

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF NORTH CAROLINA**

FILED  
U.S. Bankruptcy Court  
Western District of NC  
**NOV 30 2011**  
Steven T. Salata, Clerk  
Charlotte Division  
ASW

IN RE:

PROCEDURES IN AID OF  
THE ADMINISTRATION OF  
CHAPTER 13 PLANS

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**ADMINISTRATIVE ORDER  
AMENDING PROCEDURE FOR  
THE DISBURSEMENT OF  
POST-PETITION CONDUIT  
MORTGAGE PAYMENTS**

JUDGMENT ENTERED ON **NOV 30 2011**

The Court has considered this matter and it appears that certain amendments to the procedures previously adopted for the disbursement of post-petition conduit mortgage payments in Chapter 13 cases in this District are appropriate and should be adopted at this time,

Based on the foregoing, **IT IS HEREBY ORDERED** that the Court's previous Administrative Orders regarding conduit mortgage procedures are amended as set forth below:

1. A new bankruptcy rule, Fed. R. Bankr. P. 3002.1, has been approved and becomes effective as of December 1, 2011. This new rule governs the treatment of mortgage claims in Chapter 13 proceedings. In addition, Fed. R. Bankr. P. 3001 has been amended and the revised rule becomes effective as of December 1, 2011.

2. The new and revised rules provide for three new official forms for use with mortgage claims related to 11 U.S.C. § 1322(b)(5): B 10 (Attachment A), B 10 (Supplement 1), and B 10 (Supplement 2).

3. By this Administrative Order, the Court concludes that the conduit mortgage claim and payment procedure previously adopted in this District is generally consistent with the new and revised rules and forms. The changes to the conduit mortgage claim and payment procedure adopted by this Administrative Order are intended to fully conform to the Administrative Orders of June 26, 2009, January 22, 2010, and September 13, 2011, and to the new and revised rules and official forms.

4. Real Property Creditors shall use Form B 10 (Supplement 1) instead of Local Form 15 to indicate changes in escrow or payment amounts. The references in the June 26, 2009, Administrative Order (at paragraph 5(d)) and the September 13, 2011, Administrative Order to Local Form 15 are replaced with references to Form B 10 (Supplement 1). Local Form 15 is withdrawn. Real Property Creditors will continue to use Local Form 14 (as revised) to indicate the monthly conduit mortgage payment amount and Local Form 12 to report name and/or address changes.

5. Pursuant to new Rule 3002.1(f), (g), (h), and (i), the Trustee (or the Debtor) shall file the required notice and motion and provide 45 days notice to determine the status of the mortgage payments at the completion of the plan. Such notice and motion may be filed on a no-protest basis pursuant to Local Rule 9013-1(f). A hearing shall be requested by filing and serving a response,

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including an objection and request for hearing, within 21 days of the date of the service of the notice. This amends paragraphs 4(f) and 6(b) of the Administrative Order of June 26, 2009.


6. Pursuant to new Rule 3002.1(f), the Debtor may file the notice and motion as described in paragraph 5 of this Order for conduit and/or non-conduit mortgage payments as allowed by the rule. This amends paragraphs 4(f) and 6(c) of the Administrative Order of June 26, 2009.

7. The June 26, 2009, Administrative Order is amended in paragraph 3 (“Duties of the Debtor”) to add a subparagraph 3(d) that states: “If the Real Property Creditor does not timely file a proof of claim and/or the new forms accompanying Rule 3002.1, and the Debtor files a claim and the forms for the mortgage claim, the Debtor’s claim shall establish the correct and valid claim in the Chapter 13 proceeding and shall be the claim effective for Rule 3002.1 treatment unless the Court rules otherwise.”

8. The June 26, 2009, Administrative Order is amended in paragraph 6(a) to add a sentence at the end of the paragraph that states: “The noticing requirements of Rule 3002.1(f), (g), (h), and (i) shall apply to the completion of a plan with conduit payments.”

9. If neither the Real Property Creditor nor the Debtor files a mortgage claim with the requisite forms attached, the Trustee, at confirmation, may determine the monthly conduit mortgage payment to be the amount provided by the Debtor on Local Form 4 (“Details of Chapter 13 Plan”) at paragraph 2(c) (“Monthly Conduit Payment”). The Trustee may use the amount listed by the Debtor for conduit mortgage payments throughout the plan period unless a valid mortgage conduit claim is subsequently filed by the Real Property Creditor (or the Debtor) after confirmation. If a valid mortgage conduit claim is subsequently filed, the conduit mortgage payment amount shall change to the claim amount. Payments made prior to the filing of the claim are presumed to be the proper payment amount and are deemed accepted by the Real Property Creditor. In addition, if a claim is not properly filed prior to confirmation, the prepetition mortgage arrearage, if any, will be determined by the amount provided by the Debtor on Local Form 4 at paragraph 2(b) (“Pre-petition Arrearages, if any, to be paid through the Chapter 13 Trustee”) unless and until a claim is properly filed. This amends paragraph 4(b) of the June 26, 2009, Administrative Order and paragraph 4 of the January 22, 2010, Administrative Order.

10. These amendments shall become effective December 1, 2011.

  
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J. Craig Whitley  
Chief United States Bankruptcy Judge

  
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George R. Hodges  
United States Bankruptcy Judge

  
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Laura T. Beyer  
United States Bankruptcy Judge