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NVB 105-3(Rev. 1/17)

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

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:) BK-S-
)
Debtor(s).) CHAPTER 13
)
) **ORDER ON EX PARTE MOTION FOR**
) **REFERRAL TO MORTGAGE**
) **MODIFICATION MEDIATION**
) **PROGRAM**
)

This matter came before the Court upon the Debtor’s Ex Parte Motion for Referral to Mortgage Modification Mediation Program (“Ex Parte Motion”) filed on _____.

It is **ORDERED** as follows:

1. The Ex Parte Motion is granted. The non-moving party may seek reconsideration of this Order by filing a written motion within fourteen (14) days after entry of the

1 Order. If a timely motion for reconsideration is filed, the party seeking
2 reconsideration must promptly schedule a hearing. In the event a motion for
3 reconsideration is timely filed, all deadlines set forth in this Order shall be suspended
4 pending resolution of the motion, but all other provisions shall remain in effect;

5 2. The Debtor and Lender are required to participate in Mortgage Modification
6 Mediation (“MMM”) Program in good faith and may be subject to possible sanctions
7 by the Court for violation of this requirement.

8 3. The MMM Program proceedings in this case shall be completed no later than 150
9 days from the date of this Order, unless agreed to by the parties and the Mediator on
10 the Mortgage Modification Mediation Portal (“MMM Portal”) or extended by an
11 order of the Court;

12 4. All communications and information exchanged during MMM are privileged and
13 confidential and shall be inadmissible in any subsequent proceeding as provided by
14 Rule 408 of the Federal Rules of Evidence, except in circumstances of a motion for
15 failure to participate in good faith under the MMM Program and procedures and/or
16 subsequent mediation negotiation under this Chapter and/or the State of Nevada
17 Foreclosure Mediation Program;

18 5. Unless otherwise permitted by the Court or agreed by the parties and the Mediator, all
19 communication between the parties shall be sent exclusively through the MMM
20 Portal. Any litigated matters incidental to the mediation shall be considered as
21 separate matters and not subject to the MMM Portal communication requirement;

22 6. Within seven (7) days after entry of this Order, the Lender and, if applicable,
23 Lender’s counsel shall register with the MMM Portal, unless already registered, and
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1 provide to the MMM Portal vendor any forms or documents which Lender may
2 require to initiate a review under the MMM Program procedures. The MMM Portal
3 vendor shall post any such forms or documents to the Lender's profile on the MMM
4 Portal. If the Lender fails to timely register on the MMM Portal, the Debtor may file
5 a motion with the Court seeking sanctions against the Lender for failure to register;

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

9 8. Debtor shall, within seven (7) days after entry of this Order, remit to the MMM Portal
10 vendor the required non-refundable MMM Portal submission fee, and upload to the
11 MMM Portal the following:

- 12 a. Debtor's Prepared Package (prepared using the Document Preparation
13 Software); and
- 14 b. a copy of this Order.

15 9. Debtor shall, within seven (7) days after entry of this Order, identify the assigned
16 Mediator on the MMM Portal;

17 10. Within fourteen (14) days after Lender provides the MMM Portal vendor with its list
18 of required mortgage modification documents and information, Debtor shall provide
19 Debtor's Completed Package to Lender through the MMM Portal;

20 11. The Lender shall, within seven (7) days after Debtor submits Debtor's Completed
21 Package on the MMM Portal, acknowledge receipt of Debtor's Completed Package
22 on the MMM Portal and designate its single point of contact and outside legal counsel
23 (if any);

1 12. If Lender notifies Debtor on the MMM Portal that additional documents or
2 information is required to perfect Debtor's Completed Package, Debtor shall provide
3 such documents or information to Lender on the MMM Portal as may be reasonably
4 requested by Lender;

5 13. Lender shall timely review and underwrite the loan modification request, and indicate
6 on the MMM Portal that it has completed a review of Debtor's Completed Package;

7 14. Lender shall indicate its final decision on the MMM Portal;

8 15. If the Lender transfers the loan, the Lender or Debtor shall promptly update the
9 MMM Portal to identify the new holder of the loan ("Successor Lender") The
10 Successor Lender shall:

- 11 a. Be obligated to comply with all terms of the Order, as well as the requirements
12 of Local Rule 3001(b);
- 13 b. Within seven (7) days of the transfer, acknowledge that it is the new holder of
14 the loan on the MMM Portal; and
- 15 c. Within twenty-one (21) days of the transfer, communicate to Debtor and the
16 Mediator on the MMM Portal whether any additional documents or information
17 are necessary to perfect Debtor's Completed Package.

