



AMERICAN
BANKRUPTCY
INSTITUTE

Mortgage Claims in Chapter 13: The Good, The Bad and The Ugly

Hon. Kathy A. Surratt-States

U.S. Bankruptcy Court (E.D. Mo.); St. Louis

Richard V. Fink

Chapter 13 Trustee; Kansas City

Debra L. Miller

Chapter 13 Trustee; South Bend, Ind.

STATEMENT CONCERNING STANDING ORDER 08-1

The Judges of the Court have promulgated Standing Order 08-1 which mandates the payment of residential mortgages by chapter 13 debtors through the chapter 13 trustee. We have adopted this SO realizing that this is a significant departure from historical practice in this District. Nevertheless, we hope and believe that changing to a practice of mandatory conduit payments will serve to reduce disputes among debtors, lenders, and servicers, and greatly facilitate debtors' abilities to successfully complete their chapter 13 plans and enjoy a fresh start.

This Standing Order was drafted with the substantial and invaluable assistance of the "Payment Through the Plan" committee consisting of David Fricke, Gary Hinck, Chelsea Herring, Tracey Robinson, Frank Ojile, David Lund, Will Griffin, Jan Hamilton, Laurie Williams, Judge Karlin, and me. Judge Karlin served as our reporter and editor. Both Judges Somers and Berger were also involved in the drafting process. The bankruptcy Bench and Bar Committee vetted this Order as well. We also received helpful comments from members of the Bar as well as representatives of the banking industry. While I am sure we have not pleased everyone, we have attempted to carefully consider the views of all involved constituencies in crafting this Order. We gratefully acknowledge the time and effort contributed by the Committees, the Bar, and the industry in this endeavor.

All four of us Judges are committed to making this Order work so that creditors get paid and debtors can leave chapter 13 cases knowing that they have satisfied their obligations under their chapter 13 plans. We know we can count on your similar commitment and thank you in advance for your efforts in that regard.

For the Court,

/s/ Robert E Nugent

Robert E. Nugent, Chief Bankruptcy Judge
District of Kansas

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

STANDING ORDER 08-1

CONDUIT MORTGAGE PAYMENTS IN CHAPTER 13

This Standing Order is effective for all Chapter 13 cases filed on or after October 1, 2008.

- I. **REQUIRED CONDUIT PAYMENTS:** Regular payments owed by a Debtor to a Creditor holding a claim secured by the Debtor's principal residence shall be made by the Debtor to the Trustee for payment through the Chapter 13 plan if the Debtor is (i) delinquent as of the petition date, or, (ii) becomes delinquent after the petition date. Such payments are referred to herein as "conduit payments."

- II. **DEFINITIONS:** As used in this Standing Order, the following capitalized terms shall mean:
 - A. The "Arrearage" is the total amount past due as of the petition date, as calculated in the pre-petition arrearage section of Exhibit C [Addendum to Chapter 13 Proof of Claim For Residential Home Mortgage Debt Paid Through Chapter 13 Trustee], and shall be equal to the amount contained in the creditor's filed and allowed Proof of Claim, unless specifically controverted in the plan or by an objection to the claim as required by D. Kan. LBR 3015(b).1.

 - B. "Debtor" or "Debtors" are hereafter referred to as "Debtor."

 - C. "Real Property Creditor" is the entity claiming a mortgage or a servicer of the mortgage on the real property that is the principal residence of the Debtor. This Standing Order is intended to cover a loan secured by a security agreement in Debtor's principal residence (i.e., promissory note on a manufactured or mobile home), and such lender will be referred to as a "Real Property Creditor" herein for the sake of simplicity, even if some specific references, e.g., to "mortgage" or "escrow analysis," are not strictly applicable.

 - D. The Standing Chapter 13 Trustee is referred to as "Trustee."

- III. **OTHER RULES APPLICABLE:** Nothing in this Standing Order shall relieve any party from complying with any obligation under the United States Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Local Rules of the District and Bankruptcy Courts of Kansas, or any applicable Standing Orders.

These procedures shall not be modified by any plan language without express order from the Court.

IV. DEBTOR'S DUTIES

- A. Debtor may be excused from complying with this Standing Order only upon the entry of a Court order upon a showing of circumstances justifying the same.¹
- B. Debtor must complete Exhibit A–Mortgage Creditor Checklist and Exhibit B–Authorization to Release Information to the Trustee Regarding Secured Claims Being Paid by the Trustee and forward those documents to Trustee (not to the Court) within 10 days of the filing of the bankruptcy petition.
- C. Debtor or Debtor's attorney shall mail a copy to the Trustee of all correspondence, notices, statements, payment coupons, escrow notices and default notices concerning any adjustment to the monthly payments or interest rate immediately upon receipt of the same.
- D. Debtor shall include the regular payment amount owing to the Real Property Creditor, inclusive of Trustee's fees, in the plan payment to be paid by Debtor to the Trustee.
- E. Pursuant to provisions of Paragraph V(D) below, in the event the monthly conduit payment changes due to either changed escrow requirements or a change in an adjustable interest rate, Debtor's plan payment to the Trustee shall change by the same amount, plus the Trustee's fee.
- F. For any Debtor who is employed and required to make mortgage payments through the Trustee, an employer pay order shall be promptly entered by the Clerk of the Bankruptcy Court as provided in Debtor's plan and served upon the employer of Debtor. Until the employer begins to withhold bankruptcy plan payments from Debtor's pay, Debtor is required to make plan payments directly to the Trustee. A Debtor may be excused from complying with employer pay orders only upon the entry of a Court order upon a showing of circumstances justifying the same.

