

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

In re:

**MODIFICATION OF
THE LOCAL RULES OF PRACTICE AND PROCEDURE
IN THE BANKRUPTCY COURT
FOR THE DISTRICT OF VERMONT**

STANDING ORDER # 16-08

**TO REVISE LOCAL RULE 3015-2(J)
RE CONDUIT MORTGAGE PAYMENT PLANS**

Local Rule 3015-2(j) (the “Rule”) governs the confirmation of Chapter 13 plans that include conduit mortgage payments. Based upon the request and recommendations of the Chapter 13 trustee, and the suggestions and comments from the Bankruptcy Bar in this District, the Court has decided to revise the Rule to implement certain changes to the conduit mortgage payment program. The purpose of these changes is twofold: to increase the effectiveness of conduit mortgage payment plans and to clarify the language of the Rule.

The most notable changes to the Rule are those which

1. eliminate all references to administrative arrearages;
2. require that, over the course of the Chapter 13 plan, the number of conduit mortgage payments a debtor must make equals the number of months in the plan term plus two;
3. update all references to Official Forms to correspond to the forms which went into effect over the last year, and replace all references to Standing Orders with references to Local Rules;
4. expand the definition of “Regular Monthly Payment” to include payments made subject to mortgage mediation;
5. explain the procedure the Chapter 13 trustee will use in responding to mortgage payment changes;
6. allow the debtor thirty (30) rather than fourteen (14) days to cure the first payment default upon receipt of the trustee’s notice of default, before the Chapter 13 trustee must move to dismiss the case;


7. require the Chapter 13 trustee to specify more detail on the voucher narrative accompanying each conduit mortgage payment;
8. require the debtor to promptly file a copy of any accepted trial plan payment (“TPP”), so that the Chapter 13 trustee can then disburse conduit mortgage payments consistent with the terms of the TPP, unless the mortgage creditor files a notice of termination of the TPP;
9. delete all references to procedures now addressed by Federal Bankruptcy Rule 3002.1; and
10. require mortgage creditors who transfer or assign a claim to file a statement with the Court, and serve it on the Chapter 13 trustee and the debtor, setting out the name and address of the new holder of the claim, unless the mortgage creditor has filed Official Form 2100a.

Both a redline copy and a clean copy of the revised Rule are attached to this Order.

IT IS HEREBY ORDERED that the Rule is revised in accordance with this Standing Order and

IT IS FURTHER ORDERED that revised Rule 3015-2(j) shall be effective January 1, 2017.

December 12, 2016
Burlington, Vermont



Colleen A. Brown
United States Bankruptcy Judge

Attachments: redline and clean copies of revised Vt. LBR Rule 3014-2(j)

(j) Conduit Mortgage Payments.

- (1) **Local Bankruptcy Forms.** Subpart (h) of this Rule requires use of the following local bankruptcy forms: local model plan (Vt. LB Form E); mortgage creditor checklist (Vt. LB Form Y-1); notice of conduit mortgage payment and authorization to release information to the Chapter 13 trustee (Vt. LB Form Y-2); model mortgage payment history (Vt. LB Form Y-5); and notice of transfer of claim (other than for security) (Official Form B2100a). All of these forms are available on the Court’s website, <http://www.vtb.uscourts.gov>. Use of these forms is required, with the exception that if a Mortgage Creditor (as defined in subpart (j)(2)(E) of this Rule) is already using forms that substantially conform to these forms and provide all of the information included on the forms, the Mortgage Creditor may use its own forms unless and until the Court orders otherwise.
- (2) **Definitions.** For purposes of this Rule, the following terms have the stated meanings:
 - (A) A “Conduit Mortgage Payment” is the Regular Monthly Mortgage Payment the debtor is obligated to pay to the Mortgage Creditor post-petition, which the Chapter 13 trustee disburses pursuant to the terms of this Rule.
 - (B) A “Conduit Mortgage Payment Plan” is a Chapter 13 plan that includes the payment of ongoing monthly mortgage payments on one or more mortgages, by the Chapter 13 trustee to the Mortgage Creditor from payments that are included in the debtor’s Chapter 13 plan payments to the Chapter 13 trustee.
 - (C) The debtor is “Delinquent” when the debtor owes the Mortgage Creditor any past due payments or other charges as of the Filing Date. This term does not include a failure to make Regular Monthly Mortgage Payments that came due after the Filing Date.
 - (D) The “Filing Date” is the date the case was filed under, or converted to, Chapter 13.
 - (E) A “Mortgage Creditor” is an entity entitled to enforce an allowed claim secured by a properly perfected mortgage on the debtor’s residential real property, or the servicer for that entity, as determined by which entity files a proof of claim for the mortgage debt. Wherever this Rule refers to notice on the Mortgage Creditor, or requires the Mortgage Creditor to file a document, it also refers to the Mortgage Creditor’s attorney.
 - (F) The “Mortgage Payment Accounting” is a complete history of the Chapter 13 trustee’s receipt of payments from the debtor and disbursement of payments to the Mortgage Creditor, with the disbursements showing separate entries for the Conduit Mortgage Payments, Administrative Arrearage, and Pre-Petition Mortgage Arrearage components.
 - (G) The “Post-Petition Mortgage Arrearage” is the sum of past due Regular Monthly Mortgage Payments the debtor owes to a Mortgage Creditor post-petition, excluding the first two post-petition Regular Monthly Mortgage Payments, which are treated as the Administrative Arrearage.
 - (H) The “Pre-Petition Mortgage Arrearage” is the sum of Regular Monthly Mortgage Payments the debtor owes to a Mortgage Creditor that came due prior to the Filing Date, without regard to any grace period that expires post-petition.

(I) A “Regular Monthly Mortgage Payment” is:

- (i) the sum of the principal, interest, taxes, insurance, administrative fees, and any other charges properly escrowed, charged, or assessed under a note and secured by a properly perfected mortgage on the debtor’s residential real property, which is due each month; or
- (ii) a monthly amount of no less than the sum of the taxes, insurance, administrative fees, and anticipated interest and principal, which is proposed in conjunction with the debtor’s participation in this Court’s Mortgage Mediation and Loss Mitigation Program, provided that any plan proposing to utilize a regular monthly mortgage payment defined under this subpart may only be confirmed by the court if
 - (a) after notice and opportunity the mortgage creditor does not object; and
 - (b) the debtor’s plan provides that the debtor will promptly modify this figure to match the outcome of mortgage mediation.

(J) A “Waiver Order” is a Court order that waives the requirement to make Conduit Mortgage Payments to the Mortgage Creditor through a Chapter 13 plan.

(3) **Post-Petition Mortgage Payments.** A debtor is required to make Conduit Mortgage Payments as follows:

(A) When the Debtor is Not Delinquent.

