



OFFICE OF THE CLERK
UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND

Susan M. Thurston
Clerk of Court

Gail Kelleher
Chief Deputy Clerk

NOTICE OF ADOPTION

**Amendment of Local Rules, Forms, and Appendices
Effective August 23, 2010**

- **Amended Local Rules: 3011-1, 4001-1, 5082-1**
- **Amended Local Forms: E, F.1, F.2**
- **Amended Appendix: IX**
- **New Local Form D to Appendix IX**

Pursuant to 28 U.S.C. § 2071, Fed. R. Civ. P. 83, Fed. R. Bankr. P. 9029, and U.S. District Court for the District of Rhode Island General Rule 109(h)(1) authorizing the Bankruptcy Court to make and amend local rules, U.S. Bankruptcy Court for the District of Rhode Island hereby provides notice that the Local Rules, Forms, and Appendices listed above have been amended.

Copies of the amended local rules, forms and appendices are available at the Clerk's office or on our website at www.rib.uscourts.gov. These amendments are effective beginning August 23, 2010, and shall apply to all cases filed on or after this date, and all cases pending in this court as of this date.

August 17, 2010

FOR THE COURT

/s/ Susan M. Thurston
Susan M. Thurston, Clerk

**AMENDMENTS TO THE RHODE ISLAND BANKRUPTCY COURT'S LOCAL
RULES AND FORMS AND APPENDICES, EFFECTIVE AUGUST 23, 2010**

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RULE 3011-1 UNCLAIMED FUNDS [Modified 8/23/10]

(a) Procedure for Deposit of Unclaimed Funds

(1) Unclaimed funds in excess of \$25.00 received by the Court shall be deposited in the Treasury registry fund, or otherwise as directed by the Judicial Conference. Unclaimed funds of \$25.00 or less shall be deposited directly with the United States Treasury.

(2) Upon receipt of the items and/or information specified in subparagraphs (A) through (C) below, a ledger shall be established and maintained by the financial department of the clerk's office containing information described in paragraph (3) below:

(A) a check for unclaimed funds;

(B) a declaration that the check has not been cashed within ninety (90) days or was returned as address unknown; and

(C) the name, address and amount owed the creditor.

(3) For each unclaimed fund creditor, a ledger containing the following information shall be maintained:

(A) the name of the debtor(s);

(B) the bankruptcy case number;

(C) the name and address of the creditor(s) whose unclaimed funds have been deposited; and

(D) the amount owed.

(4) The Financial Administrator shall also maintain a copy of the trustee's or debtor's forwarding letter, the check, and the receipt, in a separate file available for public inspection.

(b) Procedure for Payment of Unclaimed Funds. Unclaimed fund petitioners who file five (5) or more petitions for unclaimed funds in a twelve month period are required to file such petitions and supporting documentation electronically in

the Court's electronic filing system, or request an exemption pursuant to R.I. Local Rule 5005-4.

(1) A court order must be obtained before the Clerk of court may disburse unclaimed funds.

(2) The following documentation is required to obtain a court order to disburse unclaimed funds:

(A) Petition for Payment of Unclaimed Funds substantially similar to R.I. Bankr. Form E;

(B) Satisfactory completion of the appropriate identification form for unclaimed dividends, *see* R.I. Bankr. Forms F.1 or F.2; and

(C) Such other documentation establishing proof of ownership as the Court may direct.

(3) Upon receipt of the required documents described in paragraph (2) above, copies of which shall also be served upon the United States attorney via regular first class mail, a twenty-one (21) day deadline shall be fixed for the filing of objections (plus an additional three (3) days for mail). If no objection(s) is timely filed, and the application and documentation is determined to be complete and satisfactory, the Financial Administrator shall obtain a court order approving the payment. If an objection to the petition is timely received, the matter shall be set for hearing.

RULE 4001-1 RELIEF FROM AUTOMATIC STAY [Modified 8/23/10]

(a) Standing Modification: The automatic stay provided in 11 U.S.C. § 362(a) is modified in bankruptcy cases as follows:

Affected secured creditors may, and their agents, may, without violating the automatic stay:

(1) Contact the debtor IN WRITING, with a copy to debtor's counsel about the status of insurance coverage, tax payments, municipal charges on property used as collateral, in addition to sending written correspondence, such as; statements, payment coupons, and other similar correspondence that the creditor typically sends to its non-debtor customers. If the debtor is making direct payments to the creditor, the lender may contact the debtor IN WRITING, with a copy to debtor's counsel about payment defaults; and

(2) Discuss and/or negotiate with a debtor regarding a proposed modification of the terms of any secured indebtedness, EXCEPT that all such negotiations

and/or discussions shall be conducted through counsel for the debtor, if the debtor is represented by counsel and such counsel has not, in writing, granted permission of such direct communication by creditor representatives with the debtor.

