

CONDUIT PAYMENT GUIDELINES FOR THE OFFICE OF RICK A. YARNALL CHAPTER 13 STANDING TRUSTEE

I. Introduction

Pursuant to Administrative Order 2013-04, “each chapter 13 standing trustee may issue guidelines for the administration of conduit payments.” As such, Rick A. Yarnall is issuing the following Guidelines for the cases in which he is appointed as the Standing Trustee. The Trustee is authorized to amend these Guidelines at anytime. The Trustee’s current Guidelines can be found at www.lasvegas13.com.

II. Definitions

- A) “Arrearage” means the amount of past-due payments, fees and/or charges owed by the debtor to a secured creditor as of the date of the order for relief.
- B) “Administrative Arrearage” means the first installment payment that comes due to a Conduit Creditor under the proposed plan, which will be treated and paid in the same manner as a pre-petition arrearage claim.
- C) “Conduit Creditor” means any entity, or servicer for such entity, asserting a secured claim against real property or a vehicle of the debtor.
- D) “Conduit Payment” means the monthly post-petition payments the debtor is obligated to make to the Conduit Creditor under the terms of the note or contract, which will be disbursed by the Trustee.

III. Conduit Payment Requirement

- A) For all cases and plans filed on or after October 1, 2013, if there is a pre-petition arrearage on a claim secured by real property or a vehicle of the debtor, or if the debtor becomes more than one month delinquent on any post-petition installment payments to such a creditor, then all post-petition installment payments to the creditor shall be made through the chapter 13 trustee as Conduit Payments. A debtor may be excused from this mandatory Conduit Payment requirement upon a showing of good cause. An increase in trustee’s fees as a result of the Conduit Payment requirement shall not constitute good cause.
- B) *This Conduit Payment requirement and these Trustee’s guidelines apply in all cases filed on or after October 1, 2013, and apply to all plans, amended plans, and modified plans filed on or after October 1, 2013, in cases which were filed prior to October 1, 2013.*

IV. Debtor’s Duties

- A) At least 7 days prior to the date set for the initial § 341 Meeting of Creditors, the debtor must complete, sign, and provide the Trustee with the following:
 - 1) Authorization to Release Information (attached as “Exhibit A”);
 - 2) Conduit Creditor Information Worksheet (attached as “Exhibit B”); and
 - 3) a copy of the most current statement the debtor received from the Conduit Creditor.

- B)** Immediately upon receipt of any correspondence the debtor receives from a Conduit Creditor including, but not limited to, notices, statements, payment coupons, escrow notices and default notices, the debtor must provide a copy of the same to the Trustee. Due to the large volume of documents that are received by the Trustee's office on a daily basis, all documents provided to the Trustee's office must include the debtor's name and case number. Debtor's Counsel may submit documents by FTP. All other documents should be sent to the Trustee's office as follows:
- 1) Mail: Rick A Yarnall
701 Bridger Ave., Suite 820
Las Vegas, NV 89101
 - 2) E-mail: Conduits @lasvegas13.com **(This e-mail is only for conduit documents and questions about conduits. All other inquiries should be sent to Trustee at the contact information listed below.)**
 - 3) Fax: (702) 853-4513
- C)** In order for Trustee to effectively administer Conduit Payments, the debtor's monthly plan payment should be received by the Trustee no later than the 20th of each month. The debtor must make timely plan payments in full each month in order to avoid late fees imposed by a Conduit Creditor. If the debtor becomes delinquent on plan payments, the debtor's cure of the default must be accompanied by a cure of any applicable late charges imposed by a Conduit Creditor.
- D)** If the amount of a Conduit Payment changes, the debtor's plan payment to the Trustee will adjust accordingly. The Trustee's fee must be calculated at 10% and must be included in the calculation of the Chapter 13 plan payment adjustment.

V. Conduit Creditor Duties

- A)** A Conduit Creditor must complete and provide to Trustee an Ongoing Mortgage Payment Information Sheet or file a proof of claim asserting the monthly post-petition payment amount the debtor is obligated to make under the terms of the note or contract. The Ongoing Mortgage Payment Information Sheet is available on the Trustee's website. If a Conduit Creditor does not complete the Trustee's information sheet or file a conforming proof of claim prior to the first date set for distribution of such creditor's Conduit Payment, the Trustee may disburse the monthly Conduit Payment in the amount reflected on the following documents, in the order of availability:
- 1) the most current billing statement provided to the Trustee by the debtor; or
 - 2) the Conduit Creditor Information Worksheet provided to the Trustee by the debtor.
- Such payments will constitute full monthly Conduit Payments to the Conduit Creditor. Any Conduit Payment received by a Conduit Creditor must be applied to the post-petition monthly installment payments due under the terms of the note or contract.
- B)** A Conduit Creditor must provide Trustee with copies of all notices, statements, payment coupons, escrow notices, default notices, and any other correspondence relating to its claim or collateral. This requirement applies whether the Conduit Creditor receives payments pursuant to a chapter 13 plan from the Trustee or directly from the debtor.

