fee Installments. Requests for entry of order to pay wages and applications to pay filing fee in installments are considered administrative orders and proposed orders regarding these two pleadings shall be submitted as an attachment to the main document upon filing.*

- 2. **Submission of Agreed and Court-Directed Orders and Judgments.** The submission of orders and judgments to the Court, whether by agreement of the parties prior to a scheduled hearing or trial, or pursuant to a directive of the Court issued at the conclusion of a hearing or trial, shall be accomplished by electronic means using the Court’s Order Upload feature in the System.
- 3. **Specifications.** Except as otherwise directed below, all orders submitted by electronic means in the Western District of Texas must conform to the following specifications:

- (a) The top margin on the FIRST PAGE must be four (4) inches. All other pages of the order will have a top margin of one (1) inch.
- (b) To assist the Court in verifying that the “entire” body of the submitted order has been properly transmitted, the LAST LINE in the order must consist of three (3) pound symbols (# # #) which is centered in the middle of the page to indicate that the order is completed.
- (c) A line for the date and a signature line for the judge is to be omitted. All orders will be signed electronically by the judge in the space provided by the top margin on the first page.
- (d) All orders prepared by legal counsel shall indicate the name of the law firm, the name of the attorney responsible for the order, the mailing address and phone number for the firm and, if desirable, the fax number and/or e-mail address. This information shall be included on the order, after the line containing the three (3) pound symbols.
- (e) If the submitting party wishes to indicate to whom copies of the signed order should be sent, those parties’ names and addresses shall be included on the order, after the line containing the three (3) pound symbols.



## **V. PUBLIC ACCESS TO THE DOCKET**

### **A. Internet Access.**

- 1. Access Through Websites.** Any person may obtain access to the documents and dockets maintained by the Texas Bankruptcy Courts through their respective websites:

Northern District: [www.txnb.uscourts.gov](http://www.txnb.uscourts.gov)

Southern District: [www.txs.uscourts.gov](http://www.txs.uscourts.gov)

Eastern District: [www.txeb.uscourts.gov](http://www.txeb.uscourts.gov)

Western District: [www.txwb.uscourts.gov](http://www.txwb.uscourts.gov)

Such Internet access requires registration with the PACER Service Center at [www.pacer.psc.uscourts.gov](http://www.pacer.psc.uscourts.gov) (or 1-800-676-6856) and, in accordance with the mandate of the Judicial Conference of the United States, a user fee will be charged, except that parties who are served with a document through the use of the “Notice of Electronic Filing” generated by the Court’s transmission facilities have one opportunity to view, save, or print that document without charge by utilizing the hyperlink which will appear in that Notice.

- 2. Protective Orders.** Any person may move the Authorizing Court for an order limiting electronic access to, or prohibiting the electronic filing of, specifically identified materials upon the grounds that the utilization of electronic access or electronic filing is likely to prejudice the privacy interests of an affected party.

### **B. Public Access at the Court.**

Public access to the information maintained in an electronic format by the Texas Bankruptcy Courts may be obtained without charge in each divisional office of the Clerk during regular business hours, excluding federal holidays and extraordinary circumstances (i.e. delayed openings due to inclement weather).

### **C. Conventional Copies and Certified Copies.**

Conventional copies and certified copies of documents maintained in an electronic format may be purchased in each divisional office of the Clerk during business hours. The fee for copying and certification is prescribed by 28 U.S.C. §1930.

***Exhibit A: Sample Notice of Electronic Filing***

U.S.B.C. Western District of Texas (TRAINING)

Page 1 of 1

**File a Motion:**

03-70029-rbk Alexander Jones Washington and Mary Lynn Washington

**U.S. Bankruptcy Court**

**Western District of Texas**

Notice of Electronic Filing

The following transaction was received from Sugarplum, Loretta A. entered on 11/29/2004 at 2:41 PM CST and filed on 11/29/2004

**Case Name:** Alexander Jones Washington and Mary Lynn Washington

**Case Number:** 03-70029-rbk

**Document Number:** 9

**Docket Text:**

Motion to Avoid Lien with Sears (*20 Day Objection Language*) filed by Loretta A. Sugarplum for Debtors Alexander Jones Washington, Mary Lynn Washington (Sugarplum, Loretta)

The following document(s) are associated with this transaction:

**Document description:**Main Document

**Original filename:**C:\cmecf\amd\_claim\_0404.pdf

**Electronic document Stamp:**

[STAMP bkecfStamp\_ID=988230274 [Date=11/29/2004] [FileNumber=84067-0]  
[15bceabcbe4c41bd54b7d962cb3247a0fda4e620970f3cd14ceace3db2f877a2a8c86  
7143392a252e31e6d86dcf876703c5b06a133fe6fcb9d0237a2451458af]]

