

**UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA**

**IN RE:**

**Relief From Stay Orders**

**STANDING ORDER # 12**

It appears that the number of motions for relief from stay has increased significantly as has the number of consensual resolutions of the motions in chapter 13. After reviewing the consent orders, the court determined that most orders fall within certain parameters which in ordinary circumstances will be approved by the court without a further evidentiary hearing. In order to assist the bar and the court, the court has prepared standardized forms of order for routine consent orders providing for the curing of post-petition arrearages in chapter 13 cases and providing full relief from the automatic stay, whether or not consensual, in both chapter 7 and 13 cases. It is, therefore

**O R D E R E D**

1. All consent orders in chapter 13 cases, other than those noticed for a hearing as provided in paragraph 3 below, submitted on or after **April 1, 2010** that provide for the curing of post-petition arrears shall be in Form A which is attached to this order. Paragraph 8 concerning relief as to a co-debtor should be included or omitted as appropriate.

2. Except as authorized in paragraph 3, all orders in chapter 7 and chapter 13 cases granting relief from the automatic stay to enforce deeds of trust or security agreements encumbering real or personal property, whether or not consensual, shall be in Form B which is attached to this order.

3. In the event that the terms of a standard form of order are not appropriate in a particular case, the parties must place the matter on the court's docket for presentation of a proposed order. The parties should be prepared to explain the need for additional or modified terms and to present evidence as may be appropriate. By placing the matter on the court's docket, the parties agree that the automatic stay shall remain in full force and effect until the entry of an appropriate order.

A copy of this Standing Order is directed to be sent to all counsel in the Western District of Virginia who are registered to practice in the United States Bankruptcy Court for the Western District of Virginia, and the Clerk is directed to post a copy of this Order in all Divisional Offices of the Bankruptcy Court for the Western District of Virginia, and on the Court's website.

Enter this 9<sup>th</sup> day of March, 2010.

  
ROSS W. KRUMM  
Chief Judge

**FORM A**

**Chapter 13 Consent Relief from Stay**

**UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA**

<b>In re:</b>  <p style="text-align: center;"><b>DEBTOR(S)</b></p>	<b>CASE NO.</b>  <b>CHAPTER:</b>
<b>v.</b>  <p style="text-align: center;"><b>MOVANT(S)</b></p> <p style="text-align: center;"><b>RESPONDENT(S)</b></p>	

**Consent Order Modifying Automatic Stay**

This matter was before the court on \_\_\_\_\_, 20\_\_, on the motion of \_\_\_\_\_, for relief from the automatic stay with respect to [*Counsel must select the applicable language for either real property or personal property and redact the other*] the real property located at \_\_\_\_\_ and more particularly described as follows:

*LEGAL DESCRIPTION*

*or certain personal property, to-wit: description of personal property, including in the case of a motor vehicle, the make, model and VIN number].*

Upon consideration of which, it is

**ORDERED**

1. The debtor will resume making regular monthly installment payments in the amount of \$\_\_\_\_\_ as they become due commencing on \_\_\_\_\_. Late payments will include applicable late charges in the amount of \$\_\_\_\_\_.

2. The debtor will cure the post-petition arrearage currently due to the movant through \_\_\_\_\_ in the total amount of \$\_\_\_\_\_, which includes late charges, deferred late charges, filing fees and attorney's fees, by making the following payments:

[Description of terms of repayment, such as the following:

- a. \$\_\_\_\_\_ on or before \_\_\_\_\_.
- b. \$\_\_\_\_\_ on or before \_\_\_\_\_.
- c. \$\_\_\_\_\_ on or before \_\_\_\_\_.
- d. \$\_\_\_\_\_ on or before \_\_\_\_\_.
- e. \$\_\_\_\_\_ on or before \_\_\_\_\_.
- f. \$\_\_\_\_\_ on or before \_\_\_\_\_.]

3. In the event that any payment required by this order is not received by the movant within 15 days after it is due, the movant may mail a notice of default to the debtor by first class mail, postage prepaid, (and, if it desires, also by certified or registered mail) with a copy to debtor's counsel and the trustee by first class mail, postage prepaid, or by email at the same time as the notice of default is mailed to the debtor. The notice of default will state in simple and plain language:

a. That the debtor is in default in making at least one payment required under this order;

b. The dates and amount of each payment missed and any late charge or other fee necessary to cure the default;

c. The action necessary to cure the default, including any address to which payments must be mailed;

d. That the debtor or trustee must take one of the following actions within fourteen days after the date of the mailing of the notice of default:

i. cure the default;

ii. file an objection with the court stating that no default exists; or

iii. file an objection with the court stating any other reason why an order granting relief from the automatic stay should not be entered;

e. That if the debtor or trustee does not take one of the actions set forth in paragraph 3(d), the movant may file a certificate that it has complied with the terms of this order and that the court may grant relief from the automatic stay without further notice to the debtor; and

f. That if the automatic stay is terminated, the collateral may be sold at foreclosure.