- C) A Conduit Creditor asserting a change in the amount of a Conduit Payment must file a Notice of Payment Change with the Court, and must serve it on the debtor, debtor's counsel, and Trustee. If such a Notice is filed by a Conduit Creditor asserting a claim against the debtor's principal residence, the Notice must be prepared as prescribed by Official Form B-10S1, as required by Rule 3002.1. A Conduit Creditor asserting a claim other than against the debtor's principal residence must file a Notice which includes the information contained in Official Form B-10S1. A Notice of Payment Change must be filed no later than 21 days before the new payment amount is due.
- D) A Conduit Creditor asserting a post-petition fee, expense, or charge must file a Notice of Fees, Expenses and Charges with the Court, and must serve it on the debtor, debtor's counsel, and Trustee. If such a Notice is filed by a Conduit Creditor asserting a claim against the debtor's principal residence, the Notice must be prepared as prescribed by Official Form B-10S2, as required by Rule 3002.1. A Conduit Creditor asserting a claim other than against the debtor's principal residence must file a Notice which includes the information contained in Official Form B-10S2.

VI. Trustee's Duties

- A) Payments tendered to the Trustee as Conduit Payments will be disbursed to the applicable Conduit Creditor on the first business day of the month. The Trustee will only disburse the full amount of a Conduit Payment to a Conduit Creditor. If the balance on hand in the debtor's account with the Trustee is insufficient to pay both Trustee's fees and the full Conduit Payment, the Trustee will hold such funds until a sufficient amount is received from the debtor to disburse the full Conduit Payment. In order for Trustee to effectively administer Conduit Payments, the debtor's monthly plan payment should be received by the Trustee no later than the 20th of each month.
- B) Unless ordered otherwise, if a party objects to a Conduit Creditor's Proof of Claim, Notice of Postpetition Mortgage Fees, Expenses and Charges, or Notice of Payment Change, the Trustee may hold the disputed funds in reserve pending a resolution of the objection.
- C) If the amount of a Conduit Payment changes, the Trustee may file with the Court and serve on the debtor and debtor's counsel a Notice of Conduit Plan Payment Change, which will set forth the debtor's new plan payment amount and the commencement date of the adjusted payment.

VII. Conduit Payment Procedure

- A) Disbursements of Conduit Payments will be made to the payment address indicated in the Conduit Creditor's proof of claim, or in a subsequent assignment/transfer of claim or amended proof of claim. If a proof of claim is not filed, the Conduit Creditor's address will be determined from the following documents, in the order of availability:
 - 1) the Ongoing Mortgage Payment Information Sheet provided to Trustee by the Conduit Creditor;
 - 2) the most current Conduit Creditor statement provided to the Trustee by the debtor; or
 - 3) the Conduit Creditor information worksheet provided to the Trustee by the debtor.

VIII. Loan Modifications

- A) If the debtor is offered a trial loan modification, Trustee will adjust the Conduit Payment to the trial loan modification payment after a Stipulation and Order consenting to the trial loan modification payment has been entered on the Court's docket. If a permanent loan modification is approved, debtor must file a Motion to Approve the Loan Modification and modify the plan to effectuate a change in the amount of the Conduit Payment.

IX. Taxes and/or Insurance

- A) Debtor must maintain insurance as required by any law or contract on all conduit property and must provide evidence of that insurance as required by §1326(a)(4). Debtor must provide proof to the Trustee of the payment of all post-petition real estate taxes and insurance not otherwise paid by the real estate loan creditor.

X. Changes to the Conduit Payment

- A) If a Conduit Creditor files a Notice of Payment Change and no objection to such Notice is filed within fifteen (15) days, the Trustee will disburse Conduit Payments in the new amount without modification of the chapter 13 plan.

XI. Post-Petition Fees, Expenses, and Charges

- A) If a Conduit Creditor files a Notice of Post-Petition Fees, Expenses, and Charges and no objection to such Notice is filed within fifteen (15) days, the Trustee will add such amounts to the Conduit Creditor's Administrative Arrearage claim. If the chapter 13 plan is insufficiently funded to pay the increased Administrative Arrearage claim, the debtor must modify the chapter 13 plan accordingly.