(3) Participation by debtors and mortgagees in any state or locally legislated foreclosure meditation program does not violate the automatic stay against the debtor under 11 U.S.C. § 362(a). Therefore, parties are not required to first seek relief from the automatic stay to participate in such programs.

(4) The secured creditor shall terminate any of the foregoing communications immediately upon receipt of written notice from the debtor or debtor's counsel requesting that such contacts cease.

(b) Motion. A party seeking relief from the automatic stay provided by 11 U.S.C. § 362(a) shall file, in accordance with Fed. R. Bankr. P. 9014, a motion specifically setting forth the basis for such relief. In addition to the motion, in cases filed by individuals concerning real property where a Chapter 13 debtor has not indicated in their Chapter 13 plan, an intent to surrender the property, the moving party shall include, as an attachment to either the motion or memorandum, a completed copy of **R.I. Bank. Form R, Relief from Stay Worksheet Real Estate** —, as well as the required attachments to the motion as specified on Form R. **R.I. Bank. Form R** is not required in Chapter 7 cases, unless the debtor, or the Court, specifically request the filing of the form. If applicable, the motion for relief from stay must contain a conspicuous statement indicating the debtor's intent to surrender the property and must contain a statement as to the date and amount of the last payment on the subject property.

(c) Service. All documents filed pursuant to this rule shall be served in accordance with Fed. R. Bankr. P. 4001(a) and 9006(d)-(f) upon all parties who have filed appearances and requested service of all notices and pleadings. Additionally, any party filing a motion for relief from the automatic stay shall serve copies of the motion on the following parties:

- (1) the debtor;
- (2) debtor's counsel;
- (3) the trustee if one has been appointed;
- (4) any official committee appointed and serving in the case under 11 U.S.C. §1102;
- (5) all parties with liens of record or any other party known to the movant claiming a lien in the property;

(6) parties requesting notice;

(7) in a Chapter 11 case, the local office of the United States trustee;

(d) Response. A party objecting to a motion for relief from the automatic stay must file an opposition to the motion within fourteen (14) days, or seventeen (17) days if you were served as provided in Fed. R. Bankr. P. 9006(f). If the motion is scheduled for an expedited hearing before the expiration of the fourteen (14) day period, then the opposition shall be filed within 24 hours of the expedited hearing.

(e) Disposition Without a Hearing. In the absence of a timely filed opposition and upon evidence of proper service, the Court, pursuant to R.I. LBR 9013-2, without a hearing, may allow or deny the motion after the expiration of the opposition period set forth in section (d). The Court may deny a motion for relief from stay without a hearing if the moving party fails to comply with section (b) and (c).

(f) Position of Estate Representative. If the estate representative fails to file a response within the time prescribed in section (d), then the estate representative shall be deemed to have assented to the motion.

(g) Hearing. Upon the expiration of the response deadline set forth in paragraph (d), and if the matter is contested, the Court will notify the parties of a hearing date within the time prescribed by 11 U.S.C. § 362(e). A preliminary hearing on a motion for relief from the automatic stay will be a consolidated preliminary and final nonevidentiary hearing unless at the conclusion of the preliminary hearing the Court schedules a final evidentiary or nonevidentiary hearing. If the Court schedules a final evidentiary hearing, the parties shall file a Joint Pre-Trial Order in accordance with the requirements of section (i), three (3) business days before the final evidentiary hearing date.

(h) Motions to Continue the Consolidated Preliminary Hearing. Whenever a party seeks to continue the consolidated preliminary hearing beyond the time prescribed in 11 U.S.C. § 362(e), the movant must obtain and include an affirmation in the motion that creditor consents to the extension of the time limit set forth in 11 U.S.C. § 362(e).

(i) Joint Pre-Trial Orders

(1) Filing Requirement. In all cases where a joint pre-trial order is due prior to the final evidentiary hearing, the movant shall deliver by hand, mail, facsimile, or other agreed upon electronic means, a draft of the joint pre-trial order, in compliance with R.I. LBR 9014-1, and R.I. Bankr. Form O, to the respondent within seven (7) days of the conclusion of the preliminary hearing. The respondent shall then submit to the movant, by hand, mail, facsimile, or other agreed upon electronic means, any comments or revisions within three (3) business days in order to finalize the document. The joint pre

trial order must be filed with the Court no less than three (3) business days prior to the date set for the final evidentiary hearing.

