

UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

In re:

AMENDMENT OF RULE 6004-1 OF THE
LOCAL RULES OF PRACTICE AND
PROCEDURE IN BANKRUPTCY COURT,
DISTRICT OF VERMONT

STANDING ORDER # 11-02

PROCEDURE FOR SEEKING COURT
APPROVAL OF MORTGAGE MODIFICATIONS

WHEREAS, on March 4, 2009, the United States Department of the Treasury began the Home Affordable Modification program (HAMP), a loan modification program designed to reduce delinquent and at-risk borrowers' monthly mortgage payments; and

WHEREAS, since that date, debtors and creditors involved in bankruptcy cases in this District have more frequently engaged in mortgage modification transactions and, in many instances, those mortgage modifications have enabled debtors to successfully reorganize under Title 11 or to increase the dividends paid to their creditors through their bankruptcy cases; and

WHEREAS, it appears to be in the best interest of all parties to create a streamlined procedure for this Court to address and approve mortgage modification requests, similar to that available for the approval of a sale or refinance; therefore

IT IS HEREBY ORDERED that Vt. LBR 6004-1 is amended to insert a new subsection (b) to address mortgage modifications in chapter 12 and 13 cases; it shall read as follows:

(b) Mortgage Modifications in Chapter 12 and 13 Cases

- (1) Approval Procedures. No modification of a mortgage secured by the debtor's principal residence or other real property may take place while a Chapter 12 or 13 case is pending unless it is signed by both the lender and the debtor(s) and either:
 - (A) the Court approves the mortgage modification after notice to all parties in interest, pursuant to Bankruptcy Rule 2002(a)(2); or
 - (B) the mortgage modification is approved as part of the plan confirmation process; or
 - (C) the debtor obtains the Chapter 12/13 Trustee's approval using the procedure described in subparagraph (2) below.
- (2) Trustee's Approval. If the three following conditions are met, a debtor may obtain approval of a mortgage modification via a "Certificate of Approval" from the Chapter 12/13 Trustee, on seven (7) days' notice to all parties in interest:
 - (A) the debtor will not receive any cash or incur any new debt through the mortgage modification;
 - (B) the modification will reduce the debtor's monthly mortgage payment; and

- (C) as a result of the modification, the debtor will be able to fund a Chapter 12 or 13 plan.

The debtor's request for a Certificate of Approval must affirm that all three conditions are satisfied, be filed with the Court, and include a certificate of service showing proper service on all necessary parties. If no objections are timely filed, then after the expiration of the notice period, the Chapter 12/13 Trustee may issue and file a Certificate of Approval authorizing the debtor to proceed with the mortgage modification. If a timely objection is filed, then the Clerk shall set a hearing on the request.

IT IS FURTHER ORDERED that the current subsections (b)-(f) of Vt. LBR 6004-1 are amended to be relettered as subsections (c)-(g).

SO ORDERED.

Rutland, Vermont
June 21, 2011



Colleen A. Brown
United States Bankruptcy Judge