V. TRUSTEE'S DUTIES

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

- A. The Trustee is authorized to deduct from any payments collected, pursuant to 11 U.S.C. § 1326, the authorized percentage fee on the funds distributed as necessary costs and expenses, together with any fee, charge or amount required under § 1326.
- B. The Trustee shall allow as an administrative expense an amount equal to two full regular monthly payments inclusive of escrow deposits and two associated late fees. This allowance shall reimburse Real Property Creditor for post-petition delinquencies that may accrue until the Trustee begins payments to that creditor. This added amount shall bear interest at the contract rate in effect at confirmation.
- C. The Trustee will not make payments to the Real Property Creditor on the pre-petition arrearage until such time as a Proof of Claim is filed with the Court and the Plan is confirmed. The Court is deemed to have granted authority to the Trustee to disburse conduit payments, as if the plan had been confirmed, once the Real Property Creditor has filed a Proof of Claim to which a fully executed Exhibit C (Addendum to Chapter 13 Proof of Claim) has been attached. The Trustee is required to make a full mortgage payment for each full plan payment made. The Trustee is not required to make partial payments to Real Property Creditors.
- D. Within 30 days after the Trustee has received any notice of a change in the conduit payment, the Trustee shall file a notice of the terms of the change with the Court and provide notice of that change to Debtor, Debtor's attorney, and Real Property Creditor. Such notice shall be treated as an amendment to the creditor's claim and Debtor's plan, and a party in interest shall have an opportunity to object to the amendment within 20 days of the filing of the notice. If no objection is filed, the Trustee shall be authorized to disburse the new conduit payment without seeking formal modification of the plan.
- E. Should the new conduit payment jeopardize the feasibility of the plan, the Trustee may file a motion to amend the plan or seek conversion or dismissal of the case, whichever the Trustee deems appropriate.

VI. REAL PROPERTY CREDITOR'S DUTIES

- A. The Real Property Creditor shall file a Proof of Claim, to which it shall attach the Addendum for Residential Home Mortgage Debt Paid Through the Chapter 13 Trustee (Exhibit C).
- B. Unless otherwise ordered by the court, the Real Property Creditor shall notify the Trustee, Debtor and the attorney for the Debtor 45 days prior to the effective date of any change of payment amount (inclusive of escrow changes) and/or interest rate in a document that conforms with Exhibit D,

Notice of Payment Change Due to Escrow Analysis, or Exhibit E, Notice of Payment Change due to Adjusted Rate Mortgage.

1. If a Real Property Creditor has a claim based on an open-end credit agreement such as a home equity line of credit, and if the interest rate or payment term is subject to frequent change that makes compliance with this sub-part impracticable or burdensome, the Real Property Creditor may file a motion to exempt that claim from compliance with this subpart B or to alter the manner of compliance required. The Real Property Creditor, the Debtor, and the Trustee may also present an agreement to do so for the Court's approval.
- C. At least 45 days prior to a change of the name of the Real Property Creditor payee, or the address to which payments should be made, Real Property Creditor shall notify the Trustee, Debtor and the attorney for the Debtor, of any such change in a document that conforms to Exhibit F, Notice of Transfer of Servicing and Claim, or Exhibit F-1, Notice of Transfer of Claim (Other than for Security).
- D. If Real Property Creditor is entitled to advance or incur expenses in connection with the servicing of the note or mortgage, it shall notify the Trustee, Debtor and Debtor's attorney of any such advances or expenses within 30 days after the advance or expenses was incurred in a document that conforms to Exhibit G, Real Property Creditor's Notice of Advance or Other Contractual Expense.
- E. During the pendency of the Chapter 13 case, Real Property Creditor shall submit to the Trustee, Debtor, and Debtor's attorney on or before the 10th of January of each year, a 12 month summary of the activity on the loan with a form substantially in conformity with Exhibit H, Model Mortgage Payment History.
- F. The Real Property Creditor shall mail a copy to the Trustee of all copies of correspondence, notices, statements, payment coupons, escrow notices and default notices concerning any change to the monthly payment or interest rate immediately upon receipt or creation of the same.
- G. Any amount paid or tendered to the Real Property Creditor prior to confirmation shall be applied to the next post-petition payment under the terms of the note due, without penalty. Alternatively, the mortgage holder may apply the payment as it deems appropriate, but said application shall be deemed to be the Real Property Creditor's waiver of all fees and expenses to which it is entitled under the loan documents.