XII. Transfer or Assignment of a Conduit Claim

- A) In order to receive proper disbursements, any Transfer of Claim (Official Form B210A) or amended Proof of Claim must be filed with the Court no later than 20 days prior to the end of the current month.

XIII. Direct Payment Procedure

- A) The Trustee's guidelines apply even if the debtor is excused from the requirement to make Conduit Payments through the Trustee. If a debtor is permitted to pay a Conduit Creditor directly, the debtor's Chapter 13 Plan must require the debtor to submit verification of such payments to the Trustee on a regular basis at least as frequently as once every six months, and also upon Trustee's request. Such submissions must demonstrate that each ongoing payment has been made by the debtor, meaning that if the debtor submits verification to Trustee once every six months then the debtor must provide proof that all six payments were made during that interval. If verification of the ongoing payments is not received, the Trustee may file a modified plan requiring these payments to be made through the Trustee as Conduit Payments.

- B)** In cases filed prior to October 1, 2013, if the debtor becomes delinquent on payments to any creditor provided for under the chapter 13 plan, the Trustee may file a modified plan requiring these payments to be made through the Trustee as Conduit Payments.

XIV. Trustee's Contact Information

Correspondence Address: Rick A Yarnall
701 Bridger Avenue, Suite 820
Las Vegas, NV 89101

Payment Address: Rick A. Yarnall
P.O. Box 1482
Memphis, TN 38101

Phone: (702) 853-4500

Fax: (702) 853-4513

Effective Date: 10/01/2013

**AUTHORIZATION TO RELEASE INFORMATION
TO CHAPTER 13 BANKRUPTCY TRUSTEE**

SUBMIT TO THE TRUSTEE ONLY
DO NOT FILE WITH THE COURT

Debtor Name(s): _____ **BK Case #:** _____

The Debtor(s) in the above-captioned case do hereby authorize any and all lien holder(s) on real and personal property of the bankruptcy estate to release information to the standing Chapter 13 bankruptcy Trustee in my case:

Rick A. Yarnall
701 Bridger Ave., Suite 820
Las Vegas, Nevada 89101
Phone (702) 853-4500, Fax (702) 853-4513
Conduit@Lasvegas13.com

The information to be released includes, but is not limited to, the amount of the post-petition monthly installment payment, the annual interest rate and type, the balance due on the loan, impound accounts, amount of the contractual late charge, account number and the mailing address for payments. This information may only be used by the Trustee and Trustee’s staff in the administration of the bankruptcy estate and may be included in motions before the Court.

Debtor’s Signature

Date

Joint Debtor’s Signature

Date

**RICK A. YARNALL,
CHAPTER 13 BANKRUPTCY TRUSTEE**
701 Bridger Ave., Suite 820
Las Vegas, Nevada 89101
Phone (702) 853-4500, Fax (702) 853-4513
Conduit@lasvegas13.com

Debtor(s) Name(s): _____ Case No: _____

**PURSUANT TO ADMINISTRATIVE ORDER 2013- 04, THE FOLLOWING INFORMATION
MUST BE PROVIDED FOR ALL CONDUIT PAYMENTS.**
THIS FORM IS TO BE COMPLETED BY DEBTOR(S).

Name of Debtor: _____
(Name of Debtor #1) (Name of Debtor #2, if applicable)

Debtor(s) Contact Phone No.: () _____ () _____

Property Address (for mortgages only): _____
Residential _____ Rental _____ Other (Describe): _____

Property Description (for vehicles only): _____

Complete Name and Payment Address of the Creditor:

Creditor’s Phone Number: _____

Account Number: _____

“Are the following items included in the mortgage payment?” (complete for mortgages only)
____ Escrow Account for Taxes Amount: _____
____ Escrow Account for Insurance Amount: _____
____ Escrow Account for Taxes and Insurance: Amount: _____
How often is the escrow account reviewed:
Annually _____ Semi-Annually _____
____ Mortgage Insurance Premium:
If yes, when will it be petitioned to be eliminated: _____

Type of Loan: Conventional _____ Adjustable Rate Mortgage _____ Balloon _____
If Adjustable: How often is it adjusted? _____
When is the next scheduled adjustment date? _____

“Do you intend to modify this loan?” _____ YES _____ NO

Debtor Signature Date

Joint Debtor Signature Date

**ATTACH A COPY OF THE MOST RECENT STATEMENT OR PAYMENT COUPON PROVIDED TO YOU
BY THE CREDITOR**

Please send this form immediately to your Trustee.