

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

**CHAPTER 13 TRUSTEE PROCEDURES FOR  
ADMINISTRATION OF CLAIMS SECURED BY REAL PROPERTY**  
**(Last Amended Effective June 22, 2022)**

1. These Procedures apply to all claims secured by real property that are treated in a chapter 13 plan.
2. Plans must provide for the payment through the Chapter 13 Trustee of principal, interest, and escrow payments (“Ongoing Payments”) if there is a default on the claim secured by real property as of (i) the petition date, (ii) the date of the plan confirmation hearing, (iii) the date of the filing of a plan modification, or (iv) the date of the plan modification hearing. This paragraph does not apply if a default is cured by a consensual loan modification.

**Debtor(s)’ reporting requirements**

3. Not later than 5 days after a case is filed, the Debtor(s) must provide the Chapter 13 Trustee with the following information in writing on each claim with Ongoing Payments that will be made under the Plan through the Chapter 13 Trustee:
  - a. The complete payee name, payment address and payee e-mail address (if available).
  - b. The account number assigned to the claim.
  - c. A copy of the most recent statement reflecting the amount and due date of contractual payments on the claim.
  - d. A telephone number for the servicer, if any, of the claim.

**Disbursement of funds**

4. The Chapter 13 Trustee will disburse funds in payment of all regular contractual installment payments due under a claim secured by real property and all post-petition charges fees and expenses, each in the amounts as provided by FED. R. BANKR. P. 3002.1(c) and these procedures. Disbursements should commence as soon as practicable. If the Chapter 13 Trustee has available funds and sufficient payment remittance information, the initial disbursement should precede the hearing on Plan confirmation.
5. No disbursements shall be made until good and sufficient funds have been received by the Chapter 13 Trustee.

**Payment changes**

6. FED. R. BANKR. P. 3002.1 applies in accordance with its terms to claims (1) that are secured by a security interest in the Debtor(s)’ principal residence, and (2) for which the Plan

provides that either the Chapter 13 Trustee or the Debtor(s) will make contractual installment payments.

7. In addition to the matters set forth in paragraph 6, FED. R. BANKR. P. 3002.1(b), (c), (d), (e), (f), (g), (h) and (i) apply to all claims secured by real property owned by the Debtor(s) or the bankruptcy estate.
8. If a Notice of Payment Change is filed, the Chapter 13 Trustee must commence payments in the changed amount beginning with the next payment due at least 21 days after the filing of the notice. Notwithstanding the foregoing, the Chapter 13 Trustee shall not pay the changed amount if an objection to the Notice of Payment Change has been filed and a stay of the Notice of Payment Change has been ordered by the Court.
9. If a Notice of Payment Change is stayed, but later determined to have been correct, then Debtor(s) shall be required to make all additional payments that accrued during the period of the stay within 30 days of the date the stay is terminated with interest on such amounts at the non-default rate applicable under the confirmed Plan.
10. If a Notice of Payment Change is implemented, but later determined to have been incorrect, the Debtor(s) shall be allowed to recoup any excess payment that was made plus interest on such amounts at the rate under confirmed Plan.

#### **Plan completion**

11. Upon the completion of a Plan providing for payments through the Chapter 13 Trustee on a claim secured by real property, the Chapter 13 Trustee must file a Notice of Final Cure Payment and Motion to Deem Claim Secured by Real Property Current and proposed form of order using **Exhibit 1**.
12. Upon the completion of a Plan providing for payments to be paid directly by the Debtor(s), the Debtor(s) may file a Motion to Deem Claim Secured by Real Property Current and proposed form of order using **Exhibit 2**.

#### **Recovery of fees and expenses**

13. If Ongoing Payments are paid by the Chapter 13 Trustee, the Chapter 13 Trustee must also pay the fees, expenses and other charges that are governed by FED. R. BANKR. P. 3002.1(c) (as extended by these Procedures) in compliance with this paragraph. If Ongoing Payments are paid directly by the Debtor(s), then the Debtor(s) must directly pay the fees, expenses and other charges in compliance with this paragraph.
  - a. If an objection challenging a fee, expense and/or other charge is filed within 30 days of a notice filed pursuant to FED. R. BANKR. P. 3002.1(c) (as extended by these Procedures), then the fee, expense and/or other charge shall be paid only after the entry of an order allowing such fee, expense and/or other charge. Any allowed amounts shall be paid after payment of all other secured and priority claims, but before payment of all general unsecured claims. If the payment of the amounts due would render the Plan deficient because of a shortfall of available funds, the

Chapter 13 Trustee must file a Notice of Plan Payment Adjustment to provide sufficient funds to pay all secured and priority claims in full.