**03-70029-rbk Notice will be electronically mailed to:**

David H. Williams david\_h\_williams@txwb.uscourts.gov

**03-70029-rbk Notice will not be electronically mailed to:**

Christy Carouth  
406 Oak Glen  
San Angelo, TX 76909

Janet S Casciato-Northrup  
4615 SW Freeway #410  
Houston, TX 77027

<https://ecf-train.txwb.uscourts.gov/cgi-bin/Dispatch.pl?926934770657661>

11/29/2004

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE [ *insert* ] DISTRICT OF TEXAS

IN RE:

§  
§  
§  
§  
§

Case No. \_\_\_\_\_

Debtor(s)

Chapter \_\_\_\_\_

**DECLARATION FOR ELECTRONIC FILING OF BANKRUPTCY  
PETITION, LISTS, STATEMENTS, AND SCHEDULES**

**PART I: DECLARATION OF PETITIONER:**

As an individual debtor in this case, or as the individual authorized to act on behalf of the corporation, partnership, or limited liability company seeking bankruptcy relief in this case, I hereby request relief as, or on behalf of, the debtor in accordance with the chapter of title 11, United States Code, specified in the petition to be filed electronically in this case. I have read the information provided in the petition, lists, statements, and schedules to be filed electronically in this case and ***I hereby declare under penalty of perjury*** that the information provided therein, as well as the social security information disclosed in this document, is true and correct. I understand that this Declaration is to be filed with the Bankruptcy Court within five (5) business days after the petition, lists, statements, and schedules have been filed electronically. I understand that a failure to file the signed original of this Declaration will result in the dismissal of my case.

- ☐ *[Only include for Chapter 7 individual petitioners whose debts are primarily consumer debts] –*  
I am an individual whose debts are primarily consumer debts and who has chosen to file under chapter 7. I am aware that I may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, understand the relief available under each chapter, and choose to proceed under chapter 7.
- ☐ *[Only include if petitioner is a corporation, partnership or limited liability company] –*  
I hereby further declare under penalty of perjury that I have been authorized to file the petition, lists, statements, and schedules on behalf of the debtor in this case.

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

\_\_\_\_\_  
John Doe, Debtor

Soc. Sec. No. \_\_\_\_\_

OR

John Doe, Position/Capacity

\_\_\_\_\_  
Jane Doe, Joint Debtor

Soc. Sec. No. \_\_\_\_\_

**PART II: DECLARATION OF ATTORNEY:**

I declare ***under penalty of perjury*** that: (1) I will give the debtor(s) a copy of all documents referenced by Part I herein which are filed with the United States Bankruptcy Court; and (2) I have informed the debtor(s), if an individual with primarily consumer debts, that he or she may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each such chapter.

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

\_\_\_\_\_  
A. Lawyer, Attorney for Debtor

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE *[ insert ]* DISTRICT OF TEXAS

IN RE:

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

§  
§  
§  
§  
§

Case No. \_\_\_\_\_  
Chapter \_\_\_\_\_

**DECLARATION FOR ELECTRONIC FILING OF  
BANKRUPTCY PETITION AND MASTER MAILING LIST (MATRIX)**

**PART I: DECLARATION OF PETITIONER:**

As an individual debtor in this case, or as the individual authorized to act on behalf of the corporation, partnership, or limited liability company seeking bankruptcy relief in this case, I hereby request relief as, or on behalf of, the debtor in accordance with the chapter of title 11, United States Code, specified in the petition to be filed electronically in this case. I have read the information provided in the petition and in the lists of creditors to be filed electronically in this case and ***I hereby declare under penalty of perjury*** that the information provided therein, as well as the social security information disclosed in this document, is true and correct. I understand that this Declaration is to be filed with the Bankruptcy Court within five (5) business days after the petition and lists of creditors have been filed electronically. I understand that a failure to file the signed original of this Declaration will result in the dismissal of my case.

- ☐ *[Only include for Chapter 7 individual petitioners whose debts are primarily consumer debts] –*  
I am an individual whose debts are primarily consumer debts and who has chosen to file under chapter 7. I am aware that I may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, understand the relief available under each chapter, and choose to proceed under chapter 7.
- ☐ *[Only include if petitioner is a corporation, partnership or limited liability company] –*  
I hereby further declare under penalty of perjury that I have been authorized to file the petition and lists of creditors on behalf of the debtor in this case.

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

\_\_\_\_\_  
John Doe, Debtor  
Soc. Sec. No. \_\_\_\_\_

\_\_\_\_\_  
Jane Doe, Joint Debtor  
Soc. Sec. No. \_\_\_\_\_

OR  
John Doe, Position/Capacity

**PART II: DECLARATION OF ATTORNEY:**

I declare ***under penalty of perjury*** that: (1) I will give the debtor(s) a copy of all documents referenced by Part I herein which are filed with the United States Bankruptcy Court; and (2) I have informed the debtor(s), if an individual with primarily consumer debts, that he or she may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each such chapter.

