



UNITED STATES MARINE CORPS

MARINE CORPS AIR STATION
PSC BOX 8003
CHERRY POINT, NC 28533-0003

AirStaO 5800.2
JLC
24 Apr 2006

AIR STATION ORDER 5800.2

From: Commanding General, Marine Corps Air Station Cherry Point
To: Distribution List

Subj: REPOSSESSION OF PERSONAL PROPERTY

Encl: (1) Sample Letter to Creditor

1. Situation. To set forth instructions under which creditors may repossess personal property aboard Marine Corps Air Station Cherry Point (MCAS Cherry Point).

2. Cancellation. ABO 5800.4A.

3. Mission. Repossession of personal property located aboard MCAS Cherry Point will be permitted only when there has been compliance with the procedures contained in this Order.

4. Execution

a. Commander's Intent and Concept of Operations

(1) Commander's Intent. To provide an orderly procedure by which secured creditors may regain possession of their property from military personnel who fail to pay their just debts in a timely and proper manner.

(2) Concept of Operations

(a) Court-ordered Repossessions

1 Civilian law enforcement officials authorized by applicable state law will be permitted, upon proper request, to enter MCAS Cherry Point to serve process for the purpose of execution and levy on personal property.

2 Court orders of repossession (writs of possession, and Claim and Delivery) will be served on the individual in the same manner as other civil processes.

3 Military police will accompany the Sheriff when property is repossessed.

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(b) Voluntary Repossession

1 Secured creditors and/or their agents may enter MCAS Cherry Point for the purpose of effecting a voluntary repossession of collateral only if, after default (failure to comply with the debt instrument - contract, promissory note, etc.), the debtor has given the creditor written permission to communicate information regarding the debt to third persons and subject to strict compliance with the following paragraphs.

2 Creditors who have received authorization to contact third parties in accordance with applicable state law and the preceding paragraph and who wish to effect voluntary repossession of secured property will notify the Civil Law Officer at MCAS Cherry Point in writing, enclosing an original authorization from the debtor. The Civil Law Officer will in turn contact the individual in possession of the property to inform that person of the receipt of a creditor's request.

3 The individual whose property is subject to repossession will be offered an opportunity to consult with counsel concerning the consequences of voluntary repossession.

4 Unless the individual agrees to voluntary repossession, the person seeking repossession will be advised in writing (see enclosure (1)) that repossession will not be permitted without a court order in accordance with applicable state law and paragraph 4.(2)(a) above.

b. Coordinating Instructions

(1) Self-help repossessions of property located aboard MCAS Cherry Point are strictly prohibited.

(2) The owner of property being repossessed will be afforded the opportunity to remove personal property not the subject of the repossession action from the property that is being repossessed.

(3) A knowing violation of the above-described repossession policy may result in appropriate administrative and/or criminal action.

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(4) The enclosure may be provided to creditors seeking information concerning repossessions.

5. Administration and Logistics. The CG, 2d MAW, CO's, NADEP, Naval Hospital, and CSSD-21 concur with this Order insofar as it pertains to members of their command.

6. Command and Signal

a. Signal. This Order is effective the date signed.

b. Command. This Order is applicable to the Marine Corps Reserve.



D. L. BULAND
Chief of Staff

DISTRIBUTION: A

SAMPLE LETTER TO CREDITOR

Gentlemen:

As you have expressed an interest in repossession of personal property aboard Marine Corps Air Station Cherry Point (MCAS Cherry Point) this letter explains the policy, procedures, and responsibilities prescribed in Air Station Order 5800.2 which governs such repossession:

