

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN

In re:

Administrative Order Adopting
Recommendation of the Loss Mitigation
and Mortgage Modification Committee
in Chapter 13 Cases

Administrative Order No. 14-02

FILED
2014 MAR 12 P 2:25
U.S. BANKRUPTCY COURT
E.D. MICHIGAN-DETROIT

**ORDER ADOPTING RECOMMENDATION OF THE LOSS MITIGATION
AND MORTGAGE MODIFICATION COMMITTEE IN CHAPTER 13 CASES**

In 2011, approximately twenty individuals, consisting of Chapter 13 trustees, attorneys for debtors in Chapter 13 cases, and attorneys for creditors in Chapter 13 cases, volunteered to form and serve on an ad hoc committee (“Committee”) in the Eastern District of Michigan for the purpose of reviewing various voluntary programs adopted by bankruptcy courts throughout the country to help facilitate resolution of loss mitigation and mortgage modifications in Chapter 13 cases. The Honorable Walter Shapero served as the chairperson for the Committee.

After completing its work, the Committee submitted a written Report and Recommendation to the Bankruptcy Court for the Eastern District of Michigan on February 4, 2014. A copy of the Report and Recommendation can be found on the Court’s website under “Notices & Announcements.” The Committee’s Report and Recommendation recognized that mortgage loan modifications in Chapter 13 cases are voluntary and cannot be forced upon the parties. It further recognized that there have been many improvements made in the mortgage loan modification process over time. Notwithstanding these facts, the Committee reported its belief that bankruptcy

court involvement can still be useful in moving the mortgage loan modification process forward in a timely and efficient fashion without adding unnecessary and unaffordable costs to the parties involved. Accordingly, the Committee recommended that the Bankruptcy Court approve and adopt the use of specific forms and a uniform procedure for debtors in Chapter 13 cases in the Eastern District of Michigan to request a mortgage modification review, for creditors to respond to such request, and for the Court to adjudicate such request.

The Bankruptcy Court has considered the Committee's Report and Recommendation and has determined to adopt it and approve the use of the forms that it has recommended, with minor changes. Accordingly,

IT IS HEREBY ORDERED that the Court approves and adopts the Committee's Report and Recommendation.

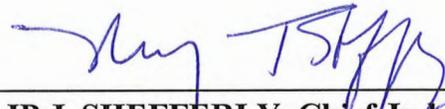
IT IS FURTHER ORDERED that in Chapter 13 cases in the Eastern District of Michigan, the exclusive way in which debtors may request the Bankruptcy Court to order a mortgage loan modification review is by means of the Debtor's Motion Requesting Mortgage Modification Review in the form attached as exhibit A to this order. A specific event code shall be created by the Court for use in Chapter 13 cases for such motion.

IT IS FURTHER ORDERED that the Debtor's Motion Requesting Mortgage Modification Review shall be filed and served in accordance with Local Bankruptcy Rule 9014-1.

IT IS FURTHER ORDERED that if the Court grants a debtor's motion filed on the prescribed form, the Court will do so by entering an Order Granting Debtor's Motion Requesting Mortgage

Modification Review in the form attached as exhibit B to this order, subject to such revisions as the assigned bankruptcy judge may determine in his or her discretion.

IT IS FURTHER ORDERED that forms approved by this order shall be used as the exclusive means for addressing a debtor's request for a mortgage modification review in a Chapter 13 case effective April 1, 2014.



PHILLIP J. SHEFFERLY, Chief Judge
United States Bankruptcy Court

Dated: March 12, 2014

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re: Chapter 13
*, Case No. *
Debtor. Hon. *
_____ /

**DEBTOR'S MOTION REQUESTING
MORTGAGE MODIFICATION REVIEW**

Debtor, by and through counsel, *, requests entry of an order setting deadlines and other parameters for Creditor, *, to respond to Debtor's request for mortgage modification, and in support states as follows:

1. The Debtor filed this Chapter 13 case in an attempt to retain his/her primary residence.
2. The Debtor would like to modify the terms of the mortgage encumbering his/her primary residence. The Debtor's household income will now allow him/her to contribute to a modified mortgage debt.
3. An order setting forth certain deadlines and other parameters will assist the parties in negotiation of a modification of the relevant mortgage.

Wherefore, Debtor requests the entry of an order setting deadlines and other parameters for a mortgage modification, and such other relief as this Court deems just and proper.

Dated: _____

Attorney for Debtor (P)

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re: Chapter 13
*, Case No. *
Debtor. Hon. *
_____ /

**ORDER GRANTING DEBTOR'S MOTION
REQUESTING MORTGAGE MODIFICATION REVIEW**

This matter having come before the Court on Debtor's Motion Requesting Mortgage Modification Review and to encourage the parties to engage in the modification process in good faith;

NOW, THEREFORE,

IT IS HEREBY ORDERED that:

1. Notice of Applicable Programs. Within 21 days after service of this order upon Creditor, Creditor shall supply and notify Debtor and Debtor's counsel of the Creditor's required loan modification package.
2. Debtor's Financial Documents. Within 35 days after service of this order, Debtor shall submit to Creditor a fully complete Loan Modification Package with all timely supporting documentation. Such exchange of information shall be through the mechanism as specified by Creditor or as otherwise agreed upon.
3. Creditor Request for Additional or Updated Documents. Creditor and/or its counsel shall review the Loan Modification Package submitted by Debtor and notify the Debtor

and his/her counsel of any additional or updated financial records that must be supplied to Creditor. Debtor shall provide Creditor all required additional financial records within 10 days.

4. Point of Contact. Creditor shall designate a point of contact for loss mitigation purposes including phone number and/or email address. The point of contact may be Creditor's counsel.

5. Status of Review. Any document(s) or exchanges of information, not otherwise protected by any privilege, exchanged between the Debtor, Creditor and/or Creditor's representative counsel (as applicable) may be presented to the Court for purposes of providing a status of the loan modification review by either party. Where the parties agree, dates and times may be established for filing a mutually prepared status report or the Court may, on ex parte request of any party or sua sponte, set status conferences at reasonable intervals to allow the parties to provide the Court with updates as to the process.

6. Lack of Prosecution. In the event that this case is converted under any other chapter of the Bankruptcy Code, the Debtor fails to pursue the modification with appropriate submission of the package within the above stated time frames, or if the Debtor declines an offered trial payment plan or permanent modification, this order shall become null and void unless otherwise extended by the Court.

7. Court Approval of Mortgage Modification. The parties shall seek any necessary Court approval to formalize any fully executed and completed modification.

8. Creditor Fee. If applicable, any fees and costs incurred by Creditor for all work involved in connection with the mortgage modification shall be recoverable from the borrower as permitted by law.

9. Debtor's counsel's fee. Counsel for the Debtor is entitled to receive reasonable compensation for all work involved in connection with the mortgage modification and shall file an application for allowance of attorney fees and costs for allowance by the Court to be paid as an administrative expense.

10. Confidential Communications. All statements made by parties, attorneys, and other participants associated with the mortgage modification request are confidential and subject to Federal Rule of Evidence 408 and may not be construed for any purposes as an admission.

11. Stay Modified to Allow Loan Modification. The automatic stay is modified, to the extent necessary, to facilitate the terms pursuant to this Order.

12. Service. Debtor shall serve a copy of this order on the Creditor and file a proof of service.

IT IS SO ORDERED.