- b. If payments are made under this Paragraph 13, but the fees, expenses or charges are later not allowed, the Debtor(s) shall be allowed to recoup any excess payment that was made plus interest on such amounts at the applicable rate in the confirmed plan.
  - c. Nothing in this Paragraph 13 governs the period over which fees, expenses, and/or other charges may be paid under a modified plan.
14. Ongoing Payments received by the holder of the claim prior to confirmation must be applied by the holder to the next payment due without penalty unless the holder files a notice in this case within 30 days of the date that the Plan is confirmed that it waives all late charges that accrue after the order for relief in this case. Amounts received by the holder after confirmation must be applied in accordance with the Plan.
15. These Procedures may be varied in a particular case only by order of the Court.

**EXHIBIT 1**

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

<b>In re:</b>	§	
	§	<b>Case No.</b>
<b>[NAME OF DEBTOR(S)]</b>	§	
	§	
	§	
	§	
	§	<b>CHAPTER 13</b>

**TRUSTEE’S NOTICE OF FINAL CURE PAYMENT  
AND MOTION TO DEEM CLAIM SECURED BY REAL PROPERTY CURRENT**

**THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.**

**REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.**

**To the Honorable United States Bankruptcy Judge:**

\_\_\_\_\_, chapter 13 trustee (the “Trustee”), files this Notice of Final Cure Payment and Motion to Deem Claim Secured by Real Property Current.

**NOTICE OF FINAL CURE PAYMENT**

1. Based on the Trustee’s records, Debtor(s) have completed all payments to Trustee due under the confirmed plan in this case. Pursuant to FED. R. BANKR. P. 3002.1(f) and the Chapter 13 Trustee Procedures for Administration of Claims Secured by Real Property, you are hereby notified that Debtor(s) have paid in full the amounts required to cure any default (both pre-and post-petition) on all claims secured by Debtor(s)’ real property. You are further notified pursuant to FED. R. BANKR. P. 3002.1(f) and the Chapter 13 Trustee Procedures for Administration of Claims Secured by Real Property, that within twenty-one (21) days after service of this notice, each holder

of a claim secured by Debtor(s)' real property is required to file and serve on Debtor(s), Debtor(s)' counsel, and Trustee a statement indicating (1) whether the holder agrees that Debtor(s) have paid in full the amount required to cure any default on its claim, and (2) whether Debtor(s) are otherwise current on all payments consistent with 11 U.S.C. § 1322(b)(5) and the Chapter 13 Trustee Procedures for Administration of Claims Secured by Real Property. The statement must itemize the required cure or post-petition amounts, if any, that the holder contends remain unpaid as of the date of the statement. The statement must be filed as a supplement to the holder's proof of claim and is not subject to FED. R. BANKR.P. 3001(f).

**Motion to Deem Claim Secured by Real Property Current  
and Direct Debtor(s) to Begin Making Direct Payments**

2. Based on Trustee's records, Debtor(s) have completed all payments to Trustee required under the confirmed plan in this case to the following creditors whose claims are secured by Debtor(s)' real property:

[List specific creditor(s)]

3. Trustee requests an order determining that (i) that the claim(s) of the above- identified creditor(s) are current; (ii) all escrow deficiencies, if any, have been cured; and (iii) all legal fees, inspection fees and other charges imposed by the creditor, if any, have been satisfied in full.

4. Debtor(s) must begin making direct payments to the following creditors whose claims are secured by Debtor(s)' real property:

<u>Creditor Name &amp; Address</u>	<u>Amount</u>	<u>Next Payment Due Date</u>
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Accordingly, Trustee requests that the Court grant relief consistent with the foregoing and such other relief as is just.

Dated: \_\_\_\_\_.

Respectfully submitted,

/s/ [Trustee]  
[Name], Trustee  
[Address 1]  
[City, State Zip]  
[Telephone Number] Telephone  
[Facsimile Number] Facsimile

**CERTIFICATE OF SERVICE**

I hereby certify that this instrument was served by United States first class mail, with proper postage affixed, addressed to the parties set forth on the attached Service List on this day of \_\_, 20 .