1. Civilian law enforcement officials authorized by applicable state law will be permitted, upon proper request, to enter MCAS Cherry Point to serve process for the purpose of execution and levy on personal property.
2. Court orders of repossessions (writs of possession and orders of Claim and Delivery) will be served to the individual in the same manner as other civil process, normally by a deputy sheriff at the law center.
3. Military police will accompany the Sheriff when property is repossessed aboard MCAS Cherry Point.
4. Self-help repossession of secured property located aboard MCAS Cherry Point is strictly prohibited.
5. Secured creditors and/or their agents may enter MCAS Cherry Point for the purpose of effecting a voluntary repossession of collateral only if, after default (failure to comply with the debt instrument - contract, promissory note, etc.), the debtor has given the creditor written permission to communicate information regarding the debt to third persons, and only subject to strict compliance with the following paragraphs.
6. Creditors who have received authorization to contact third parties in accordance with applicable state law and the preceding paragraph and who wish to effect a voluntary repossession of secured property will submit their request in writing to the Joint Law Center enclosing an original authorization from the debtor. The Joint Law Center will in turn contact the individual in possession of the property to inform that person of the receipt of a creditor's request. The request should be submitted to the following appropriate address:

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Civil Law Office
Office of the Staff Judge Advocate
Joint Law Center
PSC Box 8007
Cherry Point, North Carolina 28533-0007

(a) The Civil Law Officer assigned will offer the individual whose property is subject to repossession an opportunity to consult with counsel concerning the consequences of voluntary repossession.

(b) Unless the individual agrees to voluntary repossession, repossession will not be permitted without a court order in accordance with applicable state law and paragraphs (1) through (3) above.

7. Under no circumstances will creditors or their agents enter MCAS Cherry Point for the purpose of contacting individual debtors or any third party in an attempt to collect debts or effect repossessions except as provided in paragraph (6) above.

8. The holder of the property being repossessed will be given the opportunity to remove personal property not the subject of the repossession action from the property that is being repossessed.

9. A knowing violation of these policies governing repossession may result in appropriate administrative and/or criminal action.

Marine Corps Air Station Cherry Point has established the policy of not allowing self-help repossessions in order to maintain an appropriate level of security and control aboard the installation. The act of effecting a self-help repossession of property is counter to good order and discipline. Self-help repossession, by its very nature, tends to provoke or excite others to the point of creating a disturbance of tranquility and a breach of peace. This concern for security and tranquility is shared by Department of Defense installations nationwide; consequently, the remedy of self-help repossession is rarely available aboard military bases.

[The North Carolina legislature by enacting Section 75-53 of the North Carolina General Statutes, prohibited creditors or their agents from unreasonably publicizing information regarding a consumer's debt. Unreasonable publication is defined by statute to

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include any communication with any person other than the debtor or his attorney, except communication made with the written permission of the debtor or his attorney given after default. The mandate of North Carolina's debt collection law applies aboard bases and stations located in North Carolina pursuant to Department of Defense Regulations.]

The procedure established for voluntary repossession of their property aboard MCAS Cherry Point is intended to provide military personnel with the opportunity to make an informed decision regarding the voluntary repossession of their property in a manner that is consistent with state debt collection law. Although the regulation prohibits creditors from entering MCAS Cherry Point for the purpose of contacting an individual debtor or any third party in an attempt to collect debts or effect repossessions, creditors who can demonstrate that they have received the necessary written consent of the debtor, given after default, may continue to contact commands by mail regarding indebtedness complaints, provided they are able to demonstrate compliance with the Standard of Fairness and the disclosure requirements of the Truth in Lending Act and Regulation Z.

Although members of the Armed Forces are expected to pay their financial obligations in a proper and timely manner, DoD components have no legal authority to require members to pay a private debt or to divest any part of their pay for its satisfaction, even though the indebtedness may have been reduced to judgment. In those cases where a military member refuses to agree to a voluntary repossession of property, the appropriate remedy for the creditor is to institute legal action in a civil court of competent jurisdiction. Civilian law enforcement officials authorized by applicable state law will be permitted to enter MCAS Cherry Point to serve process and to seize personal property pursuant to a valid court order.

The purpose of our policy and procedures for repossessing personal property located aboard MCAS Cherry Point is to provide an orderly procedure by which secured creditors may regain possession of their property from military personnel who fail to pay their just debts in a timely and proper manner, but to do so in a way that complies with the mandates of state law and Department of Defense policy.

Sincerely,

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