(2) Content. If "adequate protection" is at issue, the respondent shall explain the character of any adequate protection offered in lieu of relief from stay. If the issue of whether the property is necessary to an effective reorganization is in dispute, the debtor must affirmatively state whether a reorganization plan is in prospect and, to the extent possible, provide a summary of the plan expected to be filed.

(3) Failure to File. If the movant fails to timely file the joint pre-trial order with the Court, the motion for relief from stay will be denied without prejudice and the matter will be removed from the calendar. A new motion for relief and filing fee will be required to reinstate the matter. If either party fails to perform timely under these local rules, any aggrieved party may file a motion to adjudge the other party in default in accordance with R.I. LBR 9014-1.

(j) Setoff of Prepetition Tax Obligations. The Internal Revenue Service is granted relief from stay in individual Chapter 7, 11 and 13 cases for the limited purpose of offsetting refunds for prepetition years against prepetition tax indebtedness. The IRS shall amend its claims to reflect any such offset. In addition, nothing in this rule shall prejudice or limit the right of any party to object to a refund or offset of such refund as described herein or to any claim filed by the Internal Revenue Service.

RULE 5080-1 JUDGES - VISITING AND RECALLED [Modified 8/23/10]

Judge Assigned from Outside the District. Whenever a Bankruptcy Judge from outside the District is assigned a Rhode Island bankruptcy case or proceeding, all papers shall continue to be filed with the Rhode Island Bankruptcy Clerk's office.

establish that the person executing the Petition is authorized to act on behalf of the decedent's estate [e.g., certified copies of all probate documents including a copy of the death certificate and appointment of executor].

- Petitioner is a **corporation, partnership or other entity** named as the Claimant in the Trustee's unclaimed funds check. Petitioner has reviewed all records of the Claimant and states that no other Petition for this claim has been submitted by or at the request of Claimant. **Documentation that establishes that the person executing the Petition is authorized to submit the Petition must be attached to R.I. Bankr. Form F.2 or the Petition will be considered defective and stricken** [e.g., board meeting minutes and articles of incorporation, current list of officers and directors, affidavit of secretary with copy of directors' resolution authorizing execution of the Petition or officer's certificate establishing that the corporate officer executing the Application is authorized to so act].
- If the Petitioner is a **successor in interest** to a previous corporation, then documentation must be attached to R.I. Bankr. Form F.2 to establish the legal right of the applicant to the accounts receivable of the claimant corporation [e.g., documents establishing the chain of ownership of the original corporate claimant, proof of sale of the company, new and prior owners, and a copy of the terms of any purchase agreement or stipulation by prior and new owners of right of ownership to unclaimed funds]. Copies of all documents evidencing assignment must be appended to R.I. Bankr. Form F.2.
- Petitioner is an attorney or a **"funds locator"** who has been retained by Claimant. **Attach the following documentation to R.I. Bankr. Form F.1 or F.2, as applicable: An original, notarized "power of attorney" from an individual Claimant or from the duly authorized representative for the corporation, partnership or other entity named as the Claimant.** Documentation that establishes that the person executing the "power of attorney" is authorized to so act [e.g., affidavit of secretary with copy of directors' resolution authorizing use of locator service or officer's certificate establishing that the corporate officer executing the "power of attorney" is authorized to so act].

3. Petitioner has made sufficient inquiry and has no knowledge that this claim has been previously paid, that any other petition for this claim is currently pending before this Court, or that any party other than the Petitioner is entitled to submit a petition for the payment of this claim.

4. Applicant has provided notice to the United States Attorney for the District of Rhode Island of this Petition pursuant to 28 U.S.C. § 2042 and a certificate of service has been filed.

5. I understand that, pursuant to 18 U.S.C. § 152, I will be fined not more than \$5,000, or imprisoned not more than five years, or both, if I have knowingly and fraudulently made any false statements in this document.

[Individual]

Dated: _____

Signature of Individual Petitioner

Street Address

City and State

Telephone (including area code)

[Entity]

Dated: _____

Name of Petitioner [if not an individual]

By _____
(Name of authorized Representative and Capacity/Title)

Street Address

City and State

Telephone (including area code)

NOTICE OF RESPONSE TIME

Within twenty-one (21) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bankr. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Bankruptcy Court Clerk's Office, 380 Westminster Mall, 6th Floor, Providence, RI 02903, (401) 626-3100.