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

\_\_\_\_\_  
A. Lawyer, Attorney for Debtor

***Exhibit B-3 to Appendix 5005: If filing schedules/statements subsequent to petition date or amendments of petition, matrix, schedules or statements.***

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE [ insert ] DISTRICT OF TEXAS

IN RE:

\_\_\_\_\_

Debtor(s)

§  
§  
§  
§  
§

Case No. \_\_\_\_\_

Chapter \_\_\_\_\_

**DECLARATION FOR ELECTRONIC FILING OF AMENDED PETITION,  
ORIGINAL/AMENDED BANKRUPTCY STATEMENTS AND SCHEDULES,  
AND/OR AMENDED MASTER MAILING LIST (MATRIX)**

As an individual debtor in this case, or as the individual authorized to act on behalf of the corporation, partnership, or limited liability company named as the debtor in this case, ***I hereby declare under penalty of perjury*** that I have read

- ☐ the original statements and schedules to be filed electronically in this case
- ☐ the voluntary petition as amended on the date indicated below and to be filed electronically in this case
- ☐ the statements and schedules as amended on the date indicated below and to be filed electronically in this case
- ☐ the master mailing list (matrix) as amended on the date indicated below and to be filed electronically in this case

and that the information provided therein is true and correct. I understand that this Declaration is to be filed with the Bankruptcy Court within five (5) business days after such statements, schedules, and/or amended petition or matrix have been filed electronically. I understand that a failure to file the signed original of this Declaration as to any original statements and schedules will result in the dismissal of my case and that, as to any amended petition, statement, schedule or matrix, such failure may result in the striking of the amendment(s).

- ☐ [Only include if petitioner is a corporation, partnership or limited liability company] –  
I hereby further declare under penalty of perjury that I have been authorized to file the statements, schedules, and/or amended petition or amended matrix on behalf of the debtor in this case.


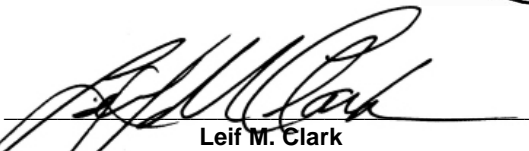

Date: \_\_\_\_\_.

\_\_\_\_\_  
John Doe, Debtor  
OR  
John Doe, Position/Capacity

\_\_\_\_\_  
Jane Doe, Joint Debtor



SIGNED this 15th day of November 2004.

 _____ Larry E. Kelly Chief United States Bankruptcy Judge	 _____ Leif M. Clark United States Bankruptcy Judge
 _____ Ronald B. King United States Bankruptcy Judge	 _____ Frank R. Monroe United States Bankruptcy Judge

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UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS

AMENDED STANDING ORDER  
REGARDING PRIVACY RELATED RULES

Effective November 15, 2004, the following procedures will apply to all documents filed in the Western District of Texas.

**1. Official Form 21, Statement of Social Security Number(s):**

A. Paper Submission: Voluntary petitions submitted in paper format must be accompanied by Form 21, Statement of Social Security Number. If the required statement is not submitted at the time of the filing of the voluntary petition, the case is subject to dismissal unless the same statement is submitted in the required format no later than one (1) business day after the filing of the petition.

B. Electronic Submission: When filing a new case electronically, the filing attorney shall provide the full nine digit social security number in the case opening screen, or if using case upload software, the "debtor.txt" file should continue to contain the full social security

number. Form 21, Statement of Social Security Number, shall not be filed electronically.

Electronic filers shall submit this document in paper format to the clerk within five (5) business days after the filing of the petition. Failure to submit the required statement within the time prescribed may result in the case being dismissed or other appropriate sanction.

**2. Amended Form 21, Statement of Social Security Number:** The debtor shall service all creditors copies of any amended Statement of Social Security Number. The debtor shall provide proof of service by filing a certificate of service indicating notice of the amended statement. The form of service shall comply with Local Rule 9013(f).

**3. Wage Claims:** Wage claimants shall provide the trustee with their full social security number by including it in the copy of the proof of claim that is served on the trustee pursuant to Local Rule 3002(a).

**4. Personal Data Identifiers in All Documents and Pleadings:** In compliance with the policy of the Judicial Conference of the United States, and the E-Government Act of 2002, and in order to promote electronic access to case files while also protecting personal privacy and other legitimate interests, parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all documents and pleadings filed with the court, except with regard to Form 21, Statement of Social Security Number, as stated above. This includes exhibits, whether filed electronically or in paper, unless otherwise ordered by the Court or required by statute, the Federal Rules of Bankruptcy Procedure or the Official Bankruptcy Forms.

A. Social Security Numbers: If an individual's social security number must be included in a pleading, including the voluntary petition, only the last four digits of that number should be used.

B. Names of Minor Children: If the involvement of a minor child must be mentioned, only the initials of that child should be used. On Schedule I of Official Bankruptcy Form 6, list relationship and age of the debtor's dependents (i.e., son, age 6).

