

TRUSTEE'S PROCEDURES FOR MONITORING DEBTOR'S MORTGAGE
DIRECT PAYMENT OBLIGATION DURING THE PENDENCY OF THE CASE ("Mortgage DPO")
AS SUCH RELATES TO CASES WITH THE NEW FORM CHAPTER 13 PLAN (TXEB Local Form 3015-a)¹

Section 3.1 of the new form Chapter 13 Plan provides that the Trustee "will monitor" the Debtor's fulfillment of the payment the Debtor's post-petition Mortgage DPO.² The following outlines the Trustee's new procedures put in place for this purpose:

From the Petition Date through the Date of Confirmation of the Debtor's Chapter 13 Plan: Direct Payment Certification (TXEB Local Form 3015-c) filed with the Court confirming that the Debtor is current on all DPO through the date of confirmation is sufficient verification for the Trustee for this time period.

From Date of Confirmation to the end of the Case:

--On or about Debtor's 341 meeting, Trustee will provide to Debtor with 12 self-addressed Post Cards

--Each Month (starting with the month Plan was confirmed), Debtor will return a Post Card to Trustee verifying that Debtor made the mortgage payment for the month in question (see attached instructions).

--Trustee will have an alternate form on his website in the event a Post Card is not available.³

--Upon his receipt of a Post Card for a particular case, Trustee will enter a docket notation advising the Court of his receipt of Debtor's verification that mortgage payment was made for the month in question.

--At the end of each month, Trustee will enter a docket notation in all of the other cases advising the Court that the Trustee has NOT received such a Debtor's verification that the mortgage payment was made for the month in question.

--Trustee will generate a correspondence, e-mail, or other communication to Debtor's attorney, if any, advising the attorney that such a verification was NOT received.

--If Trustee receives the Debtor's verification after Trustee's entry of the non-receipt docket notation, Trustee will enter a new docket notation advising the Court that the Trustee has now received the verification that the mortgage payment was made for the month in question.

--In the event the Debtor's post-petition mortgage obligation CEASES during the pendency of the bankruptcy case for some reason (sale of home, foreclosure of home after the stay lifts, etc.), Debtor shall note such on the Post Card and Trustee will enter a docket notation advising the Court of such. Debtor's obligation to return monthly Post Cards to the Trustee ceases.

--The Debtor's Direct Payment Certification filed with a Motion to Modify [BLR 3015(h)(4)(a)] shall also constitute sufficient verification that all prior monthly mortgage payments have been made (unless the Motion to Modify is filed to add post-petition mortgage arrears to the Plan).

¹ Trustee Procedures as of 11/12/17; subject to change without further notice.

² The use of the singular term "Debtor" in this Memorandum includes both debtors when the case has been initiated by the filing of a joint petition by spouses.

³ Debtor's verification of payment of mortgage payment must be in writing; telephone calls to Trustee will not be sufficient.

--Trustee's docket notations as described herein constitute only a representation to the Court and any other party that Trustee did or did not receive a verification from the Debtor that a mortgage payment was made for a particular month; such docket notations do NOT constitute any type of Trustee's representation that the Debtor did or did not actually make the mortgage payment for the month in question.

Consequence of the Debtor's failure to provide the Trustee with verification that the Debtor made the post-petition Mortgage DPO payment: The Court will periodically issue Show Cause Orders concerning cases where the Trustee has noted in PACER that the Debtor has failed to provide to the Trustee verification of payment of post-petition Mortgage DPO for two or more months.

The Trustee suspects that the Show Cause Orders will provide for possible remedies ranging from dismissing the case, lifting the automatic stay for the home, or such other remedies as the Court sees fit.

At such a hearing, the burden of proof will be on the Debtor that the mortgage payments for the months in question have in fact been made.

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Tyler, Marshall, Lufkin, and Beaumont Divisions