CERTIFICATE OF SERVICE

The petitioner mailed a copy of this petition and all attachments to the Office of the United States Attorney for the District of Rhode Island, at Fleet Center 50 Kennedy Plaza, 8th Floor, Providence, RI 02903 on (date) _____.

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF RHODE ISLAND**

IDENTIFICATION FORM FOR UNCLAIMED DIVIDENDS

Case Name _____

Case No. _____ Amount of dividend/refund _____

A dividend/refund check was previously issued in your name in accordance with an Order of this Court, however said check was not cashed and has been deposited with the United States Treasury Account.

In order to insure payment to the proper party, **fill out the identification portion on this form and either electronically file (see LBR 3011-1), or mail the form to: U.S. Bankruptcy Court, 380 Westminster St., Providence, RI 02903, Attn: Financial Dept.** Upon receipt of the completed document, your request for payment of unclaimed funds held by the Court will be processed.

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I, _____, hereby state that I am a creditor/debtor in the above-named proceeding and request payment of my unclaimed dividend/refund check. **The below information must be fully completed and match the former address on file with the Clerk's office. Failure to complete this information will cause the petition and this form to be considered defective and stricken.**

Old Address _____

Current Address _____

Driver's license No. _____, State _____

Social Security Number _____

(Signature)

Subscribed and sworn to before me in _____ (City/Town)

_____ This _____ Day of _____
(State)

(Notary Public)

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF RHODE ISLAND**

**CORPORATE/BUSINESS IDENTIFICATION FORM FOR UNCLAIMED
DIVIDENDS**

Case Name _____

Case No. _____ Amount of dividend/refund _____

A dividend/refund check was previously issued in your name in accordance with an Order of this Court, however said check was not cashed and has been deposited with the United States Treasury Account.

In order to insure payment to the proper party, **please fill out the identification portion on this form and either electronically file (see LBR 3011-1), or mail the form to: U.S. Bankruptcy Court, 380 Westminster St., Providence, RI 02903, Attn: Financial Dept.** Upon receipt of the completed document, your request for payment of unclaimed funds held by the Court will be processed.

=====

I, _____, hereby state that I am the _____ (Title)
of _____ whose TIN# is _____, and that I am
(Business Name)
authorized to request payment of the above dividend.

(Signature) (Corporate Seal)

Subscribe and sworn to before me in _____
(City/Town)

_____ This _____ Day of _____, 20__.
(State)

(Notary Public)

**APPENDIX IX
(Rev. 8/23/10)**

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND**

**THIRD AMENDED LOSS MITIGATION PROGRAM AND
PROCEDURES**

I. PURPOSE

The Loss Mitigation Program (LMP) is designed to function as a forum for debtors and lenders to reach consensual resolution when a debtor's residential property is at risk of foreclosure. The LMP aims to facilitate such resolution by opening communications between the debtors' and lenders' decision-makers. While the LMP stays certain bankruptcy deadlines that may delay the normal progress of bankruptcy administration, more importantly, the LMP encourages the parties to finalize a feasible and beneficial agreement under Bankruptcy Court protection, instead of seeking dismissal of the bankruptcy case.

II. LOSS MITIGATION DEFINED

The "loss mitigation" process is intended to include the full range of solutions that may prevent either the loss of a debtor's property to foreclosure, increased costs to the lender, or both. Loss mitigation commonly consists of several general types of agreements, or a combination of them: loan modification, loan refinance, forbearance, short sale, or surrender of the property in full satisfaction.¹ The terms of a loss mitigation solution will vary in each case according to the particular needs and goals of the parties.

III. ELIGIBILITY

The following definitions describe the types of parties, properties and loans that are eligible for participation in the Loss Mitigation Program:

¹ This is not intended to be an exclusive list of loss mitigation solutions.

A. DEBTOR

The term “Debtor” means any individual debtor in a case filed under Chapter 7, 11, 12 or 13 of the Bankruptcy Code, including joint debtors. If the Debtor is represented by counsel, the term “Debtor” is to be interpreted to include both the Debtor and the Debtor’s attorney, unless the Debtor, with the approval of Debtor’s counsel, has expressly requested and authorized direct involvement without counsel. The fact that a discharge has entered or that relief from stay has been granted does not prevent a Debtor from requesting Loss Mitigation or prevent the Court from entering a Loss Mitigation Order. However, neither do these actions prevent such Creditors from pursuing their state court rights during the Loss Mitigation period, if they so elect.