- H. Confirmation of the plan shall impose an affirmative duty and legal obligation on the Real Property Creditor to do all of the following:
1. Apply the payments received from the Trustee for payment on the Arrearage, if any, only to such Arrearage pursuant to the plan. The arrearage shall be deemed paid in full upon the entry of the Discharge Order in this case, unless otherwise ordered by the Court.
 2. Deem the pre-petition Arrearage (and post-petition Arrearage, if any) contractually current upon confirmation of the plan so as to preclude the imposition of late payment charges or other default-related fees and services based solely on any pre-petition default or the payments referred to in paragraph V(B), above. This obligation will have no force and effect if the case is dismissed or converted.
 3. Apply the post-petition monthly mortgage payments paid by the Trustee or by Debtor to the month in which they were designated to be made under the plan. Even if such payments are placed into a suspense, forbearance or similar account, they will be deemed to have been applied to the note pursuant to this subsection.
 4. If an escrow account is required by the terms of the mortgage, Real Estate Creditor shall, either with its Proof of Claim or within 30 days of the date of the petition, prepare and provide to Debtor, Debtor's attorney and Trustee an escrow analysis for the current computation year, as defined by Regulation X § 6-1423.14 or for the next computation year if that computation year is scheduled to occur within 30 days of the date of the petition to reflect the proper post-petition mortgage payment escrow. This should not include any sums or fees that were or should have been included in the pre-petition Arrearage claim.

VII. EFFECT OF PLAN COMPLETION

- A. If the Debtor pays the Arrearage, together with interest, if any, as specified in the plan, all pre-petition defaults will be cured and the note and other loan documents will be deemed current as of the date of filing, extinguishing any right of the Real Property Creditor to recover any amount alleged to have arisen prior to the filing of the petition or to declare a default of the note, mortgage, or other loan documents based upon pre-petition events.
- B. If Debtor has made all payments required under the Chapter 13 Plan, the Trustee shall file a motion seeking an order of the Court determining that

all pre-petition and/or post-petition defaults on Debtor's residential home mortgage debt are deemed cured and all payments made on such debt through the date of plan completion are current, with no arrearage, no escrow balance, late charges, costs or attorney fees owing, except to the extent that the Court orders otherwise.

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

Dated this 22nd day of July, 2008.

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

s/ Janice Miller Karlin
JANICE MILLER KARLIN, JUDGE

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

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

-Exhibit A-

MORTGAGE CREDITOR CHECKLIST¹

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

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

Property Address: _____

Daytime Phone: () _____ Evening: () _____

Attorney name: (if any) _____

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

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

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

-Exhibit B-

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

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

Debtor Name(s): _____ Case #: _____

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

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

DATE:

Debtor's Signature

DATE:

Joint Debtor's Signature

-EXHIBIT C-

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

GENERAL INFORMATION

Debtor(s):
Bankruptcy Case No:

DESCRIPTION OF SECURITY

Security for Debt/Property Address:
County and State:

CREDITOR INFORMATION

Loan No:
Creditor Name:

Servicer Name:
Address:

Contact Person:
Tel No.:
Fax No.:
E-mail:

Payments should be made payable to:

Address to which payments are to be sent:

Creditor Attorney Name:
Address:
Contact:
Tel No.:
Fax No:
E-mail:

Mortgage Information

Original Loan Information:

Original Principal Balance: \$
 Original Interest Rate: %
 Mortgage/Deed of Trust Recorded:
 Date of month payment due:
 Date of month payment considered late under note:

Type of Loan:

Fixed Rate

Adjustable

Last Adjustment Date:

Next Adjustment Date:

Other:

Current Loan Information:

Petition Date Principal Balance: \$
 Petition Date Payoff: \$
 Petition Date Interest Rate %

Post-Petition Payments

Principal & Interest: \$
 Taxes: \$
 Insurance \$
 Other: _____ \$
 Other: _____ \$

Total Payment: \$

Pre-Petition Arrearage:

From	To	Type of Charge	#	Unit Charge	Total
		Payment			
		Payment			
		Late Charge			
		Late Charge			
		Accrued Late Charge			
		Property Inspection Fees			
		Property Preservation Fees			
		Appraisal/BPO fees			
		Foreclosure Attorney Fees			

Previous Bankruptcy Attorney's Fees
 NSF Fees
 Escrow Shortage
 Advances for Taxes
 Advances for Insurance
 Other (describe)

Subtotal: _____
 Minus Funds Held in Suspense: _____
 Total Prepetition Arrearages: _____

 Total Post-Petition Attorneys' Fees _____
 Total Pre-Petition Arrearage Plus
 Post-Petition Attorneys' Fees _____

Interest on Pre-Petition Arrearage:

___ Creditor Demands interest on the full Pre-Petition Arrearage of \$ _____.
 ___ This loan was executed prior to October 22, 1994.
 ___ The loan documents provided for interest on all arrearages.
 ___ The loan jurisdiction allows for interest on arrearages.
 ___ Interest is demanded at the contract rate of ____%.
 ___ Interest is demanded at ____%.

The interest to be paid over the term of the plan is \$ _____.
 Total Pre-Petition Arrearage Plus Post-Petition Attorneys'
 fees plus interest: \$ _____

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

The interest to be paid over the term of the ___ month plan is \$ _____.
 Total Pre-Petition Arrearage Plus Post-Petition
 Attorneys' Fees plus interest \$ _____.

NOTICES

Creditor reserves its rights to object to the Court's subject matter and personal jurisdiction, to amend and supplement this Proof of Claim and to file additional proofs of claim for additional claims.

Creditor demands all sums due post-petition as allowable under 11 U.S.C. §§ 506(b), 1322(e), and applicable law.

If this loan is an adjustable rate loan, the payments and late charges will change.

Creditor reserves the right to advance to senior liens.