C. Dates of Birth: If an individual's date of birth must be included in a pleading, only the year should be used. On Schedule I of Official Bankruptcy Form 6, list the age of each of the debtor's dependents.

D. Financial Account Numbers: If financial account numbers are relevant, only the last four digits of these numbers should be used. On Schedules D, E, and F of Official Bankruptcy Forms 6, debtors, if they so choose, may include their full account numbers to assist the trustee and creditors.

In compliance with amendments to the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers listed above may:

(a) file an unredacted document under seal. The sealed document must be filed in a manner that is in compliance with Local Rule 9018(a). This document shall be retained by the court as part of the record. or::

(b) file a reference list under seal. The reference list shall contain the complete personal data identifier(s) and the redacted identifier(s) used in its(their) place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete identifier. The reference list must be filed under seal, and may be



amended as of right. The sealed reference list must be filed in a manner that is in compliance with Local Rule 9018(a). It shall be retained by the court as part of the record. The court may, however, still require the party to file a redacted copy for the public file.

The responsibility for redacting these personal identifiers rests solely with counsel and the parties. The Clerk will not review each document for compliance with this rule.

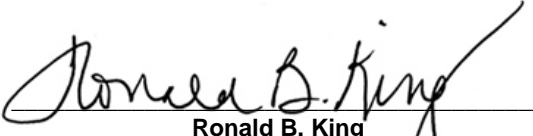
# # #


SIGNED this 4th day of December 2002.



  
Larry E. Kelly  
Chief United States Bankruptcy Judge

  
Leif M. Clark  
United States Bankruptcy Judge

  
Ronald B. King  
United States Bankruptcy Judge

  
Frank R. Monroe  
United States Bankruptcy Judge

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

**SECOND AMENDED STANDING ORDER  
RELATING TO THE SUBMISSION OF ORDERS**

All orders shall comply with Local Rule 9004 and must conform to the following format requirements:

1. The top margin on the FIRST PAGE must be four (4) inches. All other pages of the order will have a top margin of one inch.
2. To assist the court in verifying that the "entire" body of the submitted order has been properly transmitted, the LAST LINE in the order must be three (3) pound symbols (###), centered in the middle of the page, to indicate the order is completed.
3. A line for the date and a signature line for the judge is omitted. All orders will be signed electronically by the judge in the space provided by the top margin on the first page.
4. All orders prepared by legal counsel shall indicate the name of the law firm, name of the attorney responsible for the order, mailing address and phone number for the firm and, if desired, the fax number and/or e-mail address. This information shall be included on the order, after the line containing the three (3) pound symbols. Because of the volume, panel trustees, including the Chapter 13 Trustees in this District are excused from this requirement.

5. If the submitting party wishes to indicate to whom copies of the signed order should be sent, those parties names and addresses shall be included on the order, after the line containing the three (3) pound symbols.

Orders may be submitted using this format beginning November 4, 2002. All orders must comply with this format effective December 2, 2002.


The court has authorized the Clerk to reject any order that does not comply with this Standing Order after December 2, 2002.

This Second Amended Standing Order supersedes all previous versions, same subject.

# # #

FILED

MAY - 7 2001

U.S. BANKRUPTCY COURT  
BY  DEPUTY

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS

**STANDING ORDER ON FIRST DAY MOTIONS**  
**IN CHAPTER 11 CASES**

**Motions Included:** In order to qualify as a First Day Motion, the motion must be filed with the petition and be one of the motions included on the list below. Other motions may be considered as "first day motions," but will not be automatically set and should be filed with a Motion to Expedite.

**Procedure Prior to Filing:** Prior to the filing of a Chapter 11 case in the Western District of Texas, counsel are strongly encouraged to confer with the United States Trustee's Office. Counsel should file a statement of efforts to contact affected parties or a statement as to why it was not possible to have a pre-hearing conference. Only one statement is required.

**Procedure Upon Filing:** As soon as reasonably feasible, but no later than the filing of a Chapter 11 petition, counsel should contact the courtroom deputy(ies) for the judge(s) assigned to the division where the case is to be filed to request a setting date and time. The clerk may set the hearing at the time of filing. The hearing shall be no later than the next business day, if possible.

**Notice:** Debtor's counsel is required to promptly serve notice of the hearing on the United States Trustee's Office, the twenty largest unsecured creditors, secured creditors, any committees, known counsel, and other affected parties. Notice to the U.S. Trustee and parties directly affected, such as secured creditors, shall be given in a manner which will ensure same day delivery, such as by hand-delivery, telephone, telecopier or email, to the extent such can be reasonably effected. Failure to give timely notice may result in relief being denied or the hearing being continued.

**Joint Administration:** In affiliated cases, a Motion for Joint Administration need only be filed in the affiliated case under which all debtors will be administered. Notice of the relief requested shall be served on all affected parties in all cases.

