

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

In re:

**(1) CREDITOR'S DUTY TO PROVIDE ACCOUNT
INFORMATION TO ALL CHAPTER 13 DEBTORS,**

**(2) CREDITOR'S DUTY TO PROVIDE ACCOUNT
INFORMATION TO CHAPTER 7 DEBTORS,
UPON REQUEST,**

**(3) CORRESPONDING PROTECTION OF CREDITORS
FROM FINDING OF A STAY VIOLATION, AND**

**(4) AMENDMENT OF VT. LBR 4001-1(A) REGARDING
CONTENT OF MOTIONS FOR RELIEF FROM STAY.**

**STANDING ORDER
06-09**

WHEREAS this Court is persuaded that many motions to compel compliance with chapter 13 confirmation orders and many motions for relief from stay could be avoided if creditors provided certain account information to debtors; and

WHEREAS, in the absence of a bankruptcy filing, secured creditors regularly provide their debtor customers with basic information regarding activity, status, and amounts due on accounts on a monthly basis; and

WHEREAS the Court wishes to implement a uniform approach to this issue within this District and to put all parties in interest on notice of their rights and responsibilities post-petition;

THEREFORE, IT IS HEREBY ORDERED that, post-petition, secured creditors shall provide monthly statements to all chapter 13 debtors who have indicated an intent to retain the secured creditor's collateral, and to all chapter 7 debtors promptly upon request. Those statements shall be sent directly to the debtors and contain the following information, to the extent applicable (the "account information"):

- a. the principal balance of the loan;
- b. the date of the statement and the date the next payment is due;
- c. the amount of the current monthly payment;
- d. the amount due for escrow, if any;
- e. the amount past due, if any, and from what date;
- f. any outstanding late charges;
- g. any other amounts due (with date and description of service underlying this charge);
- h. all account activity since the last statement (amount received, date of receipt, how applied, any charges paid by lender for taxes, insurance, or other expense);
- i. the original maturity date;
- j. the current interest rate;
- k. the current escrow balance, if any;
- l. the interest paid year to date;
- m. the property taxes paid year to date, if any; and
- n. a telephone number and name of a contact person that the debtor or debtor's attorney may contact for immediate assistance regarding the loan, recent transactions, and the proper payment address.

IT IS FURTHER ORDERED that creditors who provide the account information to the debtor or debtor's attorney shall not be found to have violated the automatic stay by doing so, and that secured creditors may contact the debtor about the status of insurance coverage on property that is collateral for the creditor's claim and may send the debtor statements, payment coupons, or other correspondence that the creditor sends to its non-debtor customers, without violating the automatic stay, provided none of these documents seek to collect the debt.

IT IS FURTHER ORDERED that VT. LBR 4001-1(a) is amended as follows with regard to the content and procedure for responding to certain motions for relief from stay and objections to relief from stay motions:

(a) A secured creditor seeking relief from the automatic stay based upon allegations of a post-petition payment default by a chapter 13 debtor must specify that it seeks relief based on the debtor's default, articulate with specificity the payments alleged to be in default, and attest that it has provided the debtor with the required account information set forth above in a timely fashion. In the event the secured creditor has not provided the debtor with the account information set forth above, the Court may deny the secured creditor's request for recovery of attorney's fees or costs in connection with the motion, regardless of the terms of its agreement with the debtor; and the Court may order the secured creditor to pay the debtor's reasonable attorney's fees, if any, for responding to the motion.


(b) A secured creditor seeking relief from the automatic stay based upon allegations of a post-petition payment default by a chapter 7 debtor must specify that it seeks relief based on the debtor's default, articulate with specificity the payments alleged to be in default, and attest that it responded promptly and thoroughly to the trustee or to debtor's reasonable requests for account information.

(c) When a chapter 13 debtor's objection to a motion for relief from stay contests the payment default, or the creditor's application of payments, with specificity, the creditor shall immediately transmit the debtor's payment history and a detailed accounting of how the debtor's payments were applied to the outstanding obligation, to counsel for the debtor (or to the debtor directly, if not represented by counsel) by electronic or facsimile means, to ensure that the debtor has a reasonable opportunity to review this data prior to the hearing on the motion for relief from stay.

IT IS FURTHER ORDERED that this standing order and the amendment to VT. LBR 4001-1(a) are effective immediately.

SO ORDERED.

Rutland, Vermont
October 10, 2006



Colleen A. Brown
United States Bankruptcy Judge