B. PROPERTY

The term “Property” means any real property used as a principal residence in which an eligible Debtor holds an interest.

C. LOAN

The term “Loan” means any mortgage, lien or extension of money or credit secured by eligible Property, regardless of whether the Loan (1) is considered to be “subprime” or “non-traditional,” (2) was in foreclosure prior to the bankruptcy filing, (3) is the first or junior mortgage or lien on the Property, or (4) has been “pooled,” “securitized,” or assigned to a servicer or to a trustee.

D. CREDITOR

The term “Creditor” refers to any mortgage holder, assignee, servicer or trustee of an eligible Loan.

IV. ADDITIONAL PARTIES

A. OTHER CREDITORS

Where necessary or desirable to obtain a global (i.e., more than a two party) resolution, any party may request, or the bankruptcy court may direct that multiple Creditors participate in the loss mitigation process.

B. CO-DEBTORS AND THIRD PARTIES

Where the participation of a co-debtor or other third party is necessary or desirable, any party may request, or the Bankruptcy Court may direct that such party participate in loss mitigation, to the extent that the Bankruptcy Court has

jurisdiction over the party, or if the party consents to such participation.

C. CHAPTER 13 TRUSTEE

It is the duty of the Chapter 13 Trustee under Section 1302(b)(4) of the Bankruptcy Code to “advise, other than on legal matters, and assist the debtor in performance under the plan.” Any party may request, or the Bankruptcy Court may direct the Chapter 13 Trustee to participate in loss mitigation to the extent that such participation would be consistent with the Chapter 13 Trustee’s duties under the Bankruptcy Code.

V. COMMENCEMENT OF LOSS MITIGATION

Parties are encouraged to request loss mitigation as early in the case as possible, but loss mitigation may be initiated at any time, by any of the following methods:

A. BY THE DEBTOR

1. In Section XIII of the Model Chapter 13 Plan (RI Local Form W.1), a Chapter 13 Debtor may indicate an interest in discussing loss mitigation with a particular Creditor. If the box in Section XIII is checked, within seven (7) days of filing the Plan, the Debtor shall serve on the Creditor and its counsel, if known, and file with the Court, a Notice and/or Request for Loss Mitigation (Amended Form A to G.O. 10-001), together with a Proposed Loss Mitigation Order with applicable deadlines supplied (2nd Amended Form C to G.O. 10-002). The Creditor shall have fourteen (14) days to object. If no objection is filed, the Bankruptcy Court may enter the proposed order “Loss Mitigation Order”.
2. Alternatively, a Debtor may file with the Court and serve on the Creditor and its counsel, if known, a Notice and/or Request for Loss Mitigation (Amended Form A to G.O. 10-001), together with a Proposed Loss Mitigation Order with applicable deadlines supplied (2nd Amended Form C to G.O. 10-002). The Creditor shall have fourteen (14) days to object. If no objection is filed, the Bankruptcy Court may enter a Loss Mitigation Order. Only one creditor/property may be included on a Request form. Use separate forms for additional creditors (liens).

3. If a Creditor has filed a motion for relief from the automatic stay pursuant to Section 362 of the Bankruptcy Code (a “Lift-Stay Motion”), at any time prior to the conclusion of the hearing on the Lift-Stay Motion, the Debtor may file a Notice and/or Request for Loss Mitigation (Amended Form A to G.O. 10-001). The Debtor and Creditor shall appear at the scheduled hearing on the Lift-Stay Motion, at which time the Bankruptcy Court will consider the loss mitigation request and any opposition by the Creditor. If the objection deadline in the Loss Mitigation Request expires before the scheduled hearing and no objection is filed, the matter will be automatically removed from the calendar and the parties will be so notified and all pending matters will be continued.

B. BY A CREDITOR

A Creditor may file with the Court and serve on the Debtor and Debtor’s counsel, if any, a Request for Loss Mitigation (Form B to G.O. 09-003), together with a Proposed Loss Mitigation Order with applicable dates supplied (2nd Amended Form C to G.O. 10-002). The Debtor shall have seven (7) days to object. If no objection is filed, the Bankruptcy Court may enter a Loss Mitigation Order.

C. BY THE BANKRUPTCY COURT

The Bankruptcy Court may enter a Loss Mitigation Order at any time, provided that the parties bound by said Order (the “Loss Mitigation Parties”) have had notice and opportunity to object and be heard.