- (i) Except as provided in subparts (A)(iii) and (A)(iv), below, a debtor who is not Delinquent is not required to make Conduit Mortgage Payments.
- (ii) A debtor who is not Delinquent may elect to make Conduit Mortgage Payments as outlined in this Rule, by so specifying in the debtor’s Chapter 13 plan.
- (iii) If (a) a debtor has been making Regular Monthly Mortgage Payments directly to a Mortgage Creditor post-petition instead of making Conduit Mortgage Payments, (b) the Mortgage Creditor files a motion for relief from stay based at least in part upon the debtor’s post-petition default in Regular Monthly Mortgage Payments, (c) the Court finds the debtor is in default on those payments, but (d) the Court either allows the debtor to retain the real property that secures the Mortgage Creditor’s claim and conditionally maintains the automatic stay or denies the motion based upon the debtor’s election to make Conduit Mortgage Payments, then the Mortgage Creditor must include in its proposed order provisions directing the debtor to make Conduit Mortgage Payments commencing with the first Regular Monthly Mortgage Payment due date following entry of the order, requiring the debtor to increase the monthly plan payments to an amount sufficient to include the Conduit Mortgage Payment, and directing the debtor to comply with all applicable provisions of this Rule.
- (iv) If (a) a debtor has been making Regular Monthly Mortgage Payments directly to a Mortgage Creditor post-petition instead of making Conduit Mortgage Payments, and (b) the debtor files a motion to modify the Chapter 13 plan based upon a post-petition default in Regular Monthly Mortgage Payments, the motion and corresponding proposed order must require the debtor to make Conduit Mortgage Payments commencing with the first Regular Monthly Mortgage Payment due date following entry of the order granting

modification of the plan, and to increase the monthly Chapter 13 plan payment to an amount sufficient to include the Conduit Mortgage Payment.

(B) When the Debtor is Delinquent.

- (i) Except as provided in subpart (B)(ii), below, a debtor who is Delinquent is required to make Conduit Mortgage Payments.
- (ii) A debtor who is Delinquent may obtain a Waiver Order only upon a showing of cause, based upon exigent circumstances.
 - (a) The debtor bears the burden of showing cause in any motion for a Waiver Order. The debtor must file the motion on notice to the Chapter 13 trustee and the Mortgage Creditor within seven days of the Filing Date, and may use the default procedure. See Vt. LBR 9013-4.
 - (b) The additional cost associated with the Chapter 13 trustee's fee on the Conduit Mortgage Payment will not constitute cause for entry of a Waiver Order unless the debtor shows that the additional cost would cause the Chapter 13 plan to fail.
- (iii) A Mortgage Creditor or the Chapter 13 trustee may file a motion to revoke a Waiver Order if:
 - (a) the Mortgage Creditor files a motion for relief from stay based at least in part upon the debtor's post-petition default in Regular Monthly Mortgage Payments;
 - (b) the Court finds the debtor is in default of those payments;
 - (c) the outcome of the motion for relief from stay is the Court's entry of an order that either (1) allows the debtor to retain the real property that secures the Mortgage Creditor's claim and conditionally maintains the automatic stay, or (2) denies the motion for relief from stay based on the debtor's election to make Conduit Mortgage Payments; and
 - (d) the debtor has not filed a motion to modify the Chapter 13 plan to voluntarily commence making Conduit Mortgage Payments pursuant to subpart (j)(3)(A)(iv) of this Rule.

(4) **Duties of the Debtor.** A debtor who is Delinquent, is otherwise subject to the Conduit Mortgage Payment requirement, or voluntarily chooses to make Conduit Mortgage Payments, must fulfill the following duties:

(A) Duty to Specify Components of Mortgage Creditor's Claim in Chapter 13 Plan.

- (i) In the Chapter 13 plan, the debtor must specify:
 - (a) the amount of the Conduit Mortgage Payment;
 - (b) the total amount of the Conduit Mortgage Payments to be made through the plan, which shall be calculated by multiplying the Conduit Mortgage Payment by the number of months of the plan, plus two additional months; and
 - (c) the amount of the Pre-Petition Mortgage Arrearage with a specification of how many monthly payments that figure represents.

(ii) The debtor must also file a wage withholding authorization (Vt. LB Form Y-8) with the Chapter 13 plan, unless the debtor files a motion for waiver of the wage withholding requirement.

(B) Duty to Provide Forms to the Chapter 13 Trustee and Mortgage Creditor. The debtor must complete the mortgage creditor checklist (Vt. LB Form Y-1) and the notice of conduit mortgage payment and authorization to release information to the Chapter 13 trustee (Vt. LB Form Y-2), and must provide both, along with a copy of the three most recent mortgage invoices or monthly payment vouchers (if available), to the Chapter 13 trustee, with a copy to the Mortgage Creditor, no later than seven days after the Filing Date.

(C) Duty to Make Timely First Chapter 13 Plan Payment Directly to the Chapter 13 Trustee. The debtor must make the first Chapter 13 plan payment, in an amount that includes the full Conduit Mortgage Payment, directly to the Chapter 13 trustee within 30 days of the Filing Date.

(D) Duty to Make Sufficient Chapter 13 Plan Payments. If the amount of the Regular Monthly Mortgage Payment increases during the term of the Chapter 13 plan, the debtor must increase the amount of the Chapter 13 plan payment to the Chapter 13 trustee by an amount equal to the increase in the Regular Monthly Mortgage Payment due, plus the Chapter 13 trustee's fee allocable to that additional sum, and the Chapter 13 trustee must effectuate this via notice to the entity withholding the Chapter 13 plan payment. The increased Chapter 13 plan payment will be due on the effective date of the increase in the Regular Monthly Mortgage Payment. See subpart (j)(5)(B) of this Rule. If the amount of the Regular Monthly Mortgage Payment decreases during the term of the Chapter 13 plan, the Chapter 13 plan payment will not change, and the Chapter 13 trustee must retain the additional funds and disburse them as set forth in subpart (j)(7)(A)(iv) of this Rule, unless the debtor modifies the Chapter 13 plan to provide otherwise.

(E) Penalty for Failure to Comply with Foregoing Requirements. The debtor's failure to comply with the requirements of the immediately preceding subparts (j)(4)(A)-(D) may result in the Court denying confirmation of the Chapter 13 plan.

(F) Additional Duty to Object to Proof of Claim. If the debtor believes that the Mortgage Creditor's proof of claim is inaccurate, the debtor must promptly file an objection to the proof of claim.

(i) If the debtor's objection is overruled, within seven days of the Court's ruling, (a) the Chapter 13 trustee must file a notice of increased Chapter 13 plan payment and serve that notice on the debtor's employer to increase wage withholding to reimburse the Mortgage Creditor for any post-petition shortfall and to make correct payments going forward to comport with the allowed proof of claim, and (b) if needed, due to the change in treatment to other claimants under the plan, the debtor shall file a motion to amend or modify the Chapter 13 plan.

(ii) If the debtor's objection is sustained, the trustee must continue to disburse payments in the amount determined by the Court and file an amended proof of claim on behalf of the Mortgage Creditor consistent with the Court's order.

(5) Duties of the Chapter 13 Trustee.

