

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN RE

**CHAPTER 13 - DISMISSAL
OF CASE UPON PAYMENT
DEFAULT**

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GENERAL ORDER No. 09-03

IT IS HEREBY ORDERED that, effective immediately Neb.R.Bankr.P 3015-4 Chapter 13 - Dismissal of Case Upon Payment Default is amended as follows;

A. Notice of Payment Default. The Chapter 13 Trustee may provide a debtor with Notice of Payment Default and file the Notice of Payment Default and proof of service with the Clerk. The notice shall state the amount of the existing payment default and the date on which the next scheduled payment is due under the proposed plan or confirmed plan. The notice shall further state that under this Local Rule, the bankruptcy case will be dismissed upon the filing of a declaration by the Chapter 13 Trustee unless, within 21 days after the date of the Notice of Payment Default, the debtor either cures the payment default and makes all payments due before expiration of the 21-day period or makes other arrangements satisfactory to the Trustee. The Notice of Payment Default shall state the specific calendar date by which the payment default must be cured.

B. Cure Default. Within 21 days of the mailing of a Notice of Payment Default, the debtor shall either:

1. Cure existing payment defaults and make all payments due before expiration of the 21-day period; or
2. If debtor disputes the existence of the payment default, debtor shall file a request with the Clerk that the Notice of Payment Default be set for hearing. If the request sets forth facts in support of specific allegations of good cause, the Clerk shall schedule the Notice of Payment Default for hearing upon affidavit evidence. At the hearing, debtor shall be prepared to provide evidence that all plan payments have been made to the trustee and that a default does not exist. If the request does not set forth genuine facts disputing the default, the court will take no action on the request for hearing. The filing of a contested matter by the debtor, such as an amended or modified plan or motion to suspend payments, shall not constitute a dispute as to the existence of the default and shall not, alone, preclude dismissal of the case.

No action will be taken by the court on a request for hearing that is simply seeking additional time to cure a payment default or to take other action. If debtor is seeking additional time to respond to a trustee's notice of payment default, debtor shall make such request directly to the trustee rather than file a request for hearing with the Clerk.

C. Dismissal Upon Payment Default Upon Declaration of the Chapter 13 Trustee.

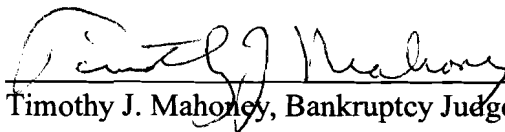
A Chapter 13 case shall be dismissed upon the filing of a declaration by the Chapter 13 Trustee establishing that Notice of Payment Default was provided to the debtor and debtor's counsel and that the debtor did not timely cure the payment default or take other curative action satisfactory to the trustee. The declaration shall state that the Chapter 13 Trustee has complied with this Local Rule, has served the Notice of Payment Default on the debtor and debtor's counsel, that the debtor has not timely cured the payment defaults and that the case should be dismissed.

DATE:

Dec 14, 2009



Thomas L. Saladino, Chief Bankruptcy Judge



Timothy J. Mahoney, Bankruptcy Judge