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NVB 105-5(3/15)

Debtor Attorney _____
Nevada Bar # _____
Firm Name _____
Address _____
City, State, Zip _____
Phone Number _____
Pro-se Debtor _____

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:) BK
) CHAPTER 13
) ORDER ON DEBTOR’S VERIFIED OUT OF
Debtor(s).) TIME MOTION FOR REFERRAL TO
) MORTGAGE MODIFICATION
) MEDIATION

The Debtor filed a Verified Out of Time Motion for Referral to Mortgage Modification Mediation (“Out of Time Motion”) on _____, and served it on the Lender in accordance with this Court’s Mortgage Modification Mediation Program Procedures (select one):

- The Debtor has filed a “Certificate of No Response and Request for Entry of Order”;
- The Lender has filed a Lender’s Consent to participate in MMM; or

1 The matter was opposed and the Court conducted a hearing on _____.

2 **IT IS ORDERED AS FOLLOWS:**

- 3 1. The Motion is GRANTED;
- 4
- 5 2. The Debtor and Lender are required to participate in Mortgage Modification
- 6 Mediation (“MMM”) in good faith and may be subject to possible sanctions by
- 7 the Court for violation of this requirement, including vacating this order. MMM
- 8 shall be concluded not later than 150 days from the date of the Order, unless
- 9 extended by written consent on the approved Mortgage Modification Mediation
- 10 Portal (“MMM Portal”), by stipulation of the parties or by court order;
- 11
- 12
- 13 3. All communications and information exchanged during MMM are privileged and
- 14 confidential and shall be inadmissible in any subsequent proceeding as provided
- 15 by Rule 408 of the Federal Rules Evidence, except in circumstances of a motion
- 16 for failure to participate in good faith under the MMM program and procedures
- 17 and/or subsequent mediation negotiation under this chapter and/or the State of
- 18 Nevada Foreclosure Mediation Program;
- 19
- 20
- 21 4. The chapter 13 trustee shall have access to the DMM Portal but shall not be able
- 22 to read/review any documentation, correspondence or any other confidential
- 23 information;
- 24
- 25 5. All written communication between the parties regarding the mediation must be
- 26 sent through the approved MMM Portal only, unless otherwise ordered by the
- 27
- 28

1 Court. Any litigated matters incidental to the mediation shall be considered as
2 separate matters and not subject to the portal communication requirement;

3
4 6. The Lender shall register with the MMM Portal, unless already registered, within
5 seven days after entry of this Order, and designate its single point of contact and
6 outside legal counsel who must register within seven days after designation. If
7 the Lender fails to register, the Debtor may file a motion with the Court seeking
8 sanctions against the Lender for Lender's failure to register;

9
10
11 7. Lender's counsel or representative shall have the authority (within the investor's
12 guidelines) to settle and will attend and continuously participate in all MMM
13 conferences in this case;

14
15 8. Debtor shall, within seven days after the filing of Debtor's Notice of Selection of
16 Mortgage Modification Mediator (or Notice of Clerk's Designation of Mortgage
17 Modification Mediator), or after confirming that the Lender is registered on the
18 MMM Portal, whichever occurs later, remit to the MMM Portal the required non-
19 refundable MMM Portal submission fee, and upload to the MMM Portal the
20 following (collectively, the "Completed Package"):

- 21 (a) Debtor's loan modification package (prepared using the Document
22 Preparation Software);
- 23 (b) a copy of this Order; and
- 24 (c) any additional lender-specific information identified by Lender on
25 the MMM Portal.
26
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- 1 9. The Lender shall, within seven days after Debtor’s delivery of the “Completed
2 Package,” acknowledge receipt of Debtor’s information and advise Debtor of any
3 additional or missing information required for Lender to proceed with its review;
4
- 5 10. In the event the Lender requires additional or missing information to consider the
6 Debtor’s requested mortgage modification options as specified in the Ex Parte
7 Motion, the Lender shall so notify Debtor through the MMM Portal within seven
8 days of Debtor’s submission (“Notice”). The Debtor shall provide all additional
9 documents through the MMM Portal within seven days of the Notice;
10
- 11 11. The Lender shall timely underwrite the loan modification request;
12
- 13 12. If the Lender transfers the loan, the Lender must provide a copy of the Order to
14 the new holder of the loan (“Successor Lender”), and the Successor Lender will
15 be obligated to comply with all terms of this Order;
16
- 17 13. **PROCESS FOR SELECTION OF MEDIATOR:**
18
- 19 (a) The parties shall have 14 days from the date of this Order to select a
20 mediator. If the parties agree on the selection of a mediator, the Debtor
21 shall file the MMM Local Form “Debtor’s Notice of Selection of
22 Mortgage Modification Mediator" (Check Box 1 and insert mediator name
23 and contact information), serve a copy of the notice on all required parties,
24 and file a Certificate of Service pursuant to Local Rule 2002;
25
- 26 (b) If the Lender fails to communicate with the Debtor within the 14 day
27 period established for the mediator selection process, the Debtor shall,
28

1 within seven days, independently select a mediator and file the “Debtor’s
2 Notice of Selection of Mortgage Modification Mediator” (Check Box 2
3 and insert mediator name and contact information), serve a copy of the
4 notice on all required parties, and file a Certificate of Service pursuant to
5 Local Rule 2002. In this instance, it shall be deemed that the Lender
6 has waived the right to challenge Debtor’s selection of a Mediator;
7

