

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA**

**ADOPTION OF STANDING ORDER NO. 10-2 REGARDING
CONSENT ORDERS PROVIDING FOR RELIEF FROM STAY IN CHAPTER 13
CASES AND ORDERS, WHETHER OR NOT CONSENSUAL, IN CHAPTER 7
AND CHAPTER 13 CASES GRANTING RELIEF FROM STAY FOR SPECIFIED
PURPOSES**

PUBLIC NOTICE

For the reasons set forth in Standing Order No. 10-2, effective April 1, 2010, all consent orders in chapter 13 cases submitted on or after the aforesaid date, which provide for the curing of post-petition arrears shall be in Form A, Consent Order Modifying Automatic Stay, attached to and incorporated by reference in the standing order. Further, 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, Order Granting Relief from Stay, attached to and incorporated by reference in the standing order. As set forth at paragraph 4 in the standing order, "Paragraph 9 [of Form A] is optional for all orders except those submitted to Judge St. John or Judge Santoro."

Additional information is set forth in the standing order and in Forms A and B. PDF-fillable versions of both forms are located at the court's Internet Bankruptcy Forms web page, at <http://www.vaeb.uscourts.gov/scripts/formsqry.exe>.

You are invited to access the Western District of Virginia Bankruptcy Court's Internet web site for information regarding that court's entry of an order making provision for such relief from stay orders: <http://www.vawb.uscourts.gov/>.

William C. Redden
Clerk of Court

Date: March 10, 2010

Attachment

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

In re:

RELIEF FROM STAY ORDERS

Standing Order No. 10-2

Consent Orders Providing for Relief from Stay in Chapter 13 Cases and Orders, Whether or Not Consensual, in Chapter 7 and Chapter 13 Cases Granting Relief from Stay for Specified Purposes

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 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

ORDERED:

1. All consent orders in chapter 13 cases 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. 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.

4. Paragraph 9 is optional for all orders except those submitted to Judge St. John or Judge Santoro.

Dated: March 9, 2010

/s/ Douglas O. Tice Jr.
DOUGLAS O. TICE JR.
Chief United States Bankruptcy Judge

/s/ Stephen S. Mitchell
STEPHEN S. MITCHELL
United States Bankruptcy Judge

/s/ Stephen C. St. John
STEPHEN C. ST. JOHN
United States Bankruptcy Judge

/s/ Robert G. Mayer
ROBERT G. MAYER
United States Bankruptcy Judge

/s/ Kevin R. Huennekens
KEVIN R. HUENNEKENS
United States Bankruptcy Judge

/s/ Frank J. Santoro
FRANK J. SANTORO
United States Bankruptcy Judge

FORM A

Chapter 13 Consent Relief from Stay

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

_____ Division

In re:

_____ ,

Debtor.

Case No.
(Chapter 13)

_____ ,

Movant,

vs.

_____ (Debtor)
[_____ (Co-debtor), if
applicable] and

_____ , TRUSTEE,

Respondents.

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 noteholder 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.]

[Insert for orders to be submitted in the Norfolk and Newport News Divisions:

9. The source of funds to make the cure payments is: _____.]

_____, Virginia
_____, 201__

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 EASTERN DISTRICT OF VIRGINIA**

_____ Division

In re:

_____,
Debtor.

Case No.
(Chapter __)

_____,
Movant,

vs.

_____ and
_____, Trustee,

Respondents.

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]*.

DONE at _____, Virginia, this ____ day of _____, 20__.

[Judge]
United States Bankruptcy Judge

Copy to:

Movant
Counsel for Debtor(s)
Chapter 7 Trustee

Copy mailed to:

Debtor(s)

CERTIFICATION

The undersigned certifies that the foregoing Order Granting Relief from Stay is identical to the form order required by Administrative Order _____ and that no modifications, additions, or deletions have been made.

Attorney for Movant