**List of Included Motions.** The following list is illustrative only and other motions may be filed, but must be filed with a Motion to Expedite:

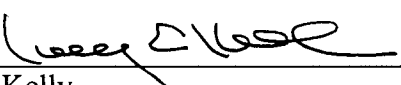
The following is a list of recognized First Day Motions:

1. Motion for Use of Cash Collateral (interim hearing only);
2. Motion for Post-Petition Financing (interim hearing only);
3. Motion to Pay Pre-Petition Employee Wage Claims (to the limit provided by Section 507);
4. Motion for Joint Administration;

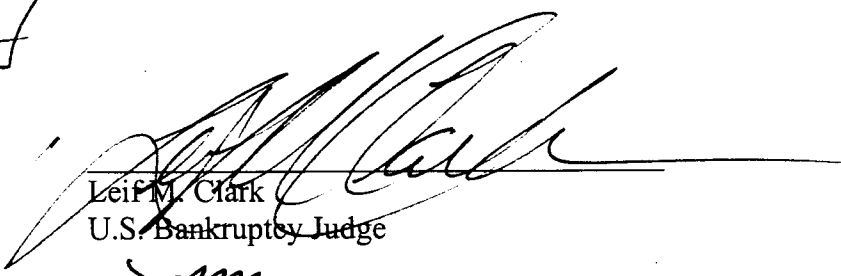
5. Motion to Limit Notice/Set Notice Procedures;
6. Motion to Provide Adequate Assurance to Utilities;
7. Motion to Allow Debtor to Serve Notice of Creditor's Meeting;
8. Motion to Pay Pre-Petition Trust Fund Taxes;
9. Motion to Honor Pre-Petition Obligations to Customers (to the limit provided by Section 507);
10. Motion to vary U.S. Trustee's requirements, such as Motion to Authorize Maintenance of Existing Bank Accounts, Existing Business Forms, Cash Management System, Investment Procedures, etc.;
11. Motion Directing Banks to Honor Pre-Petition Checks;
12. Motion to Reject Leases and Contracts; and
13. Application for Temporary Restraining Order filed in connection with an Adversary Proceeding.


IT IS SO ORDERED.

SIGNED this 3 day of May, 2001.

  
\_\_\_\_\_  
Larry E. Kelly  
Chief U.S. Bankruptcy Judge

  
\_\_\_\_\_  
Ronald B. King  
U.S. Bankruptcy Judge

  
\_\_\_\_\_  
Leif M. Clark  
U.S. Bankruptcy Judge

  
\_\_\_\_\_  
Frank R. Monroe  
U.S. Bankruptcy Judge

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

**STANDING ORDER FOR CASE ADMINISTRATION FOR AUSTIN DIVISION**

**New Hearings Procedures for the Austin Division:**

Attached to this Standing Order as Exhibit “A” is a copy of the New Hearings Procedures for the Austin Division. In relevant part they provide the following:

**1. Continuance of First Meeting of Creditors (All Chapters):**

Motions to continue should not be filed. The counsel or pro se debtor may ask the Trustee to call and then continue the meeting at its regularly scheduled time. Only if the Trustee disagrees should a motion for continuance be filed.

**2. Excuse of Individual Joint Debtor from First Meeting of Creditors (All Chapters):**

Motions to excuse an individual joint debtor from the First Meeting of Creditors should not be filed. As with continuances, counsel or pro se debtor may ask the Trustee to hold the meeting with the remaining co-debtor. Only if the Trustee disagrees to excuse the other co-debtor should a motion be filed.

**3. Waiver of Pay Orders (Chapter 13):**

Motions to waive pay orders, temporarily or permanently, should not be filed. Only if the Chapter 13 Trustee insists on a pay order at the First Meeting of Creditors should the counsel or pro se debtor file a motion seeking a waiver.

**4. Extensions of Time to File Schedules and Statements of Affairs (Chapters 7 and 13):**

So long as the debtor complies with B.R. 1007(a)(1) and notwithstanding B.Rule 1007(c), motions to extend time to file schedules, statements of affairs, etc. in Chapters 7 and 13 shall not be required unless the debtor cannot file the same within 20 days of the petition date or 5 business days before the §341 meeting, whichever is earlier. When schedules, etc. are not filed until 5 business days before the § 341 meeting, Debtor’s counsel shall deliver to the Trustee a copy simultaneous with their being filed. Any motions which seek an extension, shall state the cause specific to that particular case which justifies the request, or it will be summarily denied. Cause does not include “debtor needs more time” and like generic statements.

**5. Settings Procedure (All Chapters):**

The court has adopted specific procedures whereby contested matters in all chapters and adversary motions will be set for hearing without a docket call. These procedures are explained in detail in the attached document .

**6. Disclosure Statements (Chapter 11):**

The court has established specific dates for hearings to approve disclosure statements. However, the setting will all be handled by the clerk's office.

**7. Expedited Matters:**

Parties seeking to expedite hearings shall still be required to request by separate pleading expedited consideration. Discovery disputes will not be heard at such time.