18 16. SELECTION OF MEDIATOR:

- 19 a. The eligible Mediator identified in the Ex Parte Motion for Referral to
20 Mortgage Modification Mediation Program is hereby assigned as the Mediator
21 in this case;
- 22 b. Any objection to the assignment of this Mediator must be made on the MMM
23 Portal. The parties shall communicate and attempt to agree on a successor
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1 Mediator within fourteen (14) days after identification of the assigned Mediator
2 on the MMM Portal. If the parties agree on a successor Mediator, the objecting
3 party shall file with the Court a Stipulation Assigning Successor Mediator and
4 concurrently lodge with the Court an Order approving the Stipulation. Once the
5 Stipulated Order is entered, Debtor shall promptly update the MMM Portal to
6 identify the successor Mediator of the case.

7 c. In the event the parties cannot agree on a successor Mediator, within fourteen
8 (14) days after identification of the assigned Mediator on the MMM Portal the
9 objecting party must file with the Court an Objection to Selection of Mortgage
10 Modification Mediation Program Mediator and set the matter for hearing
11 pursuant to Local Rule 9014. After notice and a hearing the Court shall select
12 the Mediator. Once a Mediator is assigned, Debtor shall promptly update the
13 MMM Portal to identify the Mediator of the case.

14 d. If the objecting party fails to file with the Court and notice for hearing an
15 Objection to Selection of Mortgage Modification Mediation Program Mediator
16 within fourteen (14) days after identification of the assigned Mediator on the
17 MMM Portal, the Mediator assigned under paragraph 15(a) of this Order shall
18 remain assigned to the case.

19 17. The Mediator shall be:

20 a. governed by the subject to the Model Standards of Conduct for Mediators as
21 adopted by the American Arbitration Association, American Bar Association,
22 and Association of Conflict Resolution;
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- 1 b. be compensated in the amount required pursuant to the MMM Procedures for
2 preparation for MMM, execution of required documents, facilitation of
3 document and information exchange between the parties, and participation in
4 two one-hour MMM conferences;
- 5 c. compensated at the rate set by the U.S. Bankruptcy Court for the District of
6 Nevada as adopted by this court by Administrative Order 2014-08 and, for any
7 MMM conferences beyond the initial two one-hour sessions, at such rate as may
8 be agreed to in writing by the parties and the Mediator;

9 18. The Mediator's fee shall be paid equally by the parties as follows:

- 10 a. The Debtor shall pay the non-refundable fee pursuant to the MMM Procedures
11 directly to the Mediator within seven (7) days after receiving initial contact and
12 payments instructions from the Mediator;
- 13 b. The Lender shall pay the non-refundable fee pursuant to the MMM Procedures
14 directly to the Mediator within seven (7) days after receiving initial contact and
15 payments instructions from the Mediator; and
- 16 c. The Mediator's fee for MMM conferences that extend beyond the initial two
17 one-hour conferences shall be paid equally by the parties, with payment made
18 prior to the beginning of each successive MMM conference in accordance with
19 the MMM Program procedures.

20 19. The Mediator shall, within seven (7) days after being identified as the assigned
21 Mediator on the MMM Portal:

- 22 a. Log into the MMM Portal and confirm their assignment as the Mediator in the
23 case;

- 1 b. Provide the parties with contact information and instructions on how to pay the
2 Mediator's fee; and
- 3 c. Use the MMM Portal to facilitate any additional exchange of information or
4 documentation between Debtor and Lender in an effort to perfect the documents
5 needed for Lender to complete its analysis of Debtor's mortgage modification
6 mitigation options;

7 20. If the Mediator fails to timely register or log in to the MMM Portal to begin
8 facilitating the MMM process, any party to the mediation may file a motion
9 requesting that the Mediator be removed from this case and, if applicable, be removed
10 from the Clerk's Register of Mediators;

11 21. MEDIATION CONFERENCE:

- 12 a. The Mediator shall schedule the initial MMM conference to take place within
13 ninety (90) days after entry of this Order. The initial MMM conference may be
14 scheduled as soon as the Mediator determines that Lender has completed its
15 review of Debtor's Completed Package as required by Paragraph 12 of this
16 Order;
- 17 b. The Mediator may communicate with the parties in whichever manner the
18 parties and Mediator agree;
- 19 c. After consultation with the parties, the Mediator shall fix a reasonable time and
20 place for the MMM conferences;
- 21 d. The Mediator shall give the parties at least 7 days' notice on the MMM Portal of
22 the date, time, and place for the MMM conferences;
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- 1 e. The Mediator shall report the scheduling of any and all MMM conferences
2 through the MMM Portal;
- 3 f. The initial MMM conference shall not exceed one hour unless otherwise agreed
4 by the parties and the Mediator;

5 22. In the event the parties are unable to reach an agreement and require an additional
6 MMM conference, the Mediator shall schedule a final MMM conference to be held
7 no later than thirty days after the conclusion of the initial MMM conference. The
8 final MMM conference shall not exceed one hour in duration unless otherwise agreed
9 by the parties and the Mediator;