NOTICE OF PAYMENT CHANGE DUE TO ESCROW ANALYSIS

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

Borrower/Loan #: _____

Bankruptcy Case #: _____

In accordance with the terms of the Mortgage, this is notification that the Annual Escrow Analysis has resulted in a post- petition payment change as indicated below:

Effective Date of Change _____

Current monthly payment amount \$ _____

Principal & Interest \$ _____

Escrow Amount \$ _____

New payment amount beginning _____ \$ _____

Principal and Interest \$ _____

Escrow Amount (specify taxes, insurance, etc.) \$ _____

Taxes (increased/decreased) \$ _____

Insurance (increased/decreased) \$ _____

_____ (increased/decreased) \$ _____

Attached to this Notice is a copy of the ANNUAL ESCROW ANALYSIS outlining the basis for the change. Additionally, attached is a Post-Petition Cost and Fee Disclosure of the fees and costs due under the contract in the past 12 months. Questions should be directed to:

CREDITOR: _____

ADDRESS: _____

Contact: _____

Telephone/Fax: _____

Email: _____

CERTIFICATE OF SERVICE

I hereby certify that on _____, I served a copy of this Notice and all attachments to the following by U.S. Mail, postage pre paid:

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

Debtor's Attorney: Mary Counselor, 123 Pine St., Anywhere, IN 46601

Trustee: Tom Trustee, 456 Maple St., Anywhere, IN 46601

Marian the Mortgage Servicer Employee

**NOTICE OF CHANGE IN PAYMENT AMOUNT DUE TO
VARIABLE RATE CHANGE**

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

Borrower/Loan #: _____

Bankruptcy Case #: _____

In accordance with the terms of the Adjustable Rate Mortgage, this is notification that the Interest Rate is adjusting as follows:

Payment Adjustment Date: _____

Next Scheduled Adjustment: _____

(daily, quarterly, semi-annually, annually, etc.)

Old Interest Rate: _____

Index Name/Rate: _____

Margin +/- Index: _____

New Interest Rate: _____

New Principal & Interest Payment \$ _____

New Monthly Payment, including escrow: \$ _____

CREDITOR: _____

ADDRESS: _____

Contact: _____

Telephone/Fax: _____

Email: _____

CERTIFICATE OF SERVICE

I hereby certify that on _____, I served a copy of this Notice and all attachments to the following by U.S. Mail, postage pre paid:

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

Debtor's Attorney: Mary Counselor, 123 Pine St., Anywhere, IN 46601

Trustee: Tom Trustee, 456 Maple St., Anywhere, IN 46601

Marian the Mortgage Servicer Employee

-EXHIBIT F-

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

IN RE:)	Case No.
John Q. Debtor,)	
)	NOTICE OF TRANSFER
Debtor.)	OF SERVICING AND
)	CLAIM
)	
_____)	(no hearing required)

PLEASE TAKE NOTICE that the servicing of the mortgage loan represented by the Proof of Claim #4 filed on 2/24/07 in the amount of \$100,000, by Many Mortgages Incorporated, Transferor, with the address of 123 Weownu Road, Bankrupt, PA 65432 has been transferred to Universal Servicing Company, Transferee (Loan No. 222222).

Chapter 13 Trustee payments and regular monthly payments should be sent to Universal Servicing Company, Bankruptcy Department, 444 Easy St., Cashville, NY 78901.

Dated:

By: IM Weathly
Agency for Universal Servicing
Company as Servicer for Many
Mortgages Incorporated

CERTIFICATE OF SERVICE

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

Debtor(s)

John Q. Debtor
100 Debtor Way
Anytown, KS 66666

Debtor's Attorney

Mary Smart, Esquire
Smart & Associates
100 Attorney Way
Anytown, KS 66667

Trustee

Jan Hamilton
PO Box 3527
Topeka, KS 66601

Transferor

Many Mortgages Incorporated
123 Weownu Road
Bankrupt, PA 65432

U.S. Trustee

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

-EXHIBIT F- 1-

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

IN RE: _____) Case No. _____
John Q. Debtor,)
)
) **NOTICE OF TRANSFER**
Debtor.) **OF CLAIM (Other than for Security)**
)
)
_____) (no hearing required)

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

Original Claim Information:

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

Transferee Information:

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

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

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

By: _____ Date: _____
Transferee/Agent of Transferee

The penalty for making a false statement or claim includes a fine or imprisonment for to five years, or both, 18 U.S.C. Sec. 152.

CERTIFICATE OF SERVICE

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

Debtor(s)

John Q. Debtor
100 Debtor Way
Anytown, KS 66666

Debtor's Attorney

Mary Smart, Esquire
Smart & Associates
100 Attorney Way
Anytown, KS 66667

Trustee

Jan Hamilton
PO Box 3527
Topeka, KS 66601

Transferor

Many Mortgages Incorporated
123 Weownu Road
Bankrupt, PA 65432

U.S. Trustee

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

-EXHIBIT G-

**REAL PROPERTY CREDITOR'S
NOTICE OF ADVANCE OR OTHER CONTRACTUAL EXPENSE**

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

In accordance with the terms of the mortgage, this is notification that the servicer has advanced funds for a non-escrowed mortgage loan as indicated below. Pursuant to the terms of the note and/or mortgage, Debtor(s) is/are required to pay these fees and costs. Documentation to support the fees and costs is attached as Exhibit A, hereto:

Type of Advance or Contractual Expense: _____

Total funds advanced/expense: _____

Entity that funds were paid to: _____

If taxes or forced placed insurance,
Dates covered by advance: _____

Any questions regarding this Notice should be directed to _____
(name, address, telephone #, facsimile # and email address of contact person).

