

United States Bankruptcy Court

_____ District of _____

In re _____, Debtor

Case No. _____
Chapter 13

Motion Under Rule 3002.1(g)(4) to Determine Final Cure and Payment of the Mortgage Claim

The [trustee/debtor] states as follows:

1. The following information relates to the mortgage claim at issue:

Name of Claim Holder: _____ **Court claim no.** (if known): _____

Last 4 digits of any number used to identify the debtor's account: _____

Property address: _____

City

State

ZIP Code

2. As of the date of this motion, [I have/the trustee has] disbursed payments to cure arrearages as follows:

a. Allowed amount of the prepetition arrearage, if any: \$ _____

b. Total amount of the prepetition arrearage disbursed, if known: \$ _____

c. Allowed amount of postpetition arrearage, if any: \$ _____

d. Total amount of postpetition arrearage disbursed, if known: \$ _____

e. Total amount of arrearages disbursed \$ _____

3. As of the date of this motion, [I have/the trustee has] disbursed payments for postpetition fees, expenses, and charges as follows:

a. Amount of postpetition fees, expenses, and charges noticed under Rule 3002.1(c) and not disallowed: \$ _____

b. Amount of postpetition fees, expenses, and charges disbursed: \$ _____

4. As of the date of this motion, [I have/the trustee has] made the following payments on the postpetition obligations: \$ _____

[5. If needed, add other information relevant to the motion.]

6. I ask the court for an order under Rule 3002.1(g)(4) determining whether the debtor has cured all arrearages, if any, and paid all postpetition amounts required by the plan to be made as of the date of this motion.

Signed: _____
(Trustee/Debtor)

Date: ____/____/____

Address _____
Number Street

City State ZIP Code

Contact phone (____) ____-____ Email _____

Committee Note

Official Forms 410C13-M1, 410C13-M1R, 410C13-N, 410C13-NR, 410C13-M2, and 410C13-M2R are new. They are adopted to implement new and revised provisions of Rule 3002.1 that prescribe procedures for determining the status of a home mortgage claim in a chapter 13 case.

Official Forms 410C13-M1 and 410C13-M1R implement Rule 3002.1(f). Form 410C13-M1 is used if either the trustee or the debtor moves to determine the status of a home mortgage at any time during a chapter 13 case prior to the trustee's Notice of Disbursements Made. If the trustee files the motion, she must disclose the payments she has made to the holder of the mortgage claim so far in the case. If the debtor, rather than the trustee, has been making the postpetition payments, the trustee should state in part 4 that she has paid \$0. If the debtor files the motion, he should provide information about any payments he has made and any payments made by the trustee of which the debtor has knowledge.

Within 28 days after service of the trustee's or debtor's motion, the holder of the mortgage claim must file a response, using Official Form 410C13-M1R, if it disputes any facts set forth in the motion. *See* Rule 3002.1(f)(2). The claim holder must indicate whether the debtor has paid the full amount required to cure any arrearage and whether the debtor is current on all postpetition payments. The claim holder must provide a payoff statement, and, if the claim holder says that the debtor is not current on all payments, it must attach an itemized payment history for the postpetition period.

Official Form 410C13-N is to be used by a trustee to provide the notice required by Rule 3002.1(g)(1) to be filed at the end of the case. This notice must be filed within 45

days after the debtor completes all payments due to the trustee, and it requires the trustee to report on the amounts the trustee paid to cure any arrearage, for postpetition mortgage obligations, and for postpetition fees, expenses, and charges. The trustee must also provide her disbursement ledger for all payments she made to the claim holder or provide the web address where it can be accessed.

Within 28 days after service of the trustee's notice, the holder of the mortgage claim must file a response using Official Form 410C13-NR. *See* Rule 3002.1(g)(3). The claim holder must indicate whether the debtor has paid the full amount required to cure any arrearage and whether the debtor is current on all postpetition payments. It must also provide a payoff statement. If the claim holder says that the debtor is not current on all payments, it must attach an itemized payment history for the postpetition period. The response, which is not subject to Rule 3001(f), must be filed as a supplement to the claim holder's proof of claim.

Official Forms 410C13-M2 and 410C13-M2R implement Rule 3002.1(g)(4). Form 410C13-M2 is used if either the trustee or the debtor moves at the end of the case to determine whether the debtor has cured all arrearages and paid all required postpetition amounts. If the trustee files the motion, she must disclose the payments she has made to the holder of the mortgage claim. If the debtor, rather than the trustee, has been making the postpetition payments, the trustee should state in part 4 that she has paid \$0. If the debtor files the motion, he should provide information about any payments he has made and any payments made by the trustee of which the debtor has knowledge.