- (A) **Duty to Disburse Conduit Mortgage Payments.** Upon receipt of a mortgage creditor checklist (Vt. LB Form Y-1), notice of conduit mortgage payment and authorization to release information to the trustee (Vt. LB Form Y-2), and the first Chapter 13 plan payment, the Chapter 13 trustee must commence disbursing Conduit Mortgage Payments to the Mortgage Creditor in the amount specified in the debtor's Chapter 13 plan, unless the debtor has filed a motion requesting that no payments be made to the Mortgage Creditor until some future date (e.g., the filing of a proof of claim by the Mortgage Creditor, resolution of an objection to the Mortgage Creditor's proof of claim), and the Court enters an order granting the debtor's motion. If the Chapter 13 trustee makes payments to the Mortgage Creditor according to the Chapter 13 plan and it later becomes clear, by agreement or Court order, that the amount paid to the Mortgage Creditor was not due, either in whole or in part, the Mortgage Creditor must disgorge any such overpayments. See subpart (j)(6)(B) of this Rule.
- (B) **Duty Regarding Plan Payment Increases.** Upon receipt of a notice of mortgage payment change (Official Form B410S-1), pursuant to subpart (j)(7)(A) of this Rule, the Chapter 13 trustee must:
- (i) file with the Court notice of any required Chapter 13 plan payment increase;
 - (ii) serve a copy of such notice on the debtor and the debtor's attorney; and
 - (iii) if the proposed increase in plan payment is less than 5% and the debtor does not object, pursuant to subpart (j)(7) of this Rule, within 14 days of service of the notice of mortgage payment change, then the Chapter 13 trustee must file a notice of increased Chapter 13 plan payment and promptly serve notice of increased wage withholding on the entity withholding the Chapter 13 plan payment, and must commence making Conduit Mortgage Payments in the new amount on the later of the date the Chapter 13 trustee begins receiving increased Chapter 13 plan payments or the effective date of the new payment.
 - (iv) If the proposed increase in plan payment is 5% or more, the Chapter 13 trustee shall schedule a status conference so that the court can address feasibility of the proposed payment increase. If, prior to the status conference, the debtor files a motion to modify the Chapter 13 plan, or a Stipulation to Plan Payment Increase, with any necessary amended schedules, the trustee may withdraw the request for status conference, and commence making Conduit Mortgage Payments in the new amount, once an Order has been entered either granting the motion to modify or approving the Stipulation.
- (C) **Duty to Disburse Only Full Payments; Duty When Insufficient Funds Available.** The Chapter 13 trustee must disburse payments only in an amount equal to the Regular Monthly Mortgage Payment to the Mortgage Creditor as Conduit Mortgage Payments unless the Chapter 13 trustee is disbursing a final payment due to satisfaction of claim, conversion, or dismissal. If funds in the debtor's account with the Chapter 13 trustee are not sufficient to make a full Conduit Mortgage Payment and pay the corresponding Chapter 13 trustee's fee, then the Chapter 13 trustee must hold such funds until the Chapter 13 trustee receives from the debtor funds sufficient to do so. In such an event, within seven days of the date the Chapter 13 trustee intended to make the Conduit Mortgage Payment, the Chapter 13 trustee must notify by email the debtor, the debtor's attorney, and the Mortgage Creditor that there are insufficient funds to make full payment and the amount of additional funds needed to make a full payment.
- (D) **Duty to Specify Proper Application of Payment.** The Chapter 13 trustee's payments to a Mortgage Creditor must include a voucher narrative:

- (i) stating the debtor's name, Chapter 13 case number, and the last four digits of the Mortgage Creditor's account number; and
 - (ii) indicating the amount allocable to the Conduit Mortgage Payment, and the amount allocable to the Pre-Petition Mortgage Arrearage components.
- (E) **Duties upon the Debtor's Default.** If the debtor fails to make any timely or full Chapter 13 plan payment, including the first Chapter 13 plan payment, then the Chapter 13 trustee must take the following steps:
- (i) The first time the debtor fails to make a timely or full Chapter 13 plan payment, within 14 days of the default, the Chapter 13 trustee must file - and serve upon the debtor, the Mortgage Creditor, and their respective attorneys (if any), a notice of delinquency specifying the due date and amount of the missed payment, and the amount needed to cure the plan payment default. If the debtor does not cure the default or file a motion to modify the Chapter 13 plan within 30 days of the filing of the Chapter 13 trustee's notice, the Chapter 13 trustee must file and serve upon all parties in interest a motion to dismiss the case based upon the payment default and any other grounds the Chapter 13 trustee deems warrant dismissal of the case.
 - (ii) The second time the debtor fails to make a timely or full Chapter 13 plan payment, within 14 days of the default, the Chapter 13 trustee must file and serve upon all parties in interest a motion to dismiss the case, specifying that it is the second Chapter 13 plan payment default and any other grounds the Chapter 13 trustee deems warrant dismissal of the case.
 - (iii) Nothing in this subpart of the Rule precludes a Mortgage Creditor, or any other party in interest, from filing a motion to dismiss the case or a motion for relief from stay based upon a debtor's default in Chapter 13 plan payments or other requirements of this Rule, or other grounds set forth in § 1307.
- (F) **Duty to File Motion to Declare the Debtor Current Upon Completion of Conduit Mortgage Payments.** See subpart (j)(8) of this Rule.

(6) **Duties of the Mortgage Creditor.**

- (A) **Duty to File a Proof of Claim as Soon as Practicable.** A Mortgage Creditor with a Pre-Petition Mortgage Arrearage claim is encouraged to file a proof of claim as soon as practicable after receipt of notice of the debtor's bankruptcy filing. The Mortgage Creditor should attach to the proof of claim a mortgage proof of claim attachment (Official Form 410A) to facilitate a prompt commencement of post-petition payments in the correct amount, and is further encouraged to provide the mortgage proof of claim attachment to the Chapter 13 trustee in advance of filing the proof of claim.
- (B) **Duty to Disgorge.** If the Court determines that a payment the Chapter 13 trustee made to the Mortgage Creditor included an overpayment or was otherwise improper, the Mortgage Creditor must promptly disgorge that sum to the Chapter 13 trustee.
- (C) **Duty to Apply Payments Properly.** The Mortgage Creditor must apply each Conduit Mortgage Payment disbursed by the Chapter 13 trustee to the earliest outstanding post-petition payment due under the Chapter 13 plan, as specified on the voucher narrative accompanying the payment
- (D) **Duty to Limit Late Fees.** The Mortgage Creditor may not charge the debtor a late fee unless

the tardiness of the payment was caused by the debtor's failure to make a full or timely Chapter 13 plan payment to the Chapter 13 trustee.

(E) Duty to Provide Annual Payment History.

- (i) During the pendency of the Chapter 13 case and using the model mortgage payment history form (Vt. LB Form Y-5), on or before March 1st of each year, the Mortgage Creditor must provide to the debtor, the debtor's attorney, and the Chapter 13 trustee, a summary of the 12-month mortgage payment history from January 1st through December 31st of the previous year, on the loan on which Conduit Mortgage Payments have been disbursed. If the case was filed or converted from another chapter on or after January 1st, the first summary must include activity on the account from the Filing Date through December 31st of the previous year.
- (ii) The mortgage payment history summary is not to be filed with the Court unless the Court directs the Mortgage Creditor to do so, or the Mortgage Creditor deems it pertinent to a motion for relief from stay or a motion to dismiss, in which event the summary shall be filed as an attachment to the motion.

(F) Duty to Provide Documents to the Debtor's Attorney and the Chapter 13 Trustee. The Mortgage Creditor must provide to the debtor's attorney and the Chapter 13 trustee copies of all documents sent to the debtor post-petition, including correspondence, statements, payment coupons, escrow notices, and default notices, and any other documents, which disclose a change in:

- (i) the name or identity of the Mortgage Creditor;
- (ii) the monthly payment amount;
- (iii) the interest rate or escrow requirements; or
- (iv) the address to which mortgage payments are to be sent.

(G) Duty to Attach Information to Motion for Relief from Stay. A motion for relief from stay in a Conduit Mortgage Payment case must be accompanied by either a mortgage payment history summary (Vt. LB Form Y-5) setting forth the post-petition account history, or a print-out from the Chapter 13 trustee's website showing the debtor's Chapter 13 plan payment history, including the portion of the website report showing the date the data was last updated. If the Mortgage Creditor prevails on its motion for relief from stay, demonstrates that payments were not timely made, and a conditional or absolute order for relief is entered, the proposed order may authorize the Mortgage Creditor to collect late fees on past due payments, if the Mortgage Creditor requested that relief in the motion. See Vt. LBR 4001-1.