**8. Adversary Proceedings:**

The Scheduling Order docketed in the Austin Division has been modified. A copy is attached.

**9. Failure to seek Trustee's Permission Prior to Filing Certain Motions:**

It is the court's intention to make certain matters easier to handle by counsel, pro se debtors, trustees and staff of the Judge's office and the Clerk's office. Specifically, the first three matters referenced in this Standing Order-Continuance of First Meeting of Creditors, Excusing Individual Co-Debtor from First Meeting of Creditors, and Waivers of Pay Orders, should be brought to the attention of the case Trustee before filing any motion with the court. Such matters may be raised at the First Meeting of Creditors and the Trustee may indicate approval or disapproval by notation in the Meeting Memo that is prepared at each such meeting. If a motion is filed without an indication therein that the debtor has first requested such relief from the Trustee and that the Trustee has denied the request, the Clerk of the Court will route such Motion directly to chambers where it may be dismissed without further notice or hearing.

**10. Effective Date:**

The effective date of all procedures, which the parties should read and comply with, is December 1, 2000.

**11.    Notice:**

The Clerk of the Court shall send a copy of this Standing Order to all Panel Trustees, the U.S. Trustee and to the President of the Austin Bankruptcy Bar.

DATED:  November 15, 2000.

**Signed** this 15th day of November 2000, by LARRY E. KELLY, CHIEF U. S. BANKRUPTCY JUDGE, LEIF M. CLARK, U. S. BANKRUPTCY JUDGE, RONALD B. KING, U. S. BANKRUPTCY JUDGE, and FRANK R. MONROE, U. S. BANKRUPTCY JUDGE.



## **EXHIBIT “A”**

### **NEW HEARINGS PROCEDURE -- AUSTIN DIVISION THE HONORABLE FRANK R. MONROE**

**(Effective January 1, 1998)**

**As Amended September 1, 1999**

**As Amended January 1, 2000**

**As Amended December 1, 2000**

#### **Resetting of First Meeting of Creditors (Chapter 7 and Chapter 13)**

Motions to reset the §341 meeting should not be filed. The Trustee shall have the right to approve a reset of the first scheduled 341 meeting for a period not exceeding 15 days or the next available Section 341 meeting. The Debtor will be required to serve a notice of the reset meeting on all creditors and file the notice with the Clerk. Deadlines for filing complaints under §523 and §727, or for filing proofs of claim will not be extended. It is only if the Debtor seeks an extension beyond 15 days or the Trustee denies the request that one should file a motion to reset and proposed order with the court.

When the Trustee approves the resetting of the 341 meeting, pursuant to Rule 2003(a) and Rule 9006(b), the Trustee shall convene the meeting on the appointed date and announce the reset date on the record.

Creditors and trustees may seek an extension of the deadline for filing discharge/dischargeability complaints by filing a motion with the court.

#### **Motions to Excuse Co-Debtor from First Meeting of Creditors (All Chapters)**

Motions to excuse an individual co-debtor should not be filed. The Trustee shall have the right to excuse the attendance of one individual co-debtor. This excuse must be noted by the Trustee on the 341 Memo that is prepared and filed in each case. Should the Trustee decline to excuse the co-debtor, then the Trustee may continue the 341 meeting, and at that time, the Debtors may, if they desire, file a motion to excuse attendance.

#### **Waiver of Pay Orders (Chapter 13)**

Motions to waive pay orders, either temporarily or permanently, should not be filed. The Trustee shall have the authority to waive the requirement of a pay order at the Section 341 meeting. The Trustee shall note the waiver on the proceeding memo. If the Trustee does not waive the pay order, the Debtor may then seek court approval by filing a motion consistent with the court's new docket call procedure.

## **Extensions of Time to File Schedules and Statements of Affairs (Chapters 7 and 13)**

So long as the debtor complies with B.R. 1007(a)(1) and notwithstanding B.Rule 1007(c), motions to extend time to file schedules, statements of affairs, etc. in Chapters 7 and 13 shall not be required unless the debtor cannot file the same within 20 days of the petition date or 5 business days before the §341 meeting, whichever is earlier. When schedules, etc. are not filed until 5 business days before the § 341 meeting, Debtor's counsel shall deliver to the Trustee a copy simultaneous with their being filed. Any motions which seek an extension, shall state the cause specific to that particular case which justifies the request, or it will be summarily denied. Cause does not include "debtor needs more time" and like generic statements.

## **Settings Procedure**

Contested matters in all chapters and adversary motions will **not** be set for docket call. They will be set for hearing each month as follows:

- 1st & 3rd Tuesdays at 2:00 p.m. - Chapter 7 contested matters
- 1st & 3rd Tuesdays at 10:00 a.m. - Chapter 13 contested matters
- 1st & 3rd Mondays at 1:30 p.m. - Chapter 11 contested matters
- 1st & 3rd Wednesdays at 1:30 p.m. - Adversary motion contested matters

The Clerk will set the hearing date and notify parties entitled to notice of the date and place of hearing by using the Bankruptcy Noticing Center. The hearing date will generally be the first date after twenty days after the date of the filing of the response in order to allow time for the court and movant to receive responses and prepare for the hearing. Please notify Anita Chapman, Courtroom Deputy (916-5847) for matters requiring a hearing of more than one (1) hour so that such matters may receive a special setting.

