

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE:
DEBTOR

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CASE NO.
CHAPTER 13

Debtor

AGREED ORDER ON MONTHLY MORTGAGE PAYMENTS

Came on to be heard the Debtor's Motion to Modify Confirmed Plan, and the court, based upon the announcement of the parties, finds as follows:

1. The Debtor and Mortgage Company, Creditor herein, stipulate that effective November 16, 2022, the parties entered into a Loan Modification Agreement; and
2. The parties stipulate that the Loan Modification Agreement provided that effective December 1, 2021, the monthly mortgage payment was \$2,186.57; and
3. The parties stipulate that there was a suspense balance held by Creditor of \$582.34 as of the date of the Loan Modification Agreement; and
4. The parties stipulate that commencing October 31, 2021, the chapter 13 trustee has disbursed five (5) mortgage payments to Creditor, each disbursement being in the amount of \$2,276.73; and
5. The parties stipulate that Creditor has applied the disbursements from the trustee set forth in the preceding paragraph of this Order to the monthly mortgage payments of \$2,186.57 that came due from December 1, 2021 through April 1, 2022, resulting in an additional suspense balance of \$450.80; and
6. The parties stipulate that the mortgage loan is currently due for the May 1, 2022 monthly mortgage payment of \$2,186.57, with a suspense balance of \$1,133.14.

Based upon the foregoing, the parties agree as follows:

ORDERED that the ongoing monthly mortgage installment payable to Creditor commencing December 1, 2021 was \$2,186.57 per month.

IT IS FURTHER ORDERED that the monthly mortgage payment is currently due for the May 1, 2022 monthly mortgage payment.

IT IS FURTHER ORDERED that Creditor shall apply the current suspense balance of \$1,133.14 to the May 1, 2022 month mortgage payment.

IT IS FURTHER ORDERED that the chapter 13 trustee shall, so long as there are funds available at the time of disbursement, disburse the amount of \$1,053.43 to Creditor complete the payment of the May 1, 2022 monthly mortgage payment.

IT IS FURTHER ORDERED that chapter 13 trustee shall, so long as there are funds available at the time of disbursement, resume disbursing the full mortgage payment amount commencing with the June 1, 2022 monthly mortgage payment.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS

IN RE

MORTGAGE FORBEARANCES
UNDER THE CARES ACT.

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GENERAL ORDER 2021-4

ORDER ON MORTGAGE FORBEARANCES UNDER THE CARES ACT

Section 4022 of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) permits borrowers of “Federally backed mortgage loans” to request a forbearance on mortgages. By unanimous vote, the Court adopts the following procedures for forbearances of mortgages granted to Chapter 13 Debtors:

1. A mortgage creditor must file a notice of mortgage forbearance pursuant to the CARES Act (a “Forbearance Notice”) on the Court’s CM/ECF docket to confirm that an agreement for a mortgage forbearance exists between the Debtor and the mortgagee (“Forbearance Agreement”). A Forbearance Notice must include a cover sheet in the form attached as **Exhibit 1** to this Order along with a copy of the Forbearance Agreement setting forth the terms of the agreement including the duration of the Forbearance Agreement, (“Forbearance Period”). The Forbearance Notice will not (i) determine amounts payable to the mortgagee; nor (ii) constitute a Notice of Mortgage Payment Change under Fed. R. Bankr. P. 3002.1(b).

2. The Forbearance Agreement described in a Forbearance Notice will not affect chapter 13 plan payments unless, prior to the end of the Forbearance Period, the Debtor files (i) a chapter 13 plan incorporating the terms of the proposed Forbearance Agreement or (ii) a “Debtor(s)’ Forbearance Motion” substantially in the form attached as **Exhibit 2** to this Order. If no plan has been confirmed, the Debtor(s) must file a proposed plan incorporating the terms of the Forbearance Agreement. If a plan has been confirmed, the Debtor’s Forbearance Motion is a motion to modify a confirmed plan.

3. A Debtor(s)’ Forbearance Motion becomes effective upon filing on the Court’s CM/ECF docket unless later abrogated by the Court. No Notice of Mortgage Payment Change pursuant to Fed. R. Bankr. P. 3002.1(b) is required to implement the relief set forth in a Debtor(s)’ Forbearance Motion.

4. In a conduit mortgage payment case, the Chapter 13 Trustee shall not disburse principal and interest payments to a mortgagee upon receipt of a Forbearance Notice except as provided in this Order or any subsequent Court order. Escrow payments should continue to be disbursed. A Chapter 13 Trustee has no obligation to recover funds disbursed to a mortgagee before receiving the Forbearance Notice. Any such payment(s) received from the mortgagee by the Chapter 13 Trustee shall be applied to the first payments due to the mortgagee after the termination of the forbearance period (unless a plan or plan modification provides otherwise).

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