(7) Post-Petition Changes and Additional Charges.

(A) Changes to Regular Monthly Mortgage Payment Amount.

- (i) If the mortgage documents authorize the Mortgage Creditor to modify the Regular Monthly Mortgage Payment amount, and the Mortgage Creditor files and serves a notice of mortgage payment change (Official Form B410S-1) pursuant to Fed. R. Bankr. P. 3002.1(b), then the debtor, Chapter 13 trustee, or any other party in interest shall have 14 days to file a response or objection to the notice of mortgage payment change. If no response in opposition or objection is timely filed, then the debtor is deemed to have

accepted the mortgage payment change, and that amount will become the new Regular Monthly Mortgage Payment on the effective date provided in the notice of mortgage payment change.

- (ii) If the Mortgage Creditor offers, and the debtor accepts, a Trial Payment Plan (TPP), the debtor shall immediately file a copy of the TPP with the Court and the Chapter 13 trustee shall then disburse Conduit Mortgage Payments consistent with the terms of the TPP.
- (iii) If, during the term of the TPP, a Notice of Mortgage Payment Change is filed, the Chapter 13 trustee shall disburse in accordance with the TPP, unless the Mortgage Creditor files a notice of termination of the TPP.
- (iv) If the plan payment needs to increase as a result of the increase in the Regular Monthly Mortgage Payment amount, the Chapter 13 trustee may arrange for the modification in withholding or bank account debit to satisfy the increase in the Regular Monthly Mortgage Payment amount, without a Court Order. See subpart (j)(5)(C) of this Rule.
- (v) When a modified Regular Monthly Mortgage Payment amount goes into effect pursuant to subpart (j)(7)(A)(i), the Chapter 13 trustee may disburse the new Conduit Mortgage Payment as of the effective date set forth in the notice of mortgage payment change, without an order of the Court.

(B) Post-Petition Changes to the Name, Identity, or Address of the Mortgage Creditor. When the Mortgage Creditor transfers or assigns its claim to another entity, it shall file with the Court, and serve upon the debtor, the debtor's attorney, and the Chapter 13 trustee, a statement setting forth the name and address of the new holder of the claim, and the address to which the Chapter 13 trustee should send Conduit Mortgage Payments, unless the Mortgage Creditor has filed a notice of transfer of claim (other than for security) (Official Form B2100a). The Mortgage Creditor will be precluded from seeking late fees based upon the Chapter 13 trustee's failure to send payments to the correct party or correct address if that failure is reasonably attributable to the timing or content of the notice by the Mortgage Creditor.

(8) Motions Relating to Claims Secured by a Security Interest in the Debtor's Principal Residence, Upon Completion of Chapter 13 Payments.

(A) In Completed Conduit Mortgage Payment Cases. The Chapter 13 trustee shall file a motion, pursuant to Fed. R. Bankr. P. 3002.1(h) in every Chapter 13 case in which the debtor made Conduit Mortgage Payments.

(B) In Completed Non-Conduit Mortgage Payment Cases. The debtor may make a motion, pursuant to Fed. R. Bankr. P. 3002.1(h), in Chapter 13 cases in which the debtor made mortgage payments directly to the Mortgage Creditor during the Chapter 13 case.

(9) Jurisdiction. This Court retains jurisdiction over any order entered pursuant to this Rule.

(j) Conduit Mortgage Payments.

(1) **Local Bankruptcy Forms.** ~~Subpart~~Paragraph (h) of this Rule requires use of the following local bankruptcy forms: local model plan (Vt. LB Form E); mortgage creditor checklist (Vt. LB Form Y-1); notice of conduit mortgage payment and authorization to release information to the Chapter 13 trustee (Vt. LB Form Y-2); model mortgage payment history (Vt. LB Form Y-5); and notice of transfer of claim (other than for security) (~~Vt. LB Form Y-6~~Official Form B2100a). All of these forms are available on the Court’s website, <http://www.vtb.uscourts.gov>. Use of these forms is required, with the exception that if a Mortgage Creditor (as defined in ~~subparagraph~~subpart (j)(2)(EG) of this Rule) is already using forms that substantially conform to these forms and provide all of the information included on the forms, the Mortgage Creditor may use its own forms unless and until the Court orders otherwise.

(2) **Definitions.** For purposes of this Rule, the following terms have the stated meanings:

~~(A)~~ The “~~Administrative Arrearage~~” is the sum of the first two post-petition Regular Monthly Mortgage Payments due under the note, which the Chapter 13 trustee pays with the Pre-Petition Mortgage Arrearage.

~~(B)~~ An “~~Administrative Arrearage Claim~~” is a claim that must be included in a Conduit Mortgage Payment Plan, which consists of at least the first two monthly mortgage payments that come due immediately after the filing of the Chapter 13 case. This claim is paid to the Mortgage Creditor during the term of the Chapter 13 plan and is intended to address the fact that payments of the Regular Monthly Mortgage Payment by the Chapter 13 trustee will not typically commence until approximately 30 to 60 days from the date the petition is filed. The purpose of including an Administrative Arrearage Claim in a Chapter 13 plan is to allow Conduit Mortgage Payments to start later than the first mortgage payment due date after the filing of the petition and for those payments to be brought current during the early months of the Chapter 13 plan.

~~(C)~~(A) A “Conduit Mortgage Payment” is the Regular Monthly Mortgage Payment the debtor is obligated to pay to the Mortgage Creditor post-petition, which the Chapter 13 trustee disburses pursuant to the terms of this Rule.

~~(D)~~(B) A “Conduit Mortgage Payment Plan” is a Chapter 13 plan that includes the payment of ongoing monthly mortgage payments on one or more mortgages, by the Chapter 13 trustee to the Mortgage Creditor from payments that are included in the debtor’s Chapter 13 plan payments to the Chapter 13 trustee.

~~(E)~~(C) The debtor is “Delinquent” when the debtor owes the Mortgage Creditor any past due payments or other charges as of the Filing Date. This term does not include a failure to make Regular Monthly Mortgage Payments that came due after the Filing Date.

~~(F)~~(D) The “Filing Date” is the date the case was filed under, or converted to, Chapter 13.

~~(G)~~(E) A “Mortgage Creditor” is an entity entitled to enforce an allowed claim secured by a properly perfected mortgage on the debtor’s residential real property, or the servicer for that entity, as determined by which entity files a proof of claim for the mortgage debt. Wherever this Rule refers to notice on the Mortgage Creditor, or requires the Mortgage Creditor to file a document, it also refers to the Mortgage Creditor’s attorney.

~~(H)~~(F) The “Mortgage Payment Accounting” is a complete history of the Chapter 13 trustee’s receipt of payments from the debtor and disbursement of payments to the Mortgage Creditor, with the disbursements showing separate entries for the Conduit Mortgage Payments, Administrative Arrearage, and Pre-Petition Mortgage Arrearage components.

~~(I)~~ The “Plan Completion Date” is the date on which the debtor fulfilled the debtor’s obligations under the Chapter 13 plan, as identified by the Chapter 13 trustee, or as determined by the Court in the event of a dispute.

~~(J)~~(G) The “Post-Petition Mortgage Arrearage” is the sum of past due Regular Monthly Mortgage Payments the debtor owes to a Mortgage Creditor post-petition, excluding the first two post-petition Regular Monthly Mortgage Payments, which are treated as the Administrative Arrearage.