Within 28 days after service of the trustee's or debtor's motion, the holder of the mortgage claim must file a response, using Official Form 410C13-M2R, if it disputes

any facts set forth in the motion. *See* Rule 3002.1(g)(4)(B). The claim holder must indicate whether the debtor has paid the full amount required to cure any arrearage and whether the debtor is current on all postpetition payments. The claim holder must provide a payoff statement, and, if the claim holder says that the debtor is not current on all payments, it must attach an itemized payment history for the postpetition period.

Official Form 410S1, Notice of Mortgage Payment Change, is amended to provide space for an annual HELOC notice. As required by Rule 3002.1(b)(2), new Part 3 solicits disclosure of the existing payment amount, a reconciliation amount representing underpayments or overpayments for the past year, the next payment amount (including the reconciliation amount), and the new payment amount thereafter (without the reconciliation amount). The sections of the form previously designated as Parts 3 and 4 are redesignated Parts 4 and 5, respectively.

Official Form 41013-M2

Instructions for Motion Under Rule 3002.1(g)(4) to Determine Final Cure and Payment of the Mortgage Claim

United States Bankruptcy Court

12/25

Introduction

This form is used only in chapter 13 cases. It may be filed by a trustee or debtor within 45 days after service of the claim holder's response to the trustee's end-of-case Notice of Disbursements Made or within 45 days after service of the notice if no response is filed.

Applicable Law and Rules

Rule 3002.1 of the Federal Rules of Bankruptcy Procedure addresses claims secured by a security interest in a chapter 13 debtor's principal residence. Subdivision (g) of that rule requires the trustee at the end of the case to file a notice stating the total amount the trustee disbursed to the claim holder to cure any default and the total amount disbursed for payments that came due during the pendency of the case. The claim holder must respond to the notice. Thereafter Rule 3002.1(g)(4) authorizes the trustee or debtor to file a motion seeking a court determination of whether the debtor has cured all defaults and paid all required postpetition amounts. The rule requires that this form be used for the motion and that it be served on the debtor and the debtor's attorney, if the trustee is the movant; the trustee, if the debtor is the movant; and the claim holder.

Directions

Indicate whether the movant is the trustee or the debtor(s).

Information required in 1

Insert on the appropriate spaces:

- the claim holder's name;
- the court claim number, if known;
- the last 4 digits of the loan account number or any other number used to identify the account;
- the address of the principal residence securing the claim.

Information required in 2

This section concerns disbursements made on account of arrearages. To the extent known by the movant, insert on the appropriate lines:

- the allowed amount of any arrearage that arose prepetition;
- the total amount of any prepetition arrearage disbursed as of the date of the motion;
- the allowed amount of any arrearage that arose postpetition;
- the total amount of any postpetition arrearage disbursed as of the date of the motion;
- the total amount of arrearages disbursed as of the date of the motion.

The amount listed on line 2a should be the same amount as “Amount necessary to cure any default as of the date of the petition” that was reported on line 9 of Form 410 and that has not been disallowed or, in districts in which the plan controls, the amount specified by the plan. The amount on line 2c should be the allowed amount from line 9 of an amended Form 410, the plan, or an order allowing cure of postpetition arrearages. If line 9 of an amended Form 410 or such plan or order combines the amounts necessary to cure defaults as of the date of the petition with amounts necessary to cure defaults after the petition, then insert the combined total on line 2c and leave line 2a blank. Use line 5 to explain that line 2c includes the amounts to cure both the prepetition default and the postpetition default.

Information required in 3

This section concerns disbursements made on account of postpetition fees, expenses, and charges.

Insert on the appropriate lines:

- the amount of postpetition fees, expenses, and charges noticed under Rule 3002.1(c) and not disallowed;
- the amount of postpetition fees, expenses, and charges disbursed.

The amount listed on line 3a should be the total of the amounts reported on Form 410S-2 as of the date of the motion that have not been disallowed. Line 3b should indicate the amount of those fees, expenses, and charges that have been disbursed.

Information required in 4

This section concerns disbursements made on account of postpetition obligations on the loan that are not reported on prior lines of this form. For example, the amount reported on this line should include regular monthly payments on the

loan. Insert that amount in the space provided, to the extent known by the movant. If the movant is the trustee and has not been making these payments, insert \$0 if unknown. If the movant is the debtor, insert the sum of the payments made by the debtor and the trustee after the date of the petition and prior to the date of this motion.

Information required in 5

Space is provided here for the movant to add any other information that may be relevant to determining the status of the mortgage claim.

Information required in 6

This part states the relief the movant is seeking, followed by spaces for the movant’s name and contact information.