Name of Mortgagee

Address of Mortgagee

CERTIFICATE OF SERVICE

I hereby certify that on _____, I have served a copy of this Notice and all attachments to the following by U.S. Mail, postage pre paid:

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

Debtor's Attorney: Mary Counselor, 123 Pine St., Anywhere, IN 46601

Trustee: Tom Trustee, 456 Maple St., Anywhere, IN 46601

Marian the Mortgage Servicer Employee

-EXHIBIT H-

MODEL MORTGAGE PAYMENT HISTORY

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

WDMO PROPOSED LOCAL RULES AND FORMS FOR MORTGAGES

IN THE UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF MISSOURI

PROPOSED AMENDMENTS TO LOCAL RULES 2016-1.F.1.b., 3070-1., 3083-1.C.,
3084.1.L., 3086.1.E, 3094-1. RELATED TO MORTGAGES PAID THROUGH THE
CHAPTER 13 PLAN

Rule 2016-1.F Payment of Attorney Fees Through Chapter 13 Plan

1.b. In the event that the proposed plan payment is not sufficient to cover the Equal Monthly Amount proposed for the payment of attorney fees and the Chapter 13 trustee's statutory maximum fee, the filing of the plan on behalf of the debtor shall be deemed a waiver of the right to receive that Equal Monthly Amount and the Chapter 13 trustee shall set an Equal Monthly Amount which will resolve any §1322(a)(1) issues. If the debtor makes her plan payments weekly or bi-weekly, the trustee may adjust the Equal Monthly Amount paid to the debtor's attorney based on the amount projected to be received eight (8) months of each year in the instance of weekly payments and ten (10) months of each year in the instance of bi-weekly payments.

Rule 3070-1. Chapter 13 Direct Payments

All payments to claimants shall must be through the Chapter 13 trustee unless the Court orders or the trustee agrees otherwise, except debtors may pay directly: 1) unmodified payments on a note secured by real property when the debtor is current on the date of the petition; 2) on-going support obligations pursuant to a court decree; 3) lease payments upon which the debtor has assumed or intends to assume the underlying lease; and 4) payments under a contract for deed upon which the debtor has assumed or intends to assume the underlying executory contract.

Rule 3083-1. Chapter 13 Plan; Objections to Plan

C. Plan Percentages. For plans or amended plans filed on or after October 1, 2008, the debtor must may use 8.0% ~~10%~~ of receipts rather than the statutory maximum of 10%, for trustee fees when calculating plans. The actual percentage, set by the United States Attorney General pursuant to statute, may vary during the life of the plan and may require the plan payment to be increased during the life of the plan to accommodate the percentage then in effect in order for the plan to comply with §§1322(a)(1) and 1322(d).

Rule 3084-1. Chapter 13 Proofs of Claim; Objections to Claims

L. Equal Monthly Payments. For cases in which the initial plan is filed on or after October 1, 2008, the trustee shall only distribute, as funds are available, a full Equal Monthly Amount, or a multiple thereof, unless it is the final payment to be paid as a result of the dismissal or conversion of the case, or it is the final payment which satisfies

the claim. This includes payments to attorneys who are being paid through the Chapter 13 trustee.

Rule 3086-1. E. Adequate Protection – Claim Secured by Real Property.

1. For cases in which the initial plan was filed on or before September 30, 2008, unless the court orders otherwise, the Chapter 13 trustee shall not distribute adequate protection payments to a real property claimant. Payments remitted by the trustee pursuant to an adequate protection order will be disbursed after the order becomes final. If the payments on the claim are for a long-term debt the amount remitted to the adequate protection claimant shall be credited against the claimant's post-petition equal monthly payments.

2. For cases in which the initial plan is filed on or after October 1, 2008, unless the court orders otherwise, the Chapter 13 trustee shall distribute adequate protection payments to a real property claimant which the plan proposes to be paid by the Chapter 13 trustee from the Chapter 13 plan payments. If the payments on the claim are for a long-term debt the amount remitted to the claimant shall be credited against the claimant's post-petition equal monthly payments.

a. The debtor shall list the creditor's name, address, account number and monthly payment, including any amounts escrowed for taxes or insurance, for each real estate claimant being paid by the Chapter 13 trustee from the Chapter 13 plan payments.

b. Unless the plan specifically provides in the remarks section that the creditor is not entitled to adequate protection payments, it is presumed that secured creditors listed in the section of the Chapter 13 plan dealing with real estate payments being paid by the Chapter 13 trustee from the Chapter 13 plan payments shall be entitled to adequate protection payments.

i. Adequate protection payments shall not be paid on pre-petition arrearage claims.

ii. Adequate protection payments shall not be paid on initial post-petition arrearage "claims." See Local Rule 3094-1.C.2.c.

iii. Adequate protection payments shall not be paid on any claim for which the plan does not provide an Equal Monthly Amount.