D. OPPORTUNITY TO OBJECT

Where any party files an objection, a Loss Mitigation Order shall not be entered until the Bankruptcy Court, after adequate notice, has either held a hearing to consider the objection, or overrules the objection without a hearing for failing to include specific reasons why loss mitigation would not be successful. If a party objects on the ground that loss mitigation has been requested in bad faith, the assertion must be supported by objective reasons, and/or by sworn testimony.

This Court’s LMP is intended to bring debtors and secured lenders together, hopefully, to reach consensual and mutually beneficial resolutions when residential property is at risk of foreclosure. With this in mind, and consistent with the federal HAMP eligibility requirements – that homeowners must be in default or at imminent risk of default, the requirement that debtors make regular mortgage payments during the loss mitigation process will not be automatically

imposed as a condition to participation in the LMP. To do so would likely be fatal to the viability of most of the federal, state and municipal programs that have been developed in response to the residential foreclosure crisis.

To give the Rhode Island Bankruptcy Court Program the best chance of success, parties are advised that objections to Loss Mitigation participation shall be filed by the applicable deadline and must contain specific reasons as to why the secured lender believes that loss mitigation would not be successful.

VI. LOSS MITIGATION ORDER

A. DEADLINES

A Loss Mitigation Order shall contain deadlines for the following:

1. The date by which the Loss Mitigation Parties shall designate contact persons and disclose contact information, if this information has not been previously provided.
2. The date by which each Creditor must initially contact the Debtor.
3. The date by which each Creditor must transmit information requests to the Debtor.
4. The date by which the Debtor must transmit information requests to each Creditor.
5. The date by which a written report must be filed updating the Court on the status of the loss mitigation.
6. The date when the loss mitigation period will terminate, unless duly extended.

B. EFFECT

Upon the entry of a Loss Mitigation Order, the following shall apply to the Loss Mitigation Parties:

1. Except where necessary to prevent irreparable injury, loss or damage, LM Creditors shall not file Lift-Stay Motions during the loss mitigation period. Any Lift-Stay Motion filed by such LM Party Creditor prior to the entry of the Loss Mitigation Order shall be postponed to a date after the last day of the loss mitigation period, and the stay shall be extended pursuant to Section 362(e) of the Bankruptcy Code.
2. In a chapter 7 case, if the Loss Mitigation period is anticipated to continue more than 80 days from the date the chapter 7 petition was filed, debtors may seek to extend the entry of discharge pursuant to Fed.R.Bankr.P.

4004(c)(2), in order that the automatic stay not expire under 11 U.S.C. ' 362(c)(2)(C).

3. In Chapter 13 cases, the hearing date for confirmation of the plan shall be continued to a date after the last day of the loss mitigation period. The deadline by which a Creditor must object to confirmation shall be governed by local rules 3015-2(c)(3) and/or 3015-3(b)(2), as applicable, and calculated from the rescheduled confirmation date.
4. During the Loss Mitigation period, Debtors must stay current with their Chapter 13 plan payments in order to remain eligible for the program.
5. Pursuant to Federal Rule of Evidence 408, all communications and information exchanged by the Loss Mitigation Parties during the loss mitigation procedure will be inadmissible in any subsequent judicial proceedings.

VII. DUTIES UPON COMMENCEMENT OF LOSS MITIGATION

Upon entry of a Loss Mitigation Order, the Loss Mitigation parties shall have the following obligations:

A. GOOD FAITH

The Loss Mitigation Parties shall negotiate in good faith. A party failing or refusing to participate in loss mitigation in good faith may be subject to sanctions. At any time during the Loss Mitigation Period, a party seeking compliance with deadlines should file a Motion to Compel compliance with the Loss Mitigation Order or seek termination of the Loss Mitigation Order, if appropriate. If a party, instead, chooses to file a proposed Order to Show Cause, said proposed order must be accompanied by an affidavit verifying the facts asserted in the Order to Show Cause.

B. CONTACT INFORMATION

1. The Debtor: The Debtor shall provide written notice to each Creditor, indicating the manner in which the Creditor should contact the Debtor, unless the Debtor has already done so in the Chapter 13 plan or as part of a request for loss mitigation.
2. The Creditor: Each Creditor shall provide written notice to the Debtor, identifying the name, address, and direct telephone number of the contact person with settlement authority, unless a Creditor has already done so as part of a prior request for loss mitigation.

