

Form O-400

(For Use When Previously Confirmed Plan Required Mortgage Payments Through Trustee)

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

In re:

§
§

**Case No.
(Chapter 13)**

**CHAPTER 13
AGREED ORDER CONDITIONING AUTOMATIC STAY (HOME)
(This Order resolves Docket #____)**

1. This Order concerns the note that is secured by the Debtor(s)' home and that is held, directly or in its capacity as agent for the holder, by _____, "Movant". The property that is the subject of this motion is [describe property, including street address and legal description.] (the "Property"). Notices sent pursuant to this Order must be sent to _____ (if to Movant) and to _____ (if to Debtor), and to the Chapter 13 trustee serving in the case at the address shown on the Court's docket.

2. By signing below, the Debtor(s) represent to the Court that the Debtor(s):

A. If they are a salaried or wage employee, are currently operating under a wage order or have submitted all information to the chapter 13 trustee for the presentation of a wage order to the Court.

B. If they are not a salaried or wage employee, are currently operating under an automated clearinghouse order or have submitted all information to the chapter 13 trustee for the presentation of an automated clearinghouse order to the Court, or enrolled in the trustee's electronic funds transfer program.

3. The parties stipulate that unpaid amounts due post-petition total \$_____ and that Movant should be awarded attorneys fees and costs in the amount of \$_____ (not to exceed \$650.00), for a total post-petition amount owed of \$_____ (this total is referred to as the Delinquent Payment Amount). Attached is a schedule of the delinquent payments, showing the amount of each payment, and the month for which the payment was due. Within ____¹ days after entry of this Order, the Debtor(s) must either tender sufficient funds to the chapter 13 trustee to enable the trustee to pay the delinquent amount on the date of the next regularly scheduled disbursement of funds by the trustee following receipt of the funds; or (ii) file a proposed modification of any confirmed plan or must amend any proposed plan to include the Delinquent Payment amount, with interest at an annual rate of ____%; provided, that if no amount is due, no modification must be filed. If the Debtors are required to file a modification or pay the Delinquent Payment Amount and fail to do either, it is a Final Default under this Order. At the hearing on modification of the plan, the Debtors must be current on all payments to the chapter 13 trustee pursuant to the terms of the proposed modification. If the Debtors are not current, it is a Final Default under this Order.

4. The Debtor(s) must:

A. Timely make all chapter 13 plan payments to the chapter 13 trustee that come due after the date of this Order, to enable the trustee to make all future contractual monthly payments concerning the Property. The next regular contractual payment due Movant pursuant to the plan is

¹ The number of days shown has been negotiated by the parties. The number of days must not exceed 60.

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the payment for the month of _____, which shall be in the amount of \$0,000.00 (principal and interest), plus \$000.00 (escrow), for a total payment of \$0,000.00.

B. Maintain insurance and pay all ad valorem taxes on the property and provide continuous proof of insurance and payment of ad valorem taxes to the holder of the note. This provision does not apply to escrowed taxes and insurance, payment of which is governed by paragraph 4A.

C. Timely make all post-petition payments which are secured by the Property and which are required to be made to any community or homeowners association or pursuant to any condominium or townhome declaration.

5. Failure of the Debtor to comply with paragraph 4 of this Order constitutes a “default.” In the event of a default, the Movant must give the Debtor(s), Debtor(s)’ counsel, and the chapter 13 trustee, written notice of the specific default by regular and by certified mail. If the Debtor(s) fail to cure the default within 10 days of the date that notice was sent, it is a Final Default under this Order. Movant is only required to send two notices of default under this order. If there is a third failure to comply with paragraph 4, it is a Final Default and no further notice of an opportunity to cure must be given.

6. The automatic stay remains in effect until (i) there is a Final Default under this order; (ii) this case is dismissed; or (iii) the Debtor(s) receive their bankruptcy discharge. If the stay terminates because there is a Final Default, the Movant must file a notice of termination of the automatic stay. The Debtor or the Trustee may challenge any notice of default, or notice of termination by filing a motion to set aside the applicable notice. The motion must be filed within 10 days of the filing of the notice. Pending consideration of the motion by the Court, the Movant may proceed with all actions preparatory to foreclosure, but may not consummate a foreclosure of the Property. Any co-debtor stay terminates at the time that the automatic stay terminates.

7. If the Court denies approval of a modification proposed by the Debtor(s), the Court will reconsider Movant’s requested relief from the stay. In such an event, Movant should calendar the reconsideration for a hearing on a § 362 hearing day after the expiration of 10-days from the date on which approval of the proposed modification is denied.

SO ORDERED:

ReservedForJudgeSignature

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AGREED AND ENTRY REQUESTED:

Debtor

Joint Debtor

Debtor(s)' counsel signature

Movant's counsel signature

Name: _____

Name: _____

State Bar No.: _____

State Bar No.: _____

S.D. Tex. Bar No.: _____

S.D. Tex. Bar No.: _____

Address: _____

Address: _____

Telephone: _____

Telephone: _____

Fax: _____

Fax: _____

E-mail: _____

E-mail: _____

Chapter 13 Trustee's signature

Name: _____

Address: _____

Telephone: _____

Fax: _____

[Document must be signed by Debtor(s) or by Debtor(s)' counsel or both. Electronic signatures may be submitted. Movant must retain copies of the original signatures.]