

*Form O-405*  
*(For Use When Debtor Has Previously Made Direct Payments on Mortgage)*

**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 trustee 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). A schedule of the delinquent payments, showing the amount of each payment, and the month for which each payment is due is attached. The Delinquent Payment Amount will be reduced by any payments previously made by the Debtor(s) that have not been properly credited by Movant. Proof of any such payments must be provided to Movant within 30 days of the date of entry of this Order. Within \_\_\_\_\_<sup>1</sup> days after entry of this Order, the Debtor(s) must either (i) pay the Movant the Delinquent Payment Amount; 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 regular payments concerning the Property, including all payments of principal, interest and escrows beginning with the next regular payment due on \_\_\_\_\_. The amount of the payment due on \_\_\_\_\_, is \$0000.00, of which, \$000.00 is principal and interest, and \$000.00 is required escrow. If the plan is

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

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modified, payments must be made through the chapter 13 trustee in accordance with the chapter 13 trustee's mortgage payment procedures (unless otherwise ordered by the Court). If the plan is not modified, payments should be made directly to Movant at:

\_\_\_\_\_.

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.

D. Make all payments due to the chapter 13 trustee after the date of this Order, with the amount of such payments being made in the amount required under the proposed modification.

5. If the Debtor(s) fail to comply with paragraph 4 of this Order or make a payment by insufficient check, the Movant must give the Debtor(s) and Debtor(s)' counsel, and the chapter 13 trustee written notice by regular and by certified mail. If the Debtor(s) fail to comply 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 7 days of the filing of the notice of termination. 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 7-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.]