~~(K)~~(H) The “Pre-Petition Mortgage Arrearage” is the sum of Regular Monthly Mortgage Payments the debtor owes to a Mortgage Creditor that came due prior to the Filing Date, without regard to any grace period that expires post-petition.

(I) A “Regular Monthly Mortgage Payment” is:

(i) the sum of the principal, interest, taxes, insurance, administrative fees, and any other charges properly escrowed, charged, or assessed under a note and secured by a properly perfected mortgage on the debtor’s residential real property, which is due each month; or:

(ii) a monthly amount of no less than the sum of the taxes, insurance, administrative fees, and anticipated interest and principal, which is proposed in conjunction with the debtor’s participation in this Court’s Mortgage Mediation and Loss Mitigation Program, provided that any plan proposing to utilize a regular monthly mortgage payment defined under this subpart may only be confirmed by the court if

(a) after notice and opportunity the mortgage creditor does not object; and

(b) the debtor’s plan provides that the debtor will promptly modify this figure to match the outcome of mortgage mediation.

~~(L)~~(J) A “Waiver Order” is a Court order that waives the requirement to make Conduit Mortgage Payments to the Mortgage Creditor through a Chapter 13 plan.

(3) **Post-Petition Mortgage Payments.** A debtor is required to make Conduit Mortgage Payments as follows:

(A) **When the Debtor is Not Delinquent.**

(i) Except as provided in ~~subsections-subparts (A)(iii) and (A)(iv)~~, below, a debtor who is not Delinquent is not required to make Conduit Mortgage Payments.

(ii) A debtor who is not Delinquent may elect to make Conduit Mortgage Payments as outlined in this Rule, by so specifying in the ~~d~~Debtor’s Chapter 13 plan.

(iii) If (a) a debtor has been making Regular Monthly Mortgage Payments directly to a Mortgage Creditor post-petition ~~pursuant to section (i)~~ instead of making Conduit Mortgage Payments, (b) the Mortgage Creditor files a motion for relief from stay based at least in part upon the debtor’s post-petition default in Regular Monthly Mortgage Payments, (c)

the Court finds the debtor is in default on those payments, but (d) the Court either allows the debtor to retain the real property that secures the Mortgage Creditor's claim and conditionally maintains the automatic stay or denies the motion based upon the debtor's election to make Conduit Mortgage Payments, then the Mortgage Creditor must include in its proposed order provisions directing the debtor to make Conduit Mortgage Payments commencing with the first Regular Monthly Mortgage Payment due date following entry of the order, requiring the debtor to increase the monthly plan payments to an amount sufficient to include the Conduit Mortgage Payment, and directing the debtor to comply with all applicable provisions of this [paragraphRule](#).

- (iv) If (a) a debtor has been making Regular Monthly Mortgage Payments directly to a Mortgage Creditor post-petition ~~pursuant to subsection (i)~~ [instead of making Conduit Mortgage Payments](#), and (b) the debtor files a motion to modify the Chapter 13 plan based upon a post-petition default in Regular Monthly Mortgage Payments, the motion and corresponding proposed order must require the debtor to make Conduit Mortgage Payments commencing with the first Regular Monthly Mortgage Payment due date following entry of the order granting modification of the plan, and to increase the monthly Chapter 13 plan payment to an amount sufficient to include the Conduit Mortgage Payment.

(B) When the Debtor is Delinquent.

- (i) Except as provided in ~~subsection subpart (B)~~(ii), below, a debtor who is Delinquent is required to make Conduit Mortgage Payments.
- (ii) A debtor who is Delinquent may obtain a Waiver Order only upon a showing of cause, based upon exigent circumstances.
- (a) The debtor bears the burden of showing cause in any motion for a Waiver Order. The debtor must file the motion on notice to the Chapter 13 trustee and the Mortgage Creditor within seven days of the Filing Date, and may use the default procedure. See Vt. LBR 9013-4.
- (b) The additional cost associated with the Chapter 13 trustee's fee on the Conduit Mortgage Payment will not constitute cause for entry of a Waiver Order unless the debtor shows that the additional cost would cause the Chapter 13 plan to fail.
- (iii) A Mortgage Creditor or the Chapter 13 trustee may file a motion to revoke a Waiver Order if:
- (a) the Mortgage Creditor files a motion for relief from stay based at least in part upon the debtor's post-petition default in Regular Monthly Mortgage Payments;
- (b) the Court finds the debtor is in default of those payments;
- (c) the outcome of the motion for relief from stay is the Court's entry of an order that either (1) allows the debtor to retain the real property that secures the Mortgage Creditor's claim and conditionally maintains the automatic stay, or (2) denies the motion for relief from stay based on the debtor's election to make Conduit Mortgage Payments; and

- (d) the debtor has not filed a motion to modify the Chapter 13 plan to voluntarily commence making Conduit Mortgage Payments pursuant to ~~section—subpart (j)(3)(A)(iv) of this Rule.~~
- (4) **Duties of the Debtor.** A debtor who is Delinquent, is otherwise subject to the Conduit Mortgage Payment requirement, or voluntarily chooses to make Conduit Mortgage Payments, must fulfill the following duties:
- (A) **Duty to Specify Components of Mortgage Creditor’s Claim in Chapter 13 Plan.**
- (i) In the Chapter 13 plan, the debtor must specify:
- (a) the amount of the Conduit Mortgage Payment;
- (b) the total amount of the Conduit Mortgage Payments to be made through the plan, which shall be calculated by multiplying the Conduit Mortgage Payment by the number of months of the plan, plus two additional months; ~~Pre-Petition Mortgage Arrearage and the Regular Monthly Mortgage Payments included in that arrearage figure;~~ and
- (c) the amount of the Pre-Petition Mortgage Arrearage with a specification of how many monthly payments that figure represents~~Administrative Arrearage and the Regular Monthly Mortgage Payments included in that figure.~~
- (ii) The debtor must also file a wage withholding authorization (Vt. LB Form Y-8) with the Chapter 13 plan, unless the debtor files a motion for waiver of the wage withholding requirement.
- (B) **Duty to Provide Forms to the Chapter 13 Trustee and Mortgage Creditor.** The debtor must complete the mortgage creditor checklist (Vt. LB Form Y-1) and the notice of conduit mortgage payment and authorization to release information to the Chapter 13 trustee (Vt. LB Form Y-2), and must provide both, along with a copy of the three most recent mortgage invoices or monthly payment vouchers ~~the debtor has~~ (if available), to the Chapter 13 trustee, with a copy to the Mortgage Creditor, no later than seven days after the Filing Date.
- (C) **Duty to Make Timely First Chapter 13 Plan Payment Directly to the Chapter 13 Trustee.** The debtor must make the first Chapter 13 plan payment, in an amount that includes the full Conduit Mortgage Payment, directly to the Chapter 13 trustee within 30 days of the Filing Date.
- (D) **Duty to Make Sufficient Chapter 13 Plan Payments.** If the amount of the Regular Monthly Mortgage Payment increases during the term of the Chapter 13 plan, the debtor must increase the amount of the Chapter 13 plan payment to the Chapter 13 trustee by an amount equal to the increase in the Regular Monthly Mortgage Payment due, plus the Chapter 13 trustee’s fee allocable to that additional sum, and the Chapter 13 trustee must effectuate this via notice to the entity withholding the Chapter 13 plan payment. The increased Chapter 13 plan payment will be due on the effective date of the increase in the Regular Monthly Mortgage Payment. See subpart (j)(5)(B) of this Rule. If the amount of the Regular Monthly Mortgage Payment decreases during the term of the Chapter 13 plan, the Chapter 13 plan payment will not change, and the Chapter 13 trustee must retain the additional funds and disburse them as set forth in ~~subparagraph—subpart (j)(7)(A)(iv) of this Rule,~~ unless the debtor modifies the Chapter 13 plan to provide otherwise.