c. Unless the Court orders otherwise, the Chapter 13 trustee shall not remit any adequate protection payment unless the real property secured claimant has been listed in the section of the Chapter 13 plan dealing with real estate payments being paid by the Chapter 13 trustee from the Chapter 13 plan payments.

d. All adequate protection payments shall be made in the Equal Monthly Amount provided for the claimant in the Chapter 13 plan unless the plan provides otherwise in the remarks section of the plan. The trustee shall not release partial monthly payments. See Local Rules 3084-1 L and 3094-1 C.2.f.

e. Claimants may file objections to the adequate protection treatment provided in these local rules or in the proposed Chapter 13 plan. Until the court orders otherwise the Chapter 13 trustee shall continue to make payments to the claimant in the Equal Monthly Amount provided in the plan if a proof of claim is on file.

f. Upon the dismissal or conversion to another chapter of a case prior to confirmation of a Chapter 13 plan, the Chapter 13 trustee shall make the pre-confirmation adequate protection payments, or a portion thereof, to creditors that have filed proofs of claim prior to the date of the dismissal or conversion. Such payments shall be made from any funds available for that purpose received by the trustee on or before the date of the entry of the order of dismissal or conversion.

Rule 3094-1. Payments on Real Property

A. Assumed Leases. The debtor shall pay directly to the lessor all payments scheduled in a lease for that portion of the obligation which comes due after the order for relief. The debtor shall pay directly to the lessor all payments required to cure a pre-petition arrearage.

B. Assumed Contracts for Deed. The debtor shall pay directly to the holder of the contract for deed all payments scheduled in the contract for that portion of the obligation which comes due after the order for relief. The debtor shall pay directly to the holder of the contract for deed all payments required to cure a pre-petition arrearage.

C. Mortgages.

1. Unmodified Payments on a note secured by real estate when the debtor is current on the date of petition. If a debtor is current on a note secured by real estate on the date of the petition or the date of conversion, the debtor may make the post-petition payments directly to the mortgagee. If a debtor who is current on a debt secured by real estate on the date of the petition or the date of conversion nevertheless decides to pay the post-petition payments to the claimant through the Chapter 13 trustee as part of the plan payment, Rule 3094-1.C.2 applies.

2. Unmodified Payments on a note secured by real estate when the debtor is delinquent on the date of petition.

a. If a debtor is delinquent on the date of the petition on a note secured by real estate, the debtor shall make the post-petition payments to the mortgagee through the Chapter 13 trustee as part of the Chapter 13 plan payment unless the court orders otherwise.

b. The trustee shall load into the trustee's database the monthly payment set out in the plan for the post-petition monthly payments.

i. The post-petition monthly payment set out in the plan shall include all amounts which the debtor is required to pay for the escrow of taxes, insurance and any other charges allowed to be escrowed under the terms of the note and/or the deed of trust.

ii. If the mortgagee asserts that the post-petition mortgage payment set out in the plan is incorrect, it either shall

(I). Object to the confirmation of the plan; or

(II). File a "Notice of Payment Change." See Local Rule 3094-1 C. 3.b.

c. In order to synchronize the debtor's Chapter 13 plan payments with the post-petition, on-going mortgage payments and not adversely affect other claimants who are being paid Equal Monthly Amounts through the Chapter 13 trustee,

i. The Chapter 13 trustee shall set the trustee's database so that the first post-petition mortgage payment to be paid by the trustee comes due in the second month following the month in which the petition is filed (or in the case of a conversion from another chapter, the second month following the month the order of conversion is entered).

ii. In addition, the Chapter 13 trustee shall set up a separate payee record for the mortgage payment, as set out in the plan, which came due in the month following the month in which the petition is filed and a late fee, absent other order of the court, deemed to be 5% of the payment listed in the plan as the monthly mortgage payment. This payee record shall be known as the "Initial Post-petition Arrearage"; the mortgagee shall not file a separate proof of claim for the Initial Post-petition Arrearage .

(I). The trustee shall not populate the payee record for the Initial Post-petition Arrearage for distribution until the proof of claim is filed.

(II). This Initial Post-petition Arrearage claim shall be paid pro rata as funds are available with secured and priority claims for which the plan provides no Equal Monthly Amount.

(III). If the debtor or mortgagee disagrees with the payee record set by the trustee for the Initial Post-petition Arrearage and asserts that it inaccurately reflects the amount due to the mortgagee including appropriate late fee, they must file an objection to this “claim” within 30 days of the initial date of confirmation of the plan.

iii. It is presumed for purposes of administering real estate mortgages through the Chapter 13 trustee that the mortgage payment for the month in which the petition is filed is delinquent on the date of filing the Chapter 13 petition (or the date of conversion from another chapter) and the mortgagee shall include that delinquency in the pre-petition arrearage portion of its proof of claim.

(I). If the presumption is incorrect and the monthly payment has not yet come due on the date of filing or date of conversion, the mortgagee or the debtor must object to the Initial Post-petition Arrearage claim record as set by the trustee.

(II). If the objection is sustained, the court shall enter an order directing the trustee to add another month plus late fee to the Initial Post-petition Arrearage claim record.

d. The debtor shall cure the pre-petition arrearage owed to the mortgagee through the Chapter 13 trustee as part of the plan payment. The trustee shall populate the pre-petition arrearage payee record with the amount listed on the proof of claim, if any. If the plan provides for no interest on the pre-petition arrearage, or if the plan provides for interest on the entire amount, but the mortgagee is entitled to interest only on part of the pre-petition arrearage claim, the mortgagee or the debtor shall obtain a court order which directs the trustee what portion, if any, is to receive interest and what portion is to receive no interest. The order also shall specify the rate of interest to be paid on any portion being paid interest.

e. The mortgagee’s proof of claim shall have an addendum which conforms to the “Addendum to Proof of Claim For Real Estate Claims” on the court’s website.

f. The Chapter 13 trustee shall release full monthly payments to mortgagees for their on-going post-petition mortgage payments and shall not release a partial payment to a mortgagee unless it is the final payment

disbursed because of a conversion or dismissal. Local Rule 3084-1L.

g. If the Chapter 13 debtor's plan payments are current and the Chapter 13 trustee holds a plan payment in the ordinary course of the trustee's business which results in the trustee not releasing a post-petition mortgage payment to the mortgagee, the mortgage payment shall be deemed current and the mortgagee shall not charge a late fee for that "missed" payment.

h. Upon the completion of the Chapter 13 plan, the Chapter 13 trustee shall file a notice of completion with the bankruptcy court. Absent a timely objection to that notice and an order otherwise, the debtor's real estate mortgages shall be deemed current, including all fees and costs, as of the date the last payment was made from the Chapter 13 trustee. If there are additional fees and costs due, the mortgagee shall also file a "Notice of Fees and Costs Incurred" at the same time it files an objection to the "Notice of Completion."

3. Changes and charges.

a. It is not a violation of 11 U.S.C. § 362 for the mortgagee to notify the debtor of changes to the escrow account, interest rate, and the monthly payment due the mortgagee, nor is it a violation of 11 U.S.C. § 362 to deliver any notices in accordance with these local rules.

b. If the loan documents provide for payment changes, including those due to interest rate adjustments or escrow account adjustments:

i. No later than 60 days prior to any payment change the mortgagee or the mortgagee's authorized agent shall file with the court and serve on the debtor, the debtor's counsel, and the Chapter 13 trustee a "Notice of Payment Change."

ii. The "Notice of Payment Change" shall include the new payment amount, the date the new payment takes effect, and a brief description of the reason for the payment change.

iii. No later than 30 days after service of the "Notice of Payment Change," the debtor shall file a "Debtor's Response to Notice of Payment Change." If the debtor fails to file such response, the debtor is deemed to have accepted the payment change and the payment change will go into effect on the date provided in the "Notice of Payment Change."

iv. The Chapter 13 trustee shall not change the payment amount in the trustee's database unless such "Notice of Payment Change" is filed with the court unless otherwise ordered by the court.

v. If the “Notice of Payment Change” is filed less than 60 days prior to the date of the change and requires the monthly payment to increase, the trustee shall set the new payment to commence as soon as is practicable and the mortgagee shall file a separate proof of claim for the difference between the old payment amount and the new payment amount for any months in which the old payment amount was remitted and shall not charge a late fee due to the dilatory notification.

c. If the mortgagee or the mortgagee’s authorized agent, whose collateral has been retained by the debtor 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:

i. The mortgagee or the mortgagee’s authorized agent shall file with the court and serve the debtor, the debtor’s counsel, and the Chapter 13 trustee a “Notice of Fees and Costs Incurred” no later than one year after such fees or costs are incurred on a form which conforms to the form on the court’s website. (It is unnecessary for the mortgagee or the mortgagee’s authorized agent to serve the Chapter 13 trustee with a paper copy as the trustee shall receive a copy electronically. If the debtor’s attorney receives service electronically, it is unnecessary for her to be served with a paper copy as well.)

(I). The mortgagee or the mortgagee’s authorized agent shall not file more than one such notice per year.

(II). Failure of the mortgagee or the mortgagee’s authorized agent to file and serve the “Notice of Fees and Costs Incurred” within one year after such fees or costs are incurred shall be deemed a waiver of such fees or costs.

ii. The Chapter 13 trustee shall load the total amount requested in the “Notice of Fees and Costs Incurred” into the Chapter 13 trustee’s database for payment and, absent other order of the court, it shall be paid pro rata as funds are available with secured and priority claims for whom no Equal Monthly Amount is provided.

d. No later than 30 days after service of the “Notice of Fees and Costs Incurred,” the debtor shall file “Debtor’s Response to Notice of Fees and Costs Incurred.” If the debtor fails to file such response, the debtor shall be deemed to have accepted that the charge is owed, reasonable and non-dischargeable and the Chapter 13 trustee shall release the claim for payment as funds are available for that class of claimant.

e. If authorized pursuant to the applicable debtor's response to a "Notice of Payment Change" or to a "Notice of Fees and Costs Incurred" or if the debtor does not respond timely to any such notice, the Chapter 13 trustee is authorized to increase the Chapter 13 plan payment without the necessity of the debtor filing a modified plan in order for the plan to comply with §§1322(a)(1) and 1322(d). The trustee shall send a notice to the debtor of such payment change and shall provide the court with a proposed wage order reflecting such change in plan payment.