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[Name of Trustee]  
Chapter 13 Trustee

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

**In re:** §  
          §           **Case No.**  
[ NAME OF DEBTOR(S)] §  
          §  
          §  
          §  
          §  
          §           **CHAPTER 13**

**ORDER DEEMING CLAIM SECURED BY REAL PROPERTY CURRENT  
AND DIRECTING DEBTOR(S) TO RESUME PAY-  
MENTS  
(Docket No. \_\_)**

The Court has considered Trustee’s Notice of Final Cure Payment and Motion to Deem Claim Secured by Real Property Current. The Court finds that notice is proper and that the requested relief is proper. Accordingly, it is therefore

**ORDERED THAT:**

1. Based on Trustee’s records, Debtor(s) have completed all payments to Trustee required under the confirmed plan in this case to the following creditors whose claims are secured by Debtor(s)’ real property:

[List specific creditor(s)]

2. The claims of the above-listed creditor(s) are deemed current as of [DATE]. All escrow deficiencies, if any, are deemed cured. All fees, expenses and other charges imposed by the creditor, if any, are deemed satisfied in full. The creditor shall be solely responsible for any shortfall.

3. Debtor(s) must begin making direct payments to the following creditors whose claims are secured by Debtor(s)’ real property. The next payment due after receipt of the last payment made by the Trustee under the Plan is:

<u>Creditor Name &amp; Address</u>	<u>Amount</u>	<u>Next Payment Due Date</u>
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SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
[NAME OF JUDGE]  
UNITED STATES BANKRUPTCY JUDGE



serve on Debtor(s), Debtor(s)' counsel, and Trustee a statement indicating whether Debtor(s) are current on all payments consistent with 11 U.S.C. § 1322(b)(5) and the Chapter 13 Trustee Procedures for Administration of Claims Secured by Real Property. The statement must itemize the required cure or post-petition amounts, if any, that the holder contends remain unpaid as of the date of the statement. The statement must be filed as a supplement to the holder's proof of claim and is not subject to FED. R. BANKR.P. 3001(f).

**Motion to Deem Claim Secured by Real Property Current  
and Direct Debtor(s) to Begin Making Direct Payments**

2. Debtor(s) have completed all payments to Trustee required under the confirmed plan in this case to the following creditors whose claims are secured by Debtor(s)' real property:

[List specific creditor(s)]

3. Debtor(s) request an order determining that (i) that the claim(s) of the above- identified creditor(s) are current; (ii) there are no escrow deficiencies; and (iii) all legal fees, inspection fees and other charges imposed by the creditor, if any, have been satisfied in full.

4. Debtor(s) must continue making direct payments to the following creditors whose claims are secured by Debtor(s)' real property:

<u>Creditor Name &amp; Address</u>	<u>Amount</u>	<u>Next Payment Due Date</u>
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Accordingly, Debtor(s) request that the Court grant relief consistent with the foregoing and such other relief as is just.

Dated: \_\_\_\_\_.

Respectfully submitted,

/s/ [Counsel to Debtor(s)]

[Name]

[Address 1]

[City, State Zip]

[Telephone Number] Telephone

[Facsimile Number] Facsimile

**CERTIFICATE OF SERVICE**

I hereby certify that this instrument was served by United States first class mail, with proper postage affixed, addressed to the parties set forth on the attached Service List on this day of \_\_, 20 .

\_\_\_\_\_  
Counsel to Debtor(s)



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

<b>In re:</b>	§	
	§	<b>Case No.</b>
[ NAME OF DEBTOR(S)]	§	
	§	
	§	
	§	
	§	<b>CHAPTER 13</b>

**ORDER DEEMING CLAIM SECURED BY REAL PROPERTY CURRENT  
AND DIRECTING DEBTOR(S) TO MAINTAIN PAYMENTS  
(Docket No. \_\_)**

The Court has considered Debtor(s) Motion to Deem Claim Secured by Real Property Current. The Court finds that notice is proper and that the requested relief is proper. Accordingly, it is therefore

**ORDERED THAT:**

1. Debtor(s) have maintained all payments to Trustee required under the confirmed plan in this case to the following creditors whose claims are secured by Debtor(s)' real property:

[List specific creditor(s)]

2. The claims of the above-listed creditor(s) are deemed current as of [DATE]. All escrow deficiencies, if any, are deemed current. All fees, expenses and other charges imposed by the creditor, if any, are deemed satisfied in full. The creditor shall be solely responsible for any shortfall.

3. Debtor(s) must continue making direct payments to the following creditors whose claims are secured by Debtor(s)' real property. The next payment due after receipt of the last payment made by the Trustee under the Plan is:

<b><u>Creditor Name &amp; Address</u></b>	<b><u>Amount</u></b>	<b><u>Next Payment Due Date</u></b>
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SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
[NAME OF JUDGE]  
UNITED STATES BANKRUPTCY JUDGE