- (E) **Penalty for Failure to Comply with Foregoing Requirements.** The debtor's failure to comply with the requirements of ~~subparagraph (4)~~the immediately preceding subparts (j)(4)(A)-(D) may result in the Court denying confirmation of the Chapter 13 plan.
- (F) **Additional Duty to Object to Proof of Claim.** If the debtor believes that the Mortgage Creditor's proof of claim is inaccurate, the debtor must promptly file an objection to the proof of claim.
- (i) If the debtor's objection is overruled, within seven days of the Court's ruling, (a) the Chapter 13 trustee must file a notice of increased Chapter 13 plan payment and serve that notice on the debtor's employer to increase wage withholding to reimburse the Mortgage Creditor for any post-petition shortfall and to make correct payments going forward to comport with the allowed proof of claim, and (b) if needed, due to the change in treatment to other claimants under the plan, the debtor ~~should~~shall file a motion to amend or modify the Chapter 13 plan.
- (ii) If the debtor's objection is sustained, the trustee must continue to disburse payments in the amount determined by the Court and file an amended proof of claim on behalf of the Mortgage Creditor consistent with the Court's order.

(5) Duties of the Chapter 13 Trustee.

(A) **Duty to Disburse Conduit Mortgage Payments.** Upon receipt of a mortgage creditor checklist (Vt. LB Form Y-1), notice of conduit mortgage payment and authorization to release information to the trustee (Vt. LB Form Y-2), and the first Chapter 13 plan payment, the Chapter 13 trustee must commence disbursing Conduit Mortgage Payments to the Mortgage Creditor in the amount specified in the debtor's Chapter 13 plan, unless the debtor has filed a motion requesting that no payments be made to the Mortgage Creditor until some future date (e.g., the filing of a proof of claim by the Mortgage Creditor, resolution of an objection to the Mortgage Creditor's proof of claim), and the Court enters an order granting the debtor's motion. If the Chapter 13 trustee makes payments to the Mortgage Creditor according to the Chapter 13 plan and it later becomes clear, by agreement or Court order, that the amount paid to the Mortgage Creditor was not due, either in whole or in part, the Mortgage Creditor must disgorge any such overpayments. See subparagraph (j)(6)(B) of this Rule.

~~(B) **Duty to Pay Administrative Arrearage with Pre-Petition Mortgage Arrearage.** The Chapter 13 trustee will pay the amount due for Administrative Arrearage with the amount due for Pre-Petition Mortgage Arrearage.~~

~~(B)~~ **Duty Regarding Plan Payment Increases.** Upon receipt of a notice of mortgage payment change (Official Form B410S-1), pursuant to ~~subparagraph~~subpart (j)(7)(A) of this Rule, the Chapter 13 trustee must:

- (i) file with the Court notice of any required Chapter 13 plan payment increase;
- (ii) serve a copy of such notice on the debtor and the debtor's attorney; and
- (iii) if the proposed increase in plan payment is less than 5% and the debtor does not object, pursuant to ~~subparagraph~~subpart (j)(7) of this Rule, within 14 days of service of the notice of mortgage payment change, then the Chapter 13 trustee must file a notice of increased Chapter 13 plan payment and promptly serve notice of increased wage withholding on the entity withholding the Chapter 13 plan payment, and must commence making Conduit

Mortgage Payments in the new amount on the later of the date the Chapter 13 trustee begins receiving increased Chapter 13 plan payments or the effective date of the new payment.

~~(iii)~~(iv) If the proposed increase in plan payment is 5% or more, the Chapter 13 trustee shall schedule a status conference so that the court can address feasibility of the proposed payment increase. If, prior to the status conference, the debtor files a motion to modify the Chapter 13 plan, or a Stipulation to Plan Payment Increase, with any necessary amended schedules, the trustee may withdraw the request for status conference, and commence making Conduit Mortgage Payments in the new amount, once an Order has been entered either granting the motion to modify or approving the Stipulation.

~~(D)~~(C) **Duty to Disburse Only Full Payments; Duty When Insufficient Funds Available.** The Chapter 13 trustee must disburse payments only in an amount equal to the Regular Monthly Mortgage Payment to the Mortgage Creditor as Conduit Mortgage Payments unless the Chapter 13 trustee is disbursing a final payment due to satisfaction of claim, conversion, or dismissal. If funds in the debtor's account with the Chapter 13 trustee are not sufficient to make a full Conduit Mortgage Payment and pay the corresponding Chapter 13 trustee's fee, then the Chapter 13 trustee must hold such funds until the Chapter 13 trustee receives from the debtor funds sufficient to do so. In such an event, within seven days of the date the Chapter 13 trustee intended to make the Conduit Mortgage Payment, the Chapter 13 trustee must notify by email the debtor, the debtor's attorney, and the Mortgage Creditor that there are insufficient funds to make full payment and the amount of additional funds needed to make a full payment.

~~(E)~~(D) **Duty to Specify Proper Application of Payment.** The Chapter 13 trustee's payments to a Mortgage Creditor must include a voucher narrative:

- (i) identifying-stating the debtor's name, Chapter 13 case number, and the last four digits of the Mortgage Creditor's account number; and
- (ii) indicating the amount allocable how to apply each payment to the Conduit Mortgage Payment, Administrative Arrearage, and the amount allocable to the Pre-Petition Mortgage Arrearage components of the Mortgage Creditor's allowed claim.

~~(F)~~(E) **Duties upon the Debtor's Default.** If the debtor fails to make any timely or full Chapter 13 plan payment, including the first Chapter 13 plan payment, then the Chapter 13 trustee must take the following steps:

- (i) The first time the debtor fails to make a timely or full Chapter 13 plan payment, within 14 days of the default, the Chapter 13 trustee must file - and serve upon the debtor, the debtor's attorney, and the Mortgage Creditor, and their respective attorneys (if any), -a notice of delinquency specifying the due date and amount of the missed payment, and the amount needed to cure the plan payment default, within 14 days of the default. If the debtor does not cure the default or file a motion to modify the Chapter 13 plan, within 30 days of the filing of the Chapter 13 trustee's notice, then the Chapter 13 trustee must promptly file and serve upon all parties in interest a motion to dismiss the case based upon the payment default and any other grounds the Chapter 13 trustee deems warrant dismissal of the case.
- (ii) The second time the debtor fails to make a timely or full Chapter 13 plan payment, within 14 days of the default, the Chapter 13 trustee must file and serve upon all parties in interest a motion to dismiss the case, specifying that it is the second Chapter 13 plan payment

default and any other grounds the Chapter 13 trustee deems warrants dismissal of the case.

(iii) Nothing in this ~~paragraph~~ subpart of the Rule precludes a Mortgage Creditor, or any other party in interest, from filing a motion to dismiss the case or a motion for relief from stay based upon a debtor's default in Chapter 13 plan payments or other requirements of this ~~paragraph~~ Rule, or other grounds set forth in § 1307.