4. Unmodified Payments on a note secured by real estate when the debtor originally paid the mortgagee directly and modifies a previously confirmed plan to have the Chapter 13 trustee pay on-going post-petition payments from the Chapter 13 plan payments.

a. If the debtor modifies a previously confirmed Chapter 13 plan which provided for the Chapter 13 debtor to pay the on-going post-petition payments directly to a mortgagee to have the Chapter 13 trustee pay all or some part of the on-going post-petition payments from the Chapter 13 plan payments, the amended Chapter 13 plan must spell out with specificity the name, address and account number of the creditor to whom the payments are to be paid; the date on which the Chapter 13 trustee is to commence making the on-going post-petition payments; the treatment of the post-petition delinquency, including the gap between the date when the debtor modified the plan and the date upon which the Chapter 13 trustee is to commence making the mortgage payment, if any.

b. The claimant must file a separate proof of claim for any post-petition delinquency, including the gap between the date when the Chapter 13 debtor modified the Chapter 13 plan and the date upon which the Chapter 13 trustee is to commence making the mortgage payment, if any.

5. Unmodified Payments on a note secured by real estate when the debtor originally filed the case under another chapter of Title 11 and paid the mortgagee directly, but the on-going postpetition payments are delinquent at the time of conversion to Chapter 13.

a. If the debtor originally filed the case under another chapter and at the time of conversion to Chapter 13 the post-petition payments are delinquent, the debtor shall make the post-petition payments to the mortgagee through the Chapter 13 trustee as part of the Chapter 13 plan payment., unless the court orders otherwise.

b. The Chapter 13 plan must spell out with specificity the name, address and account number of the creditor to whom the payments are to be paid; the date on which the Chapter 13 trustee is to commence making the on-going post-conversion payments; the treatment of the post-petition

delinquency, including the gap between the date when the debtor filed the petition and converted to Chapter 13; and the treatment of the pre-petition arrearage.

c. The claimant must file a separate proof of claim for any post-petition, pre-conversion delinquency, including the gap between the date when the Chapter 13 debtor filed for protection under Title 11 and converted to Chapter 13 and the date upon which the Chapter 13 trustee is to commence making the post-conversion mortgage payment, if any.

6. Modified Payment on a note secured by real estate. If the debtor proposes to modify a note secured by real estate, the debtor shall make all payments to the mortgagee through the Chapter 13 trustee as part of the Chapter 13 plan payment. The Chapter 13 trustee shall distribute payment to the mortgagee pursuant to the terms of the confirmed plan. The Chapter 13 trustee shall not distribute payments to the mortgagee until a proof of claim is filed.

7. Chapter 13 Trustee Payments to Mortgagees.

a. The Chapter 13 trustee shall release payments to the entity specified in the filed and allowed proof of claim.

b. Unless the court orders otherwise, the Chapter 13 trustee shall not change the payee unless an assignment or transfer of claim is filed with the court.

IN THE UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF MISSOURI

In re:)
) Case No.
)
)
)
 Debtor(s))

**DEBTOR'S RESPONSE TO MORTGAGEE'S NOTICE OF FEES AND COSTS
INCURRED**

The debtor responds to the Mortgagee's Notice of Fees and Costs incurred in the amount of \$ _____ as follows:

- Debtor objects to the mortgagee's notice of fees and costs incurred in the amount of \$ _____ because _____ (state reason).
- Debtor does not object to the mortgagee's notice of fees and costs incurred in the sum of \$ _____ and will propose a modified plan to provide for the payment of these fees and costs.
- Debtor does not object to the mortgagee's notice of fees and costs incurred in the sum of \$ _____ and authorizes the trustee to pay these fees and costs to the mortgagee in the ordinary course of business as funds are available pro rata with other secured and priority unsecured claimants who are not being paid an equal monthly amount.
- Debtor does not object to the mortgagee's notice of fees and costs incurred in the sum of \$ _____ acknowledges that these fees and costs are non-dischargeable, and authorizes the mortgagee to add these fees and costs to the note.

DATED: _____

NAME
ADDRESS
TELEPHONE NUMBER
FACSIMILE
EMAIL

A copy of the foregoing was mailed postage prepaid this ___ day of _____, 2008, to:

And was served electronically via the Court's CM/ECF system on:

ADDENDUM TO PROOF OF CLAIM FOR REAL ESTATE CLAIMS

Debtor:
Case No.
Creditor

1. PRE-PETITION ARREARAGE:

- a. Mortgage Payments – # _____ @ \$ _____
- b. Late Fees - # _____ @ \$ _____
- c. Other Fees
 - i. Inspection Fee - \$ _____
 - ii. Escrow Shortage - \$ _____
 - iii. Attorney's Fees - \$ _____
- d. **TOTAL ARREARAGE:** \$ _____

2. ESTIMATED PAYOFF:

- a. Unpaid Principal Balance - \$ _____
- b. Interest from Last Paid Installment - \$ _____
- c. Escrow Shortage - \$ _____
- d. Late Fees - \$ _____
- e. Property Inspection Fee – \$ _____
- f. Other
- g. **TOTAL ESTIMATED PAYOFF:** \$ _____

2. CURRENT MONTHLY PAYMENT:

- a. Principal and Interest payment - \$ _____
- b. Escrow Payment - \$ _____
- c. **TOTAL CURRENT MONTHLY PAYMENT - \$ _____**
- d. Effective Date of Current Monthly Payment: _____
- e. **CURRENT CONTRACT RATE OF INTEREST:** _____ %