Moving parties shall use the negative notice language required in the local rules and shall place it on the first page of the pleading just below the title.

## **Disclosure Statements**

Disclosure statements will be heard on the second Monday of each month at 1:30 p.m. once a disclosure statement has been filed with a plan. The Clerk's Office will set the hearing date and notify all parties entitled to notice of the date and place of hearing by using the Bankruptcy Noticing Center. Plan proponent's counsel will still be required to furnish a copy of the disclosure statement to any party-in-interest that so requests.

## **Expedited Matters**

Parties will be required to request by separate pleading expedited consideration of their motions. The court will still grant or deny them on a case-by-case basis. Discovery disputes will not be heard at this time.

### **Adversary Proceedings**

The attached revised "Scheduling Order" will be used in the Austin Division effective September 1, 1999.

Attached is a pattern calendar demonstrating a typical month of Judge Monroe's docket.

Please forward these new procedures to any out-of-town counsel for whom you appear in the Austin Division. The procedures are effective December 1, 2000.

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

**IN RE:**

**DEBTOR**

**PLAINTIFF**

**VS.**

**DEFENDANT**

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**CASE NO.**

**CHAPTER**

**ADVERSARY NO.**

**SCHEDULING ORDER**

It is hereby **ORDERED, ADJUDGED AND DECREED** that the following dates and deadlines shall control this adversary proceeding:

1. **DISCOVERY DEADLINE:** \_\_\_\_\_, 2000.
2. **DEADLINE FOR DISPOSITIVE MOTIONS:** \_\_\_\_\_, 2000.
3. **DEADLINE FOR FILING PRE-TRIAL ORDER:** \_\_\_\_\_, 2000.
4. **DOCKET CALL FOR TRIAL:** \_\_\_\_\_, 2000, AT \_\_\_\_\_ P.M.

It is further **ORDERED** that all deadlines and requirements in the Addendum attached hereto shall be a part of this Order and shall be adhered to by all parties to this adversary proceeding.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

\_\_\_\_\_  
United States Bankruptcy Judge

## **ADDENDUM TO SCHEDULING ORDER**

Issue having been joined, it is hereby **ORDERED**:

1. Counsel residing outside the State of Texas shall designate local counsel in writing, giving the street address, telephone number and mailing address. The designation shall be filed with the Clerk of the Court in this proceeding, and a copy shall be sent to all other counsel of record in this proceeding. This provision may be waived by the Court upon motion of counsel and service upon other parties.
2. **ALL DISCOVERY MUST BE COMMENCED AND COMPLETED BY THE DISCOVERY DEADLINE PROVIDED IN THIS ORDER.**
  - a. Designation of experts shall be an issue at any pretrial conference.
  - b. Counsel are encouraged to resolve discovery disputes by agreement. Motions to compel, motions for protective orders and similar motions, while not prohibited, may result in sanctions being imposed on the losing party or both parties as provided in Fed. R. Bankr. P. 7037 & 9011 or 28 U.S.C. section 1927, if a hearing is required thereon.
  - c. If applicable, parties may file dispositive motions under Fed. R. Bankr. P. 7012 & 7056 and Fed. R. Civ. P. 12(b) & 56. Such motions, if filed, must be filed by the deadline for dispositive motions in this Order. Responses to motions under FRBP 12 and 56 must be filed within 20 days after the Motion is filed. **ALL OTHER MOTIONS IN THIS ADVERSARY PROCEEDING, UNLESS UNOPPOSED, REQUIRE THE FILING OF A WRITTEN RESPONSE WITHIN 10 DAYS, OR THE MOTION MAY BE GRANTED WITHOUT A HEARING.**
  - d. All discovery shall be commenced at a time which allows for the full response time provided by applicable rules on or before the discovery deadline.

E.g., if the discovery deadline is July 15, interrogatories must be actually delivered on or before June 15 in order to allow thirty days for answers. If the interrogatories are mailed, then they must be mailed on or before June 12, pursuant to FED. R. BANKR. P. 9006(f), to allow three additional days for service by mail.