~~(G)~~ **Duty to Declare Plan Completion Date.** ~~Within 21 days of the date the debtor has made his or her final Chapter 13 plan payment, the Chapter 13 trustee must make a docket entry identifying the Plan Completion Date.~~

~~(H)~~ **(F) Duty to File Motion to Declare the Debtor Current Upon Completion of Conduit Mortgage Payments at Conclusion of Case.** See ~~subparagraph~~ subpart (j)(8) of this Rule.

(6) Duties of the Mortgage Creditor.

(A) Duty to File a Proof of Claim as Soon as Practicable. A Mortgage Creditor with a Pre-Petition Mortgage Arrearage claim is encouraged to file a proof of claim as soon as practicable after receipt of notice of the debtor's bankruptcy filing. The Mortgage Creditor should attach to the proof of claim a mortgage proof of claim attachment (Official Form 410A) to facilitate a prompt commencement of post-petition payments in the correct amount, and is further encouraged to provide the mortgage proof of claim attachment to the Chapter 13 trustee in advance of filing the proof of claim.

(B) Duty to Disgorge. If the Court determines that a payment the Chapter 13 trustee made to the Mortgage Creditor included an overpayment or was otherwise improper, the Mortgage Creditor must promptly disgorge that sum to the Chapter 13 trustee.

(C) Duty to Apply Payments Properly. The Mortgage Creditor must apply each Conduit Mortgage Payment disbursed by the Chapter 13 trustee to the earliest outstanding post-petition payment due under the Chapter 13 plan, as specified on the voucher narrative accompanying the payment. ~~This will generally require the Mortgage Creditor to treat the sums due as the Administrative Arrearage as part of the Pre-Petition Mortgage Arrearage for purposes of applying payments, and to apply the first Conduit Mortgage Payment it receives to the third Regular Monthly Mortgage Payment due from the debtor post-petition.~~

~~(D)~~ **Duty to Limit Late Fees.** The Mortgage Creditor may not charge the debtor a late fee unless the tardiness of the payment was caused by the debtor's failure to make a full or timely Chapter 13 plan payment to the Chapter 13 trustee; ~~and either~~

~~(E) the Chapter 13 trustee and the debtor consent to the assessment of a late fee; or~~

~~(F) the Court enters an order, which the Mortgage Creditor may seek through an emergency motion for expedited relief, authorizing the Mortgage Creditor to charge, and the Chapter 13 trustee to pay, a late fee, and directing a one-time increase in the plan payment amount to fund payment of the late fee and corresponding Chapter 13 trustee's commission; or~~

~~(G) the Court enters an order authorizing the Mortgage Creditor to collect a late fee (e.g., in connection with a motion to dismiss or motion for relief from stay); or~~

~~(H)~~ **(D)** ~~the Mortgage Creditor obtains an order pursuant to subparagraph (7)(B).~~

~~(H)~~ **(E) Duty to Provide Annual Payment History.**

- (i) During the pendency of the Chapter 13 case and using the model mortgage payment history form (Vt. LB Form Y-5), on or before March 1st of each year, the Mortgage Creditor must provide to the debtor, the debtor's attorney, and the Chapter 13 trustee, a summary of the 12-month mortgage payment history from January 1st through December 31st of the previous year, on the loan on which Conduit Mortgage Payments have been disbursed. If the case was filed or converted from another chapter on or after January 1st, the first summary must include activity on the account from the Filing Date through December 31st of the previous year.
- (ii) The mortgage payment history summary is not to be filed with the Court unless [the Court directs the Mortgage Creditor to do so, or the Mortgage Creditor deems it authorized by the Court to do so or it is](#) pertinent to a motion for relief from stay or a motion to dismiss, in which event [it the summary](#) shall be filed as an attachment to the motion.

~~(F)~~ **(F) Duty to Provide Documents to the Debtor's Attorney and the Chapter 13 Trustee.**

The Mortgage Creditor must provide to the debtor's attorney and the Chapter 13 trustee copies of all documents sent to the debtor post-petition, including correspondence, statements, payment coupons, escrow notices, and default notices, and any other documents, which disclose a change in:

- (i) the name or identity of the Mortgage Creditor;
- (ii) the monthly payment amount;
- (iii) the interest rate or escrow requirements; or
- (iv) the address to which mortgage payments are to be sent.

~~(G)~~ **(G) Duty to Attach Information to Motion for Relief from Stay.** A motion for relief from stay in a Conduit Mortgage Payment case must be accompanied by either a mortgage payment history summary (Vt. LB Form Y-5) setting forth the post-petition account history, or a print-out from the Chapter 13 trustee's website showing the debtor's Chapter 13 plan payment history, including the portion of the website report showing the date the data was last updated. If the Mortgage Creditor prevails on its motion for relief from stay, demonstrates that payments were not timely made, and a conditional or absolute order for relief is entered, the proposed order may authorize the Mortgage Creditor to collect late fees on past due payments, if the Mortgage Creditor requested that relief in the motion. See Vt. LBR 4001-1.

(7) Post-Petition Changes and Additional Charges.

(A) Changes to Regular Monthly Mortgage Payment Amount.

- (i) If the mortgage documents authorize the Mortgage Creditor to modify the Regular Monthly Mortgage Payment amount, and the Mortgage Creditor files and serves a notice of mortgage payment change (Official Form B410S-1) pursuant to Fed. R. Bankr. P. 3002.1(b), then the debtor, Chapter 13 trustee, or any other party in interest shall have 14 days to file a response or objection to the notice of mortgage payment change. If no response in opposition or objection is timely filed, then the debtor is deemed to have accepted the mortgage payment change, and that amount will become the new Regular Monthly Mortgage Payment on the effective date provided in the notice of mortgage payment change.

- (ii) If the [Mortgage Creditor offers, and the debtor accepts, a Trial Payment Plan \(TPP\), the](#)

debtor shall immediately file a copy of the TPP with the Court and the Chapter 13 trustee shall then disburse Conduit Mortgage Payments consistent with the terms of the TPP.

(iii) If, during the term of the TPP, a Notice of Mortgage Payment Change is filed, the Chapter 13 trustee shall disburse in accordance with the TPP, unless the Mortgage Creditor files a notice of termination of the TPP.

~~(ii)(iv)~~ If the plan payment will needs to increase as a result of the increase in the Regular Monthly Mortgage Payment amount, the Chapter 13 trustee may arrange for the modification in withholding or bank account debit to satisfy the increase in the Regular Monthly Mortgage Payment amount, without a Court Order. See subpart graph (j)(5)(C) of this Rule.

~~(iii) If a modified plan is necessary as a result of the increase in the Regular Monthly Mortgage Payment amount and the debtor has not yet filed a motion to modify, the Chapter 13 trustee shall file a request for a status conference to address how the debtor will satisfy the obligations under the plan in light of the increase in the Regular Monthly Mortgage Payment amount.~~

~~(iv)(v)~~ When a modified Regular Monthly Mortgage Payment amount goes into effect pursuant to subparagraph subpart (j)(7)(A)(i), the Chapter 13 trustee may disburse the new Conduit Mortgage Payment as of the effective date set forth in the notice of mortgage payment change, without an order of the Court.