C. STATUS REPORT

The Loss Mitigation Parties shall provide a written report to the Bankruptcy Court regarding the status of the loss mitigation, within the time set by the Bankruptcy Court in the Loss Mitigation Order. The status report shall include whether one or more loss mitigation sessions have been conducted, whether a resolution was reached, and whether one or more of the Loss Mitigation Parties believe that additional loss mitigation sessions would be likely to result in either a partial or complete resolution. A status report may include a request for an extension of the loss mitigation period. Whenever the Court or the parties jointly continue the status reporting date, the Loss Mitigation period will automatically be extended to that date.

D. BANKRUPTCY COURT APPROVAL

The Loss Mitigation Parties shall file a written request for Bankruptcy Court approval of any resolution or settlement reached during the loss mitigation process. See also Section X infra.

VIII. THE LOSS MITIGATION PROCESS

A. INITIAL CONTACT

Within seven (7) days after entry of a Loss Mitigation Order, the contact person designated by each Creditor shall contact the Debtor's attorney, or Debtor, if specifically authorized, and any other Loss Mitigation Party, unless a different deadline is set by the Bankruptcy Court. The Debtor may contact any Loss Mitigation Party at any time. The purpose of the initial contact is to create a framework for the discussion at the loss mitigation session and to ensure that each of the Loss Mitigation Parties will be prepared to participate meaningfully in the loss mitigation session – it is not intended to preclude the introduction of additional issues or proposals that may arise during the session. During the initial contact phase, the Loss Mitigation Parties should inter alia:

1. The time, place and method for conducting the loss mitigation sessions.
2. The types of loss mitigation solutions under consideration by each party.
3. A plan for the exchange of requested information prior to the loss mitigation session, including the due date for the Debtor to complete and return any information request or other loss mitigation paperwork that each Creditor may require. All such information shall be provided at least 7 days prior to the loss mitigation session.

B. LOSS MITIGATION SESSIONS

Loss mitigation sessions may be conducted in person, telephonically, or via video conference. Prior to the conclusion of each loss mitigation session, the Loss Mitigation Parties should discuss whether additional sessions are necessary and set the time and method for conducting any additional sessions, including a schedule for the exchange of any further information or documentation that may be required.

C. BANKRUPTCY COURT ASSISTANCE

At any time during the loss mitigation period, a Loss Mitigation Party may request a settlement conference or status conference with the Bankruptcy Court, on any subject dealing with the Loss Mitigation process.

D. SETTLEMENT AUTHORITY

Each Loss Mitigation Party must have a designated person with full settlement authority present during the loss mitigation session. During a status conference or settlement conference with the Bankruptcy Court, a person with full settlement authority must either attend the conference in person or be available by telephone or video conference 30 minutes prior to the start of the conference.

IX. DURATION, EXTENSION AND EARLY TERMINATION

A. INITIAL PERIOD

The initial loss mitigation period shall be set by the Bankruptcy Court in the Loss Mitigation Order.

B. EXTENSION

1. Agreement: The Loss Mitigation Parties may agree to an extension of the loss mitigation period, not to exceed 60 days, by filing a request for extension in writing on the docket in the main bankruptcy case and served on all parties in interest. Any objection to such request for additional time shall be filed within three (3) days.
2. No Agreement: Where a Loss Mitigation Party does not consent to the request for an extension of the loss mitigation period, the Bankruptcy Court shall schedule a hearing to consider whether further loss mitigation sessions are appropriate. The Bankruptcy Court may order an extension if it appears that (1) a further loss mitigation session is likely to provide a substantial benefit to a Loss

Mitigation Party, (2) the party opposing the extension has not participated in good faith or has failed in a material way to comply with these Procedures, (3) the party opposing the extension would not be prejudiced, or (4) for other cause shown.

C. EARLY TERMINATION

1. Upon Request of a Loss Mitigation Party: A Loss Mitigation Party may request that the loss mitigation period be terminated for cause, and shall state the reason(s) for the request. Except where immediate termination is necessary to prevent irreparable injury, loss or damage, the request shall be made on notice to all other Loss Mitigation Parties, and if it is deemed appropriate or necessary, the Bankruptcy Court may schedule a hearing to consider said request.
2. Dismissal of the Bankruptcy Case:
 - a. Other than at the request of a Chapter 13 Debtor, or on the motion of the United States Trustee, case trustee, or the Court acting sua sponte, for failure to comply with requirements under the Bankruptcy Code, a case shall not be dismissed during the loss mitigation period unless the Loss Mitigation Parties have provided the Bankruptcy Court with an explanatory status report that is approved by the Court.
 - b. Upon the request of a Chapter 13 Debtor: **A Debtor shall not be required to request dismissal of the bankruptcy case as part of any resolution or settlement that is offered or agreed to during the loss mitigation period.** Where a Chapter 13 Debtor requests voluntary dismissal of the bankruptcy case during the loss mitigation period, the Debtor's dismissal request shall indicate whether the Debtor agreed to any settlement or resolution with a Loss Mitigation Party during the loss

mitigation period or intends to accept an offer of settlement made by a Loss Mitigation Party during the loss mitigation period.

