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Chapter 13 Trustee Procedures for Sale or Refinance of Real Property

Effective September 2019

For Informational Purposes Only

Scope

These procedures apply to sales, short sales, refinances, or reverse mortgages and are for informational purposes only. There is a separate form entitled “**Application for Chapter 13 Trustee Approval for Sale or Refinance of Real or Personal Property**” available on this website that must be completed and transmitted to the Trustee.

This form is not required to be returned to the Chapter 13 Trustee. For questions about escrow concerns, you can contact the Trustee’s office at Escrow@oak13.com.

Disclaimer

These procedures are not meant to replace or abridge any local bankruptcy rules, federal rules of bankruptcy procedure, general orders, guidelines, or district procedures. Bankruptcy counsel (or a debtor in pro per) should consult the Bankruptcy Local Rules for the Northern District of California and the Federal Rules of Bankruptcy Procedure available on the United States Bankruptcy Court, Northern District of California’s website <http://www.canb.uscourts.gov/>.

The information provided is NOT legal advice, and should in no way be construed, interpreted, or relied on as providing legal advice. The Chapter 13 Trustee’s Office does not provide legal advice. Neither the Chapter 13 Trustee’s Office as an entity, nor any individual in a personal capacity, shall be held liable for the information provided herein. If a debtor is seeking legal advice, he/she should speak with an attorney.

Pre-Confirmation

If a Chapter 13 plan has not been confirmed, a debtor must obtain Bankruptcy Court approval to sell, short-sell, refinance, or obtain a reverse mortgage. Bankruptcy Counsel (or a debtor in pro per) must file a motion and obtain an order from the Bankruptcy Court. At a minimum, the Trustee will look for the following information to be included in the motion --

- Property Address;
- Lien-holders;

- Any claims that would have been paid through the Chapter 13 plan (including but not limited to pre-petition mortgage arrears, property taxes, tax liens, judgement liens, etc.) to be paid through a check-exchange with the Chapter 13 Trustee – i.e. the Trustee will make a demand into escrow and pay-off the lien-holders through the plan;
 - Preliminary Report; and
 - Estimated and Final Seller’s Closing Statement;
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Post-Confirmation

If the case is confirmed, a debtor may sell, refinance, short-sale, or obtain a reverse mortgage without an order from the Bankruptcy Court, i.e., the transaction can proceed with approval from the Chapter 13 Trustee.

Once an escrow has been opened, the debtor must arrange for the title company to send the Chapter 13 Trustee’s office a copy of the Estimated Seller’s Closing Statement and Preliminary Report. If the transaction is approved, the Trustee will make a demand into escrow.

If the estimated Settlement Statement is incomplete, the Chapter 13 Trustee will not audit the case for approval.

Typically, a demand letter will be sent to the title company within 10 business days of the Trustee’s receipt of information from the title company. Communication regarding the demand may not be returned while the Trustee is reviewing the case. Please note that, the Trustee will not schedule a check exchange around federal holidays to the closure of the office.

If this is regarding a short sale and the debtor will not receive any proceeds, the Chapter 13 Trustee will attempt to submit an approval letter on an expedited basis.

Escrow Information

The Trustee must have the following information before reviewing the case:

Title Co. Name & Address _____

Escrow Agent & Phone Number _____

Escrow Number _____

Scheduled Closing Date _____

Other relevant information _____

* The Trustee must obtain a copy of the estimated seller’s closing statement(s) and preliminary report; once escrow closes, the certified final closing statement must be provided to the Trustee within 5 business days.

** The Trustee will not accept communication from the lender (or its representatives) or real estate agents or brokers.