- e. The Court may, upon motion and for cause shown, extend, reduce, or otherwise modify the deadlines set out in the Scheduling Order. Mere agreement of the parties to such extensions or modifications is not of itself sufficient cause.
3. An original and one copy of the Pre-Trial Order must be filed on or before the Pre-Trial Order deadline provided in this Order. If the Pre-Trial Order is not timely filed, a default judgment may be rendered or the proceeding may be dismissed for want of prosecution. Counsel may agree on a single Pre-Trial Order; however, if counsel cannot agree, counsel must file separate proposed Pre-Trial Orders on or before the deadline. The proposed Pre-Trial Order shall contain the following:
- a. A short and concise statement of the nature of the dispute.
  - b. A statement as to jurisdiction, including whether the matter is core or non-core, and if non-core, whether the parties consent to the entry of a final order by the bankruptcy judge.
  - c. A summary of the agreed facts.
  - d. A summary of the agreed applicable law.
  - e. A summary of the disputed factual issues.
  - f. A summary of the disputed legal issues. Such summary shall include a discussion of laws involved by specific reference to code provisions, state or federal statutes and/or regulations, applicable rules of procedure and conflict questions, if any. (Copies of regulations must be attached.)
  - g. A list of witnesses who may be called, accompanied by a short and concise statement of their proposed testimony.
  - h. A numbered list of exhibits upon which the parties intend to rely at trial.

- i. An estimate of the length of time required to hear the complete trial on the merits.
  - j. A certificate that a conference of counsel has been held regarding settlement, stipulations of agreed facts, and simplification of the issues.
4. Counsel and unrepresented parties must confer prior to the date the Pre-Trial Order is required to be filed, to fully explore the possibility of settlement, to stipulate to matters not in dispute and to simplify the issues. The Pre-Trial Order shall contain a certificate to the effect that the conference of counsel has been held. Counsel must also confer in an effort to determine whether the original time estimate for trial is correct or should be revised. If the parties wish to have a pre-trial conference with the Court, a pre-trial conference should be requested as early as possible, but at least 60 days prior to the trial. No pre-trial conference will be scheduled with the Court unless absolutely necessary, except as follows:

**IF COUNSEL'S ESTIMATE OF TRIAL TIME IS 5 HOURS OR MORE, A PRE-TRIAL CONFERENCE MUST BE REQUESTED. IT WILL BE THE PARTIES' BURDEN TO MAKE WRITTEN REQUEST FOR THE PRE-TRIAL CONFERENCE IN SUCH INSTANCE, WITHIN 30 DAYS AFTER THE DATE OF THIS ORDER. DESIGNATION OF EXPERTS SHALL BE AN ISSUE AT ANY PRE-TRIAL CONFERENCE.**

**IF A JURY DEMAND IS FILED BY ANY PARTY TO THE PROCEEDING, THAT PARTY MUST FILE A WRITTEN REQUEST ( WITH SERVICE UPON ALL OTHER PARTIES ) FOR A PRE-TRIAL CONFERENCE WITHIN 30 DAYS OF THE DATE OF THE FILING OF THE JURY DEMAND, OR WITHIN 30 DAYS OF THE DATE OF THIS ORDER, WHICHEVER IS LATER, OR THE JURY DEMAND WILL BE WAIVED. THIS WRITTEN REQUEST FOR PRE-TRIAL CONFERENCE MUST BE ACCOMPANIED BY A BRIEF ADDRESSING THE FOLLOWING ISSUES :**

- (1) Whether the matter or matters are core or non-core proceedings;
- (2) Whether the party consents to the conduct of a jury trial by the bankruptcy judge or, if not, whether the party has filed a motion to withdraw the reference;
- (3) Whether the party is entitled to a jury trial under applicable law.

5. Any legal briefs to be considered by the Court at the trial of this proceeding must be submitted at the same time and in the same manner as the Pre-Trial Order and must be separately bound.
6. Trial exhibits (other than rebuttal, demonstrative and physical exhibits) shall be bound at the side, in book form, separated by tabbed dividers with a cover sheet listing the exhibits. Each exhibit shall bear a standard exhibit label on the bottom of the first page of the exhibit identified.- Exhibits shall be exchanged not later than 5 calendar days prior to docket call. *See Bankruptcy Local Rule 7016(g)(3).*
7. **DOCKET CALL IS SET ON THE DOCKET CALL DATE PROVIDED IN THE SCHEDULING ORDER.**

The only matters to be considered by the Court at docket call are as follows:

- a. Date, time and place of trial following docket call.
- b. Properly and timely-filed motions for continuance or for default judgment.
- c. Motions not previously ruled on under FED. R. CIV. P. 12 and FED. R. BANKR. P. 7012.
- d. Settlement announcements.

**FAILURE TO ATTEND DOCKET CALL MAY RESULT IN DISMISSAL OR RENDITION OF FINAL JUDGMENT. YOU MAY, HOWEVER, AUTHORIZE ANY MEMBER OF THE BAR OF THIS COURT, INCLUDING OPPOSING COUNSEL, TO MAKE AN APPEARANCE ON YOUR BEHALF AT DOCKET CALL, IF THERE ARE NO CONTESTED MOTIONS FOR CONTINUANCE, MOTIONS FOR DEFAULT JUDGMENT OR MOTIONS UNDER FED. R. CIV. P. 12 AND FED. R. BANKR. P. 7012.**