~~(B) Treatment of Post-Petition Charges Incurred.~~ If the Mortgage Creditor incurs post-petition attorney's fees, costs, or other charges, such as property inspection fees, persistent post-petition late charges not addressed as described in subparagraph (6)(C), or other items payable by the debtor under the terms of the loan documents (hereafter, collectively "charges"), then the following requirements will apply:

~~(i) To collect these charges, the Mortgage Creditor shall file a notice, in compliance with Fed. R. Bankr. P. 3002.1(c), itemizing all charges, accompanied by a mortgage payment history summary (Vt. LB Form Y 5), within 180 days after the date the charge was incurred.~~

~~(ii) Not later than one year after service of the notice and mortgage payment history summary, the debtor or the Chapter 13 trustee may file a response or objection thereto.~~

~~(iii) To expedite a determination as to the allowance of the claimed charges, the Mortgage Creditor may file a motion, on notice to the debtor, the debtor's attorney, and the Chapter 13 trustee, requesting that the additional charges be paid post-petition. In that event, the Mortgage Creditor must file a notice of post-petition mortgage fees, expenses and charges (Official Form 410S-2) with a motion requesting that the debtor either amend the plan or make a separate additional payment to satisfy the allowed outstanding post-petition charges; the Mortgage Creditor may file this motion using the default procedure.~~

~~(C)(B) Post-Petition Changes to the Name, Identity, or Address of the Mortgage Creditor.~~ The When the Mortgage Creditor transfers or assigns its claim to another entity, it shall file with the Court, and serve upon must notify the debtor, the debtor's attorney, and the Chapter 13 trustee, a statement setting forth the name and address of the new holder of the claim, and the address to which the Chapter 13 trustee should send immediately upon learning of a change in the name or identity of the Mortgage Creditor payee or a change of address to which Conduit Mortgage Payments, unless the Mortgage Creditor has filed a should be made, using a

notice of transfer of claim (other than for security) (~~Vt. LB Form Y-6~~Official Form B2100a). The Mortgage Creditor will be precluded from seeking late fees based upon the Chapter 13 trustee's failure to send payments to the correct party or correct address if that failure is reasonably attributable to the timing or content of the notice by the Mortgage Creditor.

(8) **Motions Relating to Claims Secured by a Security Interest in the Debtor's Principal Residence, Upon Completion of Chapter 13 Payments.**~~“Payments Current Order” at Completion, Dismissal, and Conversion of Chapter 13 Case.~~

~~(A) In Completed Conduit Mortgage Payment Cases. Within 30 days after the debtor completes all payments under the Chapter 13 plan, the Chapter 13 trustee shall file a motion, pursuant to Fed. R. Bankr. P. 3002.1(h) in every Chapter 13 case in which the debtor made Conduit Mortgage Payments, must:~~

~~(B) file and serve the notice of final cure payment required by Fed. R. Bankr. P. 3002.1(f) (the “Rule 3002.1(f) notice”);~~

~~(C) as an exhibit to the Rule 3002.1(f) notice, attach a Mortgage Payment Accounting;~~

~~(D) pursuant to Fed. R. Bankr. P. 3002.1(h), file a motion for a determination of whether the debtor has cured the mortgage default and paid all required post-petition amounts to the Chapter 13 trustee and any Mortgage Creditor, regardless of whether the Mortgage Creditor has filed a response to the Rule 3002.1(f) notice; and~~

~~(E)(A) articulate in that motion the relief or declaration the Chapter 13 trustee is seeking, and whether the Chapter 13 trustee is proceeding under Fed. R. Bankr. P. 3002.1(i).~~

~~(B) In Completed Non-Conduit Mortgage Payment Cases. Where the Debtor Paid a Mortgage Arrears Through the Plan. The debtor may make a motion, pursuant to Fed. R. Bankr. P. 3002.1(h), in Chapter 13 cases in which the debtor made mortgage payments directly to the Mortgage Creditor during the Chapter 13 case.~~

~~(i) Within 30 days after the debtor completes all payments under the Chapter 13 plan, the Chapter 13 trustee must file and serve the Rule 3002.1(f) notice and provide the debtor with a copy of the Mortgage Payment Accounting (with respect to the payments the Chapter 13 trustee made to the Mortgage Creditor).~~

~~(ii) If the Mortgage Creditor does not respond to the Rule 3002.1(f) notice within 21 days of service, the debtor may serve a motion to obtain an order finding that the debtor is current on the mortgage debt (“payments current motion”), following the procedure set out in Fed. R. Bankr. P. 3002.1(g) (i). To obtain an order declaring the debtor current on the mortgage as of the completion of the Chapter 13 plan (a “payments current order”), the debtor must serve a payments current motion on the Mortgage Creditor, all parties who claim an interest in the debtor's residential real property, and the Chapter 13 trustee, and attach copies of (a) the Mortgage Creditor's proof of claim, (b) the confirmation order, (c) the Mortgage Payment Accounting, and (d) copies of the debtor's cancelled checks (or other records) showing proof the debtor made all required payments to the Mortgage Creditor. A payments current motion must be filed using the conventional procedure on at least 28 days' notice. See Vt. LBR 9013-3.~~

~~(iii) If the Mortgage Creditor objects to entry of a payments current order, then the Mortgage Creditor must file an objection no later than seven days before the hearing date, setting~~

~~forth specific grounds for its position, and attaching a mortgage payment history to show that the debtor is not current. If the Mortgage Creditor does not object, (a) it will be deemed to have acknowledged that the debtor is current with Regular Monthly Mortgage Payments through the Plan Completion Date, and that the debtor owes no other charges under the note, (b) will be precluded from separately objecting to the Chapter 13 trustee's final report with respect to whether the debtor is current on its mortgage debt, and (c) will be precluded from disputing that the debtor is current (as set forth in the payments current order) in any other proceeding.~~

~~(iv) Any other party in interest may file a response to the payments current motion, provided it is filed no later than seven days before the hearing date.~~

~~(v) Upon entry of a payments current order, the debtor will be: (a) deemed current on the mortgage as of the Filing Date, extinguishing any right of the Mortgage Creditor to recover any amount alleged to have arisen prior to the Filing Date or to declare a default under the note or mortgage based upon events prior to the Filing Date; and (b) deemed current post-petition through the Plan Completion Date, thereby extinguishing any right of the Mortgage Creditor to recover any amount alleged to have arisen between the Filing Date and Plan Completion Date or to declare a default under the note or mortgage based upon events between the Filing Date and Plan Completion Date.~~

~~(G) **In Completed Non-Conduit Mortgage Payment Cases Where the Debtor Did Not Pay a Mortgage Arrears through the Plan.** If the debtor made Regular Monthly Mortgage Payments to a Mortgage Creditor directly during the pendency of the case, the debtor may file a Payments Current Motion to obtain an order that the debtor is current on the mortgage debt as of the Plan Completion Date. To obtain this relief, the debtor must proceed as set out in subparagraph (8)(B), above.~~

~~(H) **Determination of Status of the Debtor's Mortgage Payments.** Except as otherwise provided herein, the procedures set forth in Fed. R. Bankr. P. 3002.1 will govern determinations of the status of a debtor's mortgage payments.~~

~~**Rights in Chapter 13 Cases that Are Not Completed.** Within 90 days of the date of conversion or dismissal of a chapter 13 case, the debtor may file a motion seeking an order declaring the status of the debtor's pre- and post-petition obligations to the Mortgage Creditor, on 21 days' notice, using the conventional procedure. See Vt. LBR 9013-3. The debtor may rely upon the Chapter 13 trustee's final report to demonstrate proof of payments. The debtor, the Mortgage Creditor, and the Chapter 13 trustee may proceed—and will have the same rights and duties—as set forth in subparagraph (8)(B), above.~~

(9) **Jurisdiction.** This Court retains jurisdiction over any order entered pursuant to this paragraph Rule.