10 23. In the event the parties reach a trial loan modification agreement:

- 11 a. Within seven (7) days after the parties reach such an agreement the Mediator
12 shall upload to the MMM Portal and file with the Court an Interim Report of
13 Mortgage Modification Mediation Program Mediator.
- 14 b. Within seven (7) days after the Mediator files the Interim Report with the Court:
- 15 i. Debtor shall file an Ex Parte Motion to Approve Trial Loan Modification
16 Agreement.
- 17 ii. Debtor shall lodge with the Court an Order Approving Trial Loan
18 Modification Agreement. The Court shall grant such relief on an *ex parte*
19 basis.
- 20 iii. Once entered by the Court, Debtor shall serve a copy of the Order on all
21 Required Parties and the Chapter 13 Trustee, and file a certificate of
22 service evidencing these parties were properly served.
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1 c. The Mediator and all Required Parties shall monitor the trial loan modification
2 and manage the mediation until a final loan modification has been executed or
3 Lender has denied a final loan modification. Access to the MMM Portal shall
4 remain open during the pendency of a trial loan modification.

5 24. In the even the parties reach a final loan modification agreement:

6 a. Within seven (7) days after the parties reach such an agreement the Mediator
7 shall upload to the MMM Portal and file with the Court a Final Report of
8 Mortgage Modification Mediation Program Mediator.

9 b. Within fourteen (14) days after the Mediator files the Final Report with the
10 Court:

11 i. Debtor shall file a Motion to Approve Final Loan Modification
12 Agreement. If Debtor is represented by an attorney, this Motion may be
13 filed *ex parte* and Debtor shall concurrently lodge with the Court an Order
14 Approving Final Loan Modification Agreement, which the Court shall
15 grant on an *ex parte* basis. If Debtor is not represented by an attorney, this
16 Motion must be noticed, served, and set for a hearing pursuant to Local
17 Rule 9014 using a Notice of Hearing on Self-Represented Debtor's
18 Motion to Approve Final Loan Modification Agreement.

19 ii. Once an Order Approving Final Loan Modification Agreement is entered
20 by the Court, either *ex parte* or after notice and hearing, Debtor shall serve
21 a copy of the Order on all Required Parties and the Chapter 13 Trustee,
22 and file a certificate of service demonstrating these parties were
23 appropriately served.

1 c. Within twenty-eight (28) days after the final loan modification is approved by
2 the Court, Debtor shall file, serve, and notice for confirmation an Amended
3 Chapter 13 Plan or Modified Chapter 13 Plan providing for conduit loan
4 modification payments pursuant to Section III(A) of the MMM Program
5 Procedures, if the Chapter 13 Plan does not already contain such provisions.

6 25. If the parties fail to reach an agreement at the conclusion of the MMM conferences:

7 a. Within seven (7) days after the conclusion of the MMM conferences the
8 Mediator shall upload to the MMM Portal and file with the Court a Final
9 Report of Mortgage Modification Mediation Program Mediator.

10 b. Within twenty-eight (28) days after the Mediator files the Final Report with
11 the Court, Debtor shall file, serve, and notice for confirmation an Amended
12 Chapter 13 Plan or Modified Chapter 13 Plan providing for appropriate
13 treatment of Lender's claim.

14 26. The automatic stay is modified to the extent necessary to facilitate MMM pursuant to
15 this Order;

16 27. Any of the deadlines imposed by this Order may be extended by order of the Court or
17 by written agreement of the parties and Mediator on the MMM Portal;

18 28. If any parties or their counsel fails to comply timely and in full with the terms of this
19 Order, the Court may impose appropriate sanctions after notice and a hearing; and

20 29. The Debtor shall immediately serve a copy of this Order on all parties to the
21 mediation, including the Mediator and the Chapter 13 Trustee. Debtor shall file a
22 Certificate of Service with the Court evidencing these parties were properly served.
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1 Service shall be by regular U.S. Mail, electronic service, or email, if the party's email
2 address is known.

3 30. If Lender did not provide Debtor with written consent to entry of this Order, Debtor
4 shall:

- 5 a. Serve a copy of the Order on all Required Parties, including the assigned
6 Mediator and the Chapter 13 Trustee;
- 7 b. Include a copy of the Court's MMM Procedures as **Exhibit A**;
- 8 c. Include a copy of the Objection to Selection of Mortgage Modification
9 Mediation Program Mediator (NVB 105-4) as **Exhibit B**; and
- 10 d. File a Certificate of Service with the Court evidencing these parties were
11 properly served with the Order.

12 **IT IS SO ORDERED.**

13
14 Submitted by:

15
16 _____
17 Attorney for Debtor(s) or Pro Se Debtor

Dated: _____

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