8 (c) If the parties attempt to reach agreement on the selection of a Mediator,
9 but fail to do so, the Debtor shall file the “Debtor’s Notice of Selection of
10 Mortgage Modification Mediator” (Check Box 3 indicating an impasse),
11 serve a copy of the notice on all required parties, and file a Certificate of
12 Service pursuant to Local Rule 2002. The clerk shall then randomly
13 select a mediator from the clerk’s Mediation Register pursuant to the
14 MMM Program Procedures, without the necessity of a hearing. The clerk
15 shall serve notice of the mediator selection on the required parties using
16 the MMM Local Form “Notice of Clerk’s Designation of Mortgage
17 Modification Mediator.” Any challenge to the clerk’s designation of
18 mediator shall be resolved in accordance with the MMM Program
19 Procedures.
20
21
22

23
24 14. Debtor shall assign the mediator as the mediator in this case on the MMM Portal
25 within seven days after designation;

26
27 15. The mediator shall be:
28

1 (a) governed by the subject to the Model Standards of Conduct for Mediators
2 as revised and adopted in 2005 by the American Arbitration Association,
3 American Bar Association, and Association of Conflict Resolution.

4 Mediators shall have judicial immunity in the same manner and to the
5 same extent as a judge;
6

7 (b) subject to paragraph 16 below, be compensated in the amount of \$600.00
8 for preparation for MMM, execution of required documents, facilitation of
9 document and information exchange between the parties, and participation
10 in no more than two one-hour MMM conferences;
11

12 (c) compensated at the rate set by the U.S. Bankruptcy Court for the District
13 of Nevada as adopted by this court by Administrative Order 2014-08, or at
14 such rate as may be agreed to in writing by the parties and the mediator
15 selected by the parties for any MMM conferences that extend beyond the
16 initial two one-hour conferences.
17
18

19 16. The mediator's fee shall be paid equally by the parties as follows:
20

21 (a) The Debtor shall pay the required non-refundable fee pursuant to the
22 MMM Procedures directly to the mediator within seven days designation
23 of the mediator;
24

25 (b) The Lender shall pay the required non-refundable fee pursuant to the
26 MMM Procedures directly to the mediator within seven days after
27 designation of the mediator; and
28

1 (c) The mediator's fee for MMM conferences that extend beyond two, one-
2 hour conferences, shall be paid equally by the parties and is due and
3 payable at the beginning of each successive MMM conference in
4 accordance with the program procedures.
5

6
7 17. The mediator shall log in to the MMM Portal within seven days after designation
8 and use the MMM Portal to facilitate any additional exchange of information or
9 documentation between Debtor and Lender in an effort to perfect the documents
10 needed for Lender to complete its analysis of Debtor's mortgage modification
11 mitigation options;
12

13
14 18. If the mediator either fails to timely register or log in to the MMM Portal to begin
15 to facilitate the MMM process, any party to the mediation may file a motion
16 requesting that the mediator be removed from this case and, if applicable, be
17 removed from the clerk's Mediation Register;
18

19 **19. MEDIATION CONFERENCE:**

20 (a) The mediator shall schedule the initial MMM conference no later than
21 seven days after determining that the Lender has received and reviewed all
22 requested information. In the event the mediator cannot determine that the
23 Lender has received all the requested information, the mediator shall
24 schedule the initial MMM conference within 90 days of this Order. The
25 initial MMM conference shall not exceed one hour. The mediator shall
26 report the scheduling of all MMM conferences on the MMM Portal;
27
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- 1 (b) If the Debtor is represented by an attorney, the Lender and Lender's
2 representative may participate in the MMM conference by telephone;
3
- 4 (c) If the Debtor is represented by an attorney, the Debtor and any co-
5 obligors/co-borrowers or other third party may participate in the MMM
6 conference by telephone provided they are physically present with
7 Debtor's attorney and present identification to Debtor's attorney during all
8 MMM conferences;
9
- 10 (d) If the Debtor is not represented by an attorney, the debtor and any co-
11 borrower shall be physically present with the mediator at the mediator's
12 selected location and present identification to the mediator for all MMM
13 conferences;
14
- 15 (e) Debtor shall provide a foreign language interpreter, if necessary, at the
16 Debtor's own expense; and
17
- 18 (f) All parties attending the MMM conference must be ready, willing and able
19 to sign a binding settlement agreement at the MMM conference and have
20 the ability to scan, send and receive documents by facsimile, email or
21 other electronic means at the time of the MMM conference.
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25 20. In the event the parties are unable to reach an agreement and require an additional
26 MMM conference, the mediator shall schedule a final MMM conference no later
27 than 30 days thereafter. The final MMM conference shall not exceed one hour;
28

1 26. The Debtor shall serve a copy of this Order on all parties to the mediation,
2 immediately upon receipt. Service shall be by regular U.S. Mail, electronic
3 service, or email, if the party's email address is known.
4

5 **IT IS SO ORDERED.**
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8 Submitted by:

9
10 _____
11 Attorney for Debtor(s) or Pro Se Debtor

Dated: _____

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