If the debtor or trustee does not take one of the actions set forth in paragraph 3(d), the movant may submit a certificate stating that it has complied with the terms of this order and that neither the debtor nor the trustee has taken one of the actions set forth in paragraph 3(d) and may submit together with the certificate a draft order terminating the automatic stay. If the debtor or trustee files an objection, the movant must set the matter for hearing and give notice of the hearing to the debtor, debtor's counsel and the trustee. At the hearing, the court may terminate the stay or take other action appropriate to the circumstances.

4. The provisions of this order with respect to regular monthly installment payments expire one year after the date of the entry of this order. In the event of the default in payment of any regular monthly installment payment due more than one year after the date of the entry of this order, the movant must obtain relief by filing a new motion for relief from stay with appropriate notice and hearing.

5. Until an order is entered terminating the automatic stay, the movant may not refuse to accept or apply payments tendered by the debtor, even if such payments are late or in an improper amount; however, acceptance of non-conforming payments is without prejudice and shall not constitute a waiver of any default.

6. The automatic stay is modified to permit the note holder or servicing agent to send the debtor payment coupons, payment statements or invoices, notices of late payment, notices of payment changes, notices of servicing transfers, or any other notice, other than a notice of acceleration or demand for payment of the entire balance, normally sent to customers in the ordinary course of business.

7. Should the debtor default pursuant to the terms contained herein, unless otherwise ordered by this court, the movant shall be entitled to reasonable attorneys fees in the amount of \$\_\_\_\_\_ for issuance of a notice of default, and an additional \$\_\_\_\_\_ for issuance of a certificate of default and preparation of an order terminating the automatic stay.

[Insert if applicable:

8. Relief is granted as to \_\_\_\_\_, the co-debtor, from the automatic stay imposed by §1301(a) to the same extent and on the same terms and conditions as granted as to the debtor.]

Enter this date: \_\_\_\_\_

\_\_\_\_\_  
**United States Bankruptcy Judge**

ENDORSEMENTS of

Movant's Counsel  
Debtor's Counsel  
Chapter 13 Trustee

**CERTIFICATION**

The undersigned certifies that the foregoing Consent Order Modifying Automatic Stay is identical to the form order required by Administrative Order and that no modification, addition, or deletion has been made.

\_\_\_\_\_  
Attorney for Movant

**FORM B**

**Relief from Stay**

**UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA**

<b>In re:</b>  <p style="text-align: center;"><b>DEBTOR(S)</b></p>	<b>CASE NO.</b>  <b>CHAPTER:</b>
<b>v.</b>  <p style="text-align: center;"><b>MOVANT(S)</b></p> <p style="text-align: center;"><b>RESPONDENT(S)</b></p>	

**Order Granting Relief From Stay**

Upon consideration of the motion of \_\_\_\_\_ to modify the automatic stay; it is

**ORDERED**

that the automatic stay imposed by 11 U.S.C. §362 is modified to permit the movant and its successors and assigns to enforce [*Counsel must select the applicable language for either real property or personal property and redact the other:* the lien of its deed of trust as it pertains to the real property located at \_\_\_\_\_, and is more particularly described as follows:

*LEGAL DESCRIPTION*

which relief shall extend to the purchaser at the foreclosure sale to allow the purchaser to take such action under state law, as may be necessary, to obtain possession of the property.

*or*

to enforce its rights under its security agreement to lawfully repossess and liquidate certain personal property, to-wit: [*description of personal property, including in the case of a motor vehicle, the make, model and VIN number*].

Enter this date: \_\_\_\_\_

\_\_\_\_\_  
**United States Bankruptcy Judge**

ENDORSEMENTS of

Movant's Counsel  
Debtor's Counsel  
Chapter 13 Trustee

**CERTIFICATION**

The undersigned certifies that the foregoing Consent Order Modifying Automatic Stay is identical to the form order required by Administrative Order and that no modification, addition, or deletion has been made.

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Attorney for Movant