- c. Notice: If a bankruptcy case is dismissed for any reason during the loss mitigation period, the Clerk of the Court shall note on the docket that loss mitigation efforts were ongoing at the time the bankruptcy case was dismissed.

X. SETTLEMENT

The Bankruptcy Court will consider any agreement or resolution reached during loss mitigation (a "Settlement") and may approve the Settlement, subject to the following provisions:

1. Implementation: A Settlement may be noticed and implemented in any manner permitted by the Bankruptcy Code and Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules"), including, but not limited to, a stipulation, sale, plan of reorganization or amended plan of reorganization. All settlement agreements must be accompanied by a completed and signed Form D, Proposed Loan Modification Agreement.
2. Fees, Costs or Charges: If a Settlement provides for a Creditor to receive payment or reimbursement of any fee, cost or charge that arose from loss mitigation, all such fees, costs or charges shall be disclosed to the Debtor, the Trustee, the U.S. Trustee, and to the Bankruptcy Court prior to approval of the Settlement.
3. Signatures: Consent to the Settlement shall be acknowledged in writing by (1) an authorized representative of the Creditor, (2) the Debtor, and (3) the Debtor's attorney, if applicable.
4. Hearing: Where a Debtor is represented by counsel, a Settlement may be approved by the Bankruptcy Court without further notice, or upon such notice as the Bankruptcy Court directs, unless additional notice or a hearing is required by the Bankruptcy Code or Bankruptcy Rules. Where a Debtor is not represented by counsel, a Settlement shall not be approved until after the Bankruptcy Court has

conducted a hearing at which the Debtor shall appear in person.

5. Amended Schedules I and J and Amended Chapter 13 Plan, if applicable:

Within fourteen (14) days after Court approval of a Settlement, the Debtor shall file amended Schedules I and J, and an amended Chapter 13 Plan, if applicable.

6. Dismissal Not Required: A Debtor is not required to request dismissal of the bankruptcy case in order to effectuate a Settlement. To ensure that the Settlement is enforceable, the Loss Mitigation Parties must request Bankruptcy Court approval of the Settlement. Where the Debtor requests or consents to dismissal of the bankruptcy case as part of the Settlement, the Bankruptcy Court may approve the Settlement as a “structured dismissal,” if such action complies with the Bankruptcy Code and the Bankruptcy Rules, and does substantial justice between the parties.

XI. COORDINATION WITH OTHER PROGRAMS

[Provision may be added in the future to provide for coordination with other loss mitigation programs.]

XII. EFFECTIVE DATE

Pursuant to General Order 09-003, the Court’s LMP first became effective on November 1, 2009. By General Order 10-001, the Court issued its First Amended LMP, which took effect on January 15, 2010, and on April 1, 2010, by General Order 10-002, the Second Amended LMP went into effect. On August 23, 2010, the Third Amended LMP will take effect, amending Appendix IX to require a new Form D to be filed for any proposed loan modification agreement.

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF RHODE ISLAND

Form D to Appendix IX

----- X
 In re: :
 :
 : BK No.
 : Chapter
 Debtor(s) :
 ----- X

PROPOSED LOAN MODIFICATION AGREEMENT

Now comes the debtor(s), _____ and Creditor, _____,
 in the above-reference matter and propose a loan modification agreement regarding the
 debtor's property located at: _____, as follows:

Current Terms		Proposed Modified Terms	
Current UPB	\$	Modified UPB	\$
Current Maturity Date	\$	Modified Mortgage Term	\$
Current Interest Rate	\$	Interest Rate	\$
Current Payment Due Date	\$	Post Modification Due Date	\$
Current P & I	\$	Post Modification P & I	\$
Current Payment Amount	\$	Estimated Modified Payment Amount	\$
Amount Capitalizing	\$	Contribution Required	\$

Signature of Debtor/Attorney

Signature of Creditor/Attorney

/s/ _____

/s/ _____

Date:

Date: