

SUMMARY OF REQUIREMENTS OF CHAPTER 11 DEBTORS

OPENING OF DEBTOR IN POSSESSION BANK ACCOUNTS: You must immediately close all accounts maintained before the Chapter 11 filing and open new accounts that are designated as a Debtor in Possession@ accounts. The bank at which you open the new accounts must have executed an agreement with the U.S. Trustee to meet the requirements of 11 U.S.C. 345. You should contact the Office of the U.S. Trustee to determine whether a bank has executed the agreement and is on the approved depository list (**See Exhibit 4**). At the time the Debtor in Possession accounts are opened the **Debtor in Possession Statement of Depository and Authorization for Release of Information** should be completed and signed by the debtor and the bank. **The original of this form must immediately be served on the U.S. Trustee.**

MAINTAINING INSURANCE COVERAGE: All assets must be insured and all usual business insurance, including liability coverage, must be maintained. The debtor must immediately notify its insurance agent that the United States Trustee, 1725 Duke Street, Suite 650, Alexandria, VA 22314, is to be added as an additional certificate holder to notified in the event of a cancellation or change in the policy. Moreover, the debtor must immediately instruct the insurance company(ies) to fax the certificate of insurance to the U.S. Trustee at (703) 557-7279 within two (2) business days of the Initial Debtor Conference.

FILING OF MONTHLY FINANCIAL REPORTS: Monthly financial reports are required to be filed by the 20th of the month for the preceding calendar month. Original signatures must appear on the VERIFICATION on the report filed with the Bankruptcy. The referenced monthly reports should have attached, at a minimum, the following documents: U.S. Trustee Basic Operating Report Questionnaire, Summary of Disbursements (to include a copy of the Check Register), Summary of Cash Receipts, a Cash Basis Income Statement, a Cash Basis Balance Sheet, Proof of Payroll Tax Payments,, copies of all bank statements for all accounts maintained by the Debtor in Possession, and other documentation as requested by the Office of U.S. Trustee. Debtors on the accrual basis of accounting must file additional reports to include but may not be limited to: Summary Accounts Receivable Aging and Summary Accounts Payable Aging.

PAYMENT OF QUARTERLY U.S. TRUSTEE FEES: You must pay a fee to the U.S. Trustee for each calendar quarter that the case is in Chapter 11 until the case is CLOSED (*unless the case is filed as a small business Subchapter V in which no chapter 11 fees will be due*). The quarterly fee is owed even if the debtor is in Chapter 11 for only a part of the quarter and is based on the disbursements made by the debtor during the quarter. The fee is due by the end of the month following the close of the quarter, that is: January 31, April 30, July 31, and October 31. You will receive a bill calculating the fee owed. However, any such calculation is subject to your having timely and accurately filed the complete monthly financial reports referenced in the above paragraph. If you do not receive a bill, contact the Office of the U.S. Trustee at (703) 557-7176 as you remain responsible for payment. Failure to pay U.S. Trustee Quarterly Fees on a timely and accurate basis could lead to your matter being referred to the Department of the U.S. Treasury.

PAYMENT OF ALL TAXES THAT BECOME DUE: You must timely file all tax returns that are due after the filing of the Chapter 11 case and send copies to the U.S. Trustee. Payroll withholding taxes must be paid when payroll is made and documents provided to the U.S. Trustee, at least on a monthly basis, as an exhibit to the monthly report.

THE DEBTOR MAY NOT MAKE PAYMENTS TO ANY PROFESSIONAL (ATTORNEYS, ACCOUNTANTS, APPRAISERS, FINANCIAL CONSULTANTS, ETC.) WITHOUT A COURT ORDER AUTHORIZING SUCH PAYMENTS. A COURT ORDER IS ALSO REQUIRED TO HIRE ALL PROFESSIONALS.

FAILURE TO TIMELY AND ACCURATELY COMPLY WITH THESE REQUIREMENTS MAY RESULT IN THE U.S. TRUSTEE FILING A MOTION TO CONVERT THE CASE TO A CHAPTER 7 LIQUIDATION OR TO DISMISS THE CASE.

THIS IS ONLY A SHORT SUMMARY OF THE REQUIREMENTS OF CHAPTER 11 DEBTORS. YOU SHOULD READ THE ATTACHED CHAPTER 11 GUIDELINES CAREFULLY AND DISCUSS ANY QUESTIONS YOU MAY HAVE WITH YOUR ATTORNEY.

MAKE SURE TO REDACT, EXCEPT FOR THE LAST FOUR DIGITS, ANY CONFIDENTIAL INFORMATION (I.E. SOCIAL SECURITY, CREDIT CARD NUMBERS) AS ANY RECORDS FILED WITH THE BANKRUPTCY COURT BECOME PUBLIC.

**CHAPTER 11 DEBTOR'S ACKNOWLEDGMENT OF ATTENDANCE
AT THE INITIAL DEBTOR INTERVIEW
AND RECEIPT OF CHAPTER 11 GUIDELINES AND REPORTING FORMS.**

CASE NAME

CASE NUMBER

THE UNDERSIGNED CHAPTER 11 DEBTOR (OR AUTHORIZED REPRESENTATIVE OF DEBTOR PARTNERSHIP OR CORPORATION), HAS ATTENDED THE INITIAL CHAPTER 11 DEBTOR INTERVIEW WITH THE OFFICE OF THE UNITED STATES TRUSTEE ON THIS DATE, AT WHICH TIME THE ADMINISTRATIVE REQUIREMENTS OF CHAPTER 11 DEBTORS WERE REVIEWED.

THE UNDERSIGNED ACKNOWLEDGES RECEIPT OF THE UNITED STATES TRUSTEE'S CHAPTER 11 GUIDELINES AND REPORTING FORMS. IN ADDITION, THE UNDERSIGNED HEREBY ACKNOWLEDGES THAT THEY HAVE PERSONALLY REVIEWED THE SUMMARY OF U.S. TRUSTEE GUIDELINES HERE ATTACHED.

SIGNATURE

PRINT NAME

DATE

PHONE NUMBER

E-MAIL

TYPE OF WORKPAPERS RECEIVED



U.S. Department of Justice

*Office of the United States Trustee
Eastern District of Virginia
Alexandria Division and District of Columbia*

1725 Duke St. Ste 650
Alexandria, VA 22314

703-557-7176
FAX 703-557-7279

**OPERATING GUIDELINES AND REPORTING REQUIREMENTS
OF THE UNITED STATES TRUSTEE**

**FOR CHAPTER 11 DEBTORS IN POSSESSION
AND CHAPTER 11 TRUSTEES**

I. INTRODUCTION

A. United States Trustee's Authority to Supervise Debtor in Possession

Pursuant to 28 U.S.C. 586 and 11 U.S.C. 704(8), the United States Trustee has established these **Operating Guidelines and Reporting Requirements** (the “requirements”) for chapter 11 debtors in possession and chapter 11 trustees (the “debtor” or “debtors”). Under these requirements, debtors must establish and observe certain operating procedures and file certain financial reports with the Bankruptcy Court, the United States Trustee, and any committee appointed in the case by the United States Trustee. Counsel should carefully review these requirements with debtor upon receipt.

B. Compliance, Amendments or Modifications

Timely compliance with each of the requirements contained herein is mandatory. Failure to comply with any requirement may result in the filing of a motion to dismiss or convert the case or a motion to appoint a chapter 11 trustee or examiner. Any request to amend or modify these requirements for a particular chapter 11 case must be made in writing. To be effective, approval by the United States Trustee must be in writing.

C. Duties of Debtor in Possession

With the filing of a chapter 11 petition, a debtor becomes a new entity called a debtor in possession. The debtor in possession has fiduciary and statutory responsibilities to preserve and maintain the estate and to operate its business as efficiently as possible in order to maximize ultimate payments on pre-petition debts while keeping post-petition debt current. (See 11 U.S.C. 1106 and 1107.) These duties include, but are not limited to, the debtor’s duty to:

1. Be accountable for all property received;
2. Maintain appropriate insurance to protect the estate and the public from unreasonable risk;
3. Comply with orders of the court;
4. Timely comply with filing and reporting requirements;
5. Obtain authority to use cash collateral;

6. Attend meetings of creditors and any examination ordered under Rule 2004 of the Federal Rules of Bankruptcy Procedure;
7. Provide information or attend meetings reasonably requested by the United States Trustee; and unless the court orders otherwise, furnish such information concerning the estate and the estate's administration as is requested by a party in interest;
8. Pay taxes owed after the date of the order for relief;
9. File tax returns due after the date of the order for relief;
10. Pay quarterly fees to the United States Trustee;
11. Filing a plan as soon as practicable; and
12. Pay any domestic support obligation that becomes due after the date of the filing of the petition

D. Duties of Trustee or Debtor in Possession in Small Business Cases

A "small business case" is a case in which the debtor is a small business debtor. See 11 U.S.C. 101 (51C) and (51D). In addition to the duties that apply to all chapter 11 debtors, section 1116 of the Bankruptcy Code sets out a number of requirements that are specifically directed at small business cases:

1. The debtor must append to the voluntary petition its most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return, or a statement made under penalty of perjury that the financial statements have not been prepared or the tax return has not been filed.
2. The debtor must attend, through its senior management personnel and counsel, meetings scheduled by the court or the United States Trustee, including initial debtor interviews, scheduling conferences, and the '341 meeting of creditors, unless the court waives the requirement upon a finding of extraordinary and compelling circumstances.
3. The debtor must timely file all schedules and statements of financial affairs unless the court grants an extension of time, which shall not extend beyond 30 days after the order for relief absent extraordinary and compelling circumstances.
4. The debtor must file all post-petition financial and other reports required by the Federal Rules of Bankruptcy Procedures or Local Bankruptcy Rules.
5. The debtor must maintain insurance customary and appropriate to the industry, subject to 11 U.S.C. 363(c)(2) concerning use of cash collateral.
6. The debtor must timely file tax returns and other required governmental filings and timely pay all taxes entitled to administrative expense priority, except those being appropriately and diligently contested, and subject to 11 U.S.C. 363(c)(2) concerning use of cash collateral.
7. The debtor must allow the United States Trustee or a designated representative to inspect the debtor's business premises, books, and records at reasonable times, and after reasonable prior written notice, unless the debtor waives notice.

8. The debtor must also comply with the provisions of 11 U.S.C. 1121(e) (fixing 300 day deadline to file plan unless deadline extended and 1129(e) (requiring plan to be confirmed within 45 days after it is filed unless time extended in accordance with 1121(e)(3)).

E. Individual Debtors

Title 11 includes a number of provisions that apply specifically to Chapter 11 cases in which the debtor is an individual, including the following:

- Property of the bankruptcy estate includes property acquired post-petition. 11 U.S.C. 1115(a)(1).
- Property of the bankruptcy estate includes post-petition earnings from personal services. 11 U.S.C. 1115(a)(2).
- The plan must provide for the debtor to pay creditors all or such portion of earnings from personal services or other future income of the debtor as is necessary for the execution of the plan. 11 U.S.C. 1123(a)(8).
- If a holder of an allowed unsecured claim objects to confirmation of the plan, the plan must either provide for payment of the full value of the claim as of the effective date, or for payment of the projected disposable income of the debtor for five years or for the term of the plan, whichever is longer, with disposable income defined in 11 U.S.C.1325(b)(2). 11 U.S.C. 1129(a)(15).
- At the request of the debtor, the trustee, the United States Trustee, or the holder of an allowed unsecured claim, the plan may be modified at any time after confirmation but before completion of payments to 1) increase or reduce the amount of payments to a particular class; 2) extend or reduce the time period for payments; or 3) change the amount to be paid to a creditor to the extent necessary to take account of any payments made other than under the plan. 11 U.S.C. 1127(e).
- At the request of the court, the United States Trustee, or any party in interest, the debtor must file with the court a copy of any post-petition federal income tax returns at the same time they are filed with the taxing authorities, and certain pre-petition federal income tax returns that had not been filed with the taxing authorities on the petition date. 11 U.S.C. 521(f).
- An individual debtor does not receive a discharge until completion of all payments under the plan. The court may grant a discharge to an individual debtor who has not completed all plan payments if the court finds that the value of the property actually distributed to unsecured creditors as of the effective date is not less than the amount that would have been paid in a chapter 7 case if the estate had been liquidated on the effective date, and if the court also finds that modification of the plan under 1127 is not practicable. 11 U.S.C. 1141(d)(5).

I. OPERATING GUIDELINES

A. Bank Accounts/Money of the Estate

1. Unless the Court orders otherwise, the debtor must immediately close pre petition bank accounts and open new Adebtor in possession@ bank accounts. Accounts must be opened in a financial institution approved by the U.S. Trustee. (See **Exhibit 4** for list of approved banks). All receipts must flow through the debtor in possession account(s). All disbursements should be by check. A Bank Information Release Form 1 (See **Exhibit 2**) is to be completed and signed by financial institution and debtor's authorized representative and provided to the Office of U.S. Trustee for all debtor in possession bank accounts.
2. The account name on the bank's records must include the words "Debtor in possession". Checks for the new accounts must be pre-numbered by the printer, and must be **imprinted** with the words "Debtor in Possession" and the bankruptcy case number. Handwritten, typewritten, or hand-stamped versions are not acceptable. (See **Exhibit 3**.)
3. All money of the estate must be deposited or invested in accordance with 11 U.S.C. 345. Examples of deposits and investments that comply with 345(b) include, but may not be limited to, the following:
 - a. Deposits that are fully insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.
 - b. Investments in United States Treasury securities.
 - c. Deposits and investments with an entity that has posted a surety bond in favor of the United States, or pledged securities of the kind specified in 31 U.S.C. 9303, to secure the funds invested or on deposit.

B. Insurance

The debtor must maintain without interruption all insurance customarily carried in the debtor's line of business or required by law or regulation. In most cases, the debtor will be required to carry liability, workers' compensation, and property insurance, i.e., fire and extended coverage. The property insurance coverage must be for no less than the fair market value or replacement cost of the insured assets. The debtor must immediately contact their insurance agent and request that the United States Trustee be included on the policy for notification of any lapse, cancellation, modification, or renewal of insurance coverage. The agent must fax (703-557-7279) a Certificate of Insurance to the U.S. Trustee showing that the U.S. Trustee has been included for this purpose. Failure by the debtor to maintain appropriate insurance that poses a risk to the estate or to the public is cause for conversion or dismissal of the case. 11 U.S.C. 1112(b)(4)(C).

The certificate of insurance should provide the following notification information:

For Notice Purposes Only:

Department of Justice
Office of the United States Trustee
1725 Duke St., Ste 650
Alexandria, VA 22314

C. Taxes

The debtor must remain current on all post petition federal, state, and local taxes and file all tax returns on a timely basis. If the debtor has payroll tax obligations, the debtor may be required to open a special tax account and report payroll tax deposits to the appropriate taxing authority. Failure by the debtor to timely pay post-petition taxes or to file post-petition tax returns is cause for conversion or dismissal of the case. 11 U.S.C. 1112(b)(4)(I).

D. Quarterly Fees

Pursuant to 28 U.S.C. 1930(a)(6), debtors are required to pay certain fees for each calendar quarter (or portion thereof) until the case is dismissed or converted or a final decree is entered and the case is closed. (See **Exhibit 1.**) Failure to pay quarterly fees when due is cause for conversion or dismissal of the case. 11 U.S.C. 1112(b)(4)(K).

E. Legal Documents to Be Transmitted to the United States Trustee

Pursuant to Federal Rules of Bankruptcy Procedure 2002 and 9034, it is the responsibility of the debtor and the debtor's counsel to keep the United States Trustee apprised of all matters pertaining to the case at all times. This includes ensuring that the United States Trustee is served with copies of all papers (motions, applications, etc.) filed in the case.

F. Initial Debtor Interview

The United States Trustee will schedule an Initial Debtor Interview (“IDI”) with the debtor and counsel shortly after the case is filed. (See 11 U.S.C.1116(2) for specific requirements in small business cases.) The IDI will generally be conducted either at the debtor's place of business or at the office of the United States Trustee. At the IDI, a bankruptcy analyst from the United States Trustee's office will seek to become familiar with the debtor's case as well as with the debtor's business plan and operations, assets, liabilities, and accounting methods. Accordingly, the debtor's representative(s) at the IDI should have personal knowledge and information regarding the debtor's pre-petition and post-petition operations, accounting records, tax returns and financial statements. Documents to bring to the IDI are to include the following:

- Chapter 11 Guidelines;
- Copies of last two filed Federal Tax Returns, and a copy of an extension request (if applicable);
- Copies of insurance policies, and proof of payment;
- Copies of previous three months of bank statements, cancelled checks, and check registers for all accounts held by the debtor; Copies of the last two years' audited financial statements;
- Copies of previous calendar month's and year-to-date Income Statement and Balance Sheet.
- Copies of all business licenses.
- Projections for the next six months
- Debtor-in-possession bank information including voided checks from DIP bank accounts.
- Proof of closure of all pre-petition bank accounts (if completed by the IDI).
- Documentation regarding any lawsuits pending by or against the debtor.
- Listing of all rental and lease income.
- List of all entities in which the Debtor has a 20% or more interest held.
- A list of all insiders employed by or contracted by the debtor to include the individual's or entity's name, title, job, salary or terms of compensation as of the filing of the case and any perks provided to the person or entity by the debtor.

The analyst will discuss the role of the United States Trustee, explain the Operating Guidelines and Reporting Requirements, and discuss scheduling matters. Failure by the debtor to attend meetings reasonably requested by the United States Trustee is cause for conversion or dismissal of the bankruptcy case. 11 U.S.C. 1112(b)(4)(H). The debtor and counsel will be asked at the IDI to sign a waiver voluntarily giving the staff of the U.S. Trustee the right to speak to the debtor without counsel being present on routine matters of case administration.

The debtor will also be asked to sign an Acknowledgement of Attendance at the IDI indicating they attended the meeting and that the Chapter 11 Guidelines were reviewed.

G. Additional Legal Requirements

The debtor's attention is directed to the following selected provisions of the Bankruptcy Code:

1. 341 Meeting of Creditors

A meeting of creditors will generally be held 25 to 40 days after the petition is filed. Unless otherwise noticed, all Chapter 11 meetings are held at:

Cases filed in the Eastern District of Virginia, Alexandria Division: The Office of the United States Trustee 1725 Duke St., Suite 650 Alexandria, VA 22314	Cases filed in the District of Columbia: United States Courthouse Third and Constitution Avenue, N.W. Room 1207 (first floor) Washington, DC 20001
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The debtor, or in the case of a corporation or partnership, the debtor's senior management, and debtor's counsel, must attend and testify at the meeting of creditors. In the case of joint petitions, both debtors are required to appear and testify. For corporate debtors, it is recommended that the CFO, controller or party responsible for the financial operations also attend and is prepared to respond completely and accurately to questions pertaining to financial matters. The meeting will allow the debtor to respond, under oath, to questions from the United States Trustee and creditors regarding the debtor's business and financial affairs, the cause of the bankruptcy, and the status of the debtor's reorganization efforts. (See 11 U.S.C. 341 and 343.).

Failure by the debtor or debtor=s representative to attend the meeting of creditors without good cause shown is cause for conversion or dismissal of the case. 11 U.S.C. 1112(b)(4)(G).

If not previously filed with the court or submitted to the U.S. Trustee, the debtor must bring the following documents to the 341 meeting of creditors:

- Schedules
- Statement of Financial Affairs
- List of Equity Security Holders
- Deposit Reports (Form 1)
- Bank Authorizations
- Certificates of Insurance
- Copies of the last two filed Tax Returns
- Audited Financial Statements for the previous two years.
- Copies of Business Licenses and Permits.

After notice is given of the meeting of creditors, the U.S. Trustee may allow a rescheduling of the meeting. Requests for rescheduling are not granted automatically.

To request rescheduling:

- The party requesting the rescheduling should provide the U.S. Trustee with a written request explaining the reason(s) for such request.
- If the request is approved, the party requesting the rescheduling must notify all creditors of the new date and time, and provide the Office of the U.S. Trustee and the Bankruptcy Court with a certificate of service that all parties have been notified.

If necessary, the U.S. Trustee may continue a meeting to a later date to resolve open matters. Failure by the debtor to submit deposit reports, bank authorizations, insurance certificates and other required documents may result in a continuation of the hearing.

2. Unsecured Creditors' Committee

- As soon as possible after the entry of an order for relief, the United States Trustee will solicit creditors, normally from the debtor's list of its 20 largest unsecured creditors, to see if there is interest in forming an unsecured creditors committee. (The debtor's list should not include insiders or fully secured creditors.). If creditors express an interest in forming a committee, the organizational meeting may be held in conjunction with the first meeting of creditors described above, or it may be scheduled separately. The debtor and debtor's counsel may be requested to attend this meeting.
- Prospective committee members will receive information explaining the duties and responsibilities of the creditors' committee. Generally, the U.S. Trustee will not appoint a committee with fewer than three eligible members.
- Section 1103(d) of the Bankruptcy Code requires the debtor to meet with the creditors' committee as soon as practicable after the appointment of the committee to transact such business as may be necessary and proper.
- If a committee is appointed by the United States Trustee, the debtor must provide the committee with copies of all financial reports required by the United States Trustee.
- If a committee is appointed in a small business case, the debtor is no longer considered a small business debtor unless the court determines that the committee of unsecured creditors is not sufficiently active and representative to provide effective oversight of the debtor.

3. Cash Collateral

The debtor may not use cash collateral unless the secured creditor agrees to such use, or such use is authorized by the court after notice and a hearing. (See 11 U.S.C. 363(c)(2).) Unauthorized use of cash collateral by the debtor that is substantially harmful to a creditor is cause for conversion or dismissal of the case. 11 U.S.C. 1112(b)(4)(D).

4. Obtaining Credit

The debtor may not obtain credit other than in the ordinary course of business without court authorization after notice and a hearing. (See 11 U.S.C. 364.)

5. Use, Sale or Lease of Property of the Estate

The debtor may not use, sell, or lease property of the estate when such use, sale, or lease is not in the ordinary course of business, except after notice and a hearing. (See 11 U.S.C. 363(b).)

6. Employment and Compensation of Professionals

The debtor may not employ or compensate professional persons, including the debtor's attorney, without court approval. (See 11 U.S.C. 326-331, 503 and 1107.)

7. Prohibition on Payment of Pre Petition Debts

The debtor must not pay any pre petition debts without court approval. (See 11 U.S.C. 549.) This includes pre-petition wages.

III. REPORTING REQUIREMENTS

In addition to the reports described below, the United States Trustee may require the submission of any additional information that may be necessary to properly monitor the administration of the estate. **The Monthly Operating Reports are to be filed with the Clerk of the Court. Debtor is to provide original Monthly Operating Reports to their counsel.** Copies of all reports must also be provided to any committee appointed by the United States Trustee. Debtors that file the reports electronically with the Court must comply with applicable requirements concerning retention of original signatures. The debtor's unexcused failure to satisfy timely any filing or reporting requirement is cause for conversion or dismissal of the case. 11 U.S.C. 1112(b)(4)(F).

A. Monthly Operating Reports

1. A Monthly Operating Report must be submitted for each month (or portion thereof) after the petition is filed until a plan is confirmed or the case is dismissed or converted. The Monthly Operating Report submitted for the month in which an order confirming the plan is entered should cover the entire month.
2. The Monthly Operating Report is due twenty (20) days after the end of the month covered by the report. The Monthly Operating Report is filed with the Clerk of Court. Copies must also be provided to any committee appointed in the case.
3. **All business debtors** must complete **Form 425C**.
4. **Individual Debtors** (not to include corporations, LLC's, partnerships, etc.) shall file **Forms IND-1 through IND-6 (See attached workpapers)**. Reports must include detailed reporting of all financial activity of the bankruptcy estate, including transactions generated by post-petition earnings from personal services, operation of a business, and sales of property of the estate. Individuals who derive their income from closely held corporations, partnerships or limited liability companies may be required to provide periodic financial statements for those closely-held entities.
5. **Small Business Debtors** as defined by 11 U.S.C. Section 101(51d) shall file **Forms SB-1 through SB-8 (See attached workpapers)** - the Small Business Basic Monthly Operating Report (ABMOR®). Reports should also include basic financial information (report of receipts and disbursements, balance sheet, and profit and loss statement) prepared using the debtor's accounting software.

6. **All Other Business Debtors** shall file **Forms SB-1 through SB-8 (See attached workpapers)** as described below:

- a. **Cover Sheet and Questionnaire (Form SB-1).**
 - b. **Cash Receipts and Disbursements Statements (Forms SB-2 through SB-4a).**¹ The Cash Reconciliation (page 1 of Form SB-2) requires information for the monthly reporting period along with cumulative information from the petition date through the end of the reporting period.
 - c. **Balance Sheet (Form SB-5).** Comparative balance sheets as of the last month-end and the petition date must be provided.
 - d. **Profit and Loss Statement (Form SB-6).** Information must be provided for the monthly reporting period along with cumulative information from the petition date through the end of the reporting period.
 - e. **Disbursement Summary (Form SB-7).**
 - f. **Narrative (Form SB-8).**
 - g. **Copies of bank statements and reconciliations for all accounts, check registers, accounts receivable and accounts payable agings, proof of payroll taxes being paid.**
7. Regardless of who prepared the Monthly Operating Report, the report must be signed, under penalty of perjury, by the debtor(s), a corporate officer, a general partner, or the chapter 11 trustee, as appropriate.
 8. The monthly operating report must be legible. If possible, the report should be typed. No entries should be left blank. If an item does not apply, enter a "0" or a "N/A".
 9. The Monthly Operating Report and all copies of supporting documents must be prepared on 8-1/2 by 11 inch, standard quality white paper in order to conform to court filing requirements (See Local Rules and Standing Orders for other restrictions and requirements).

B. Reports on Cases Converted to Chapter 7

Pursuant to Fed.R.Bankr.P. 1019(5), the debtor must: 1) within fourteen (14) days after entry of an order converting the case to a case under chapter 7, file a schedule of unpaid debts incurred after commencement of the chapter 11 case, such list to include the name and address of each post petition creditor; and 2) within 30 days after entry of the order of conversion, file with the court and transmit to the United States Trustee a final report and account

¹ Forms described in SB-1 through SB-8 are available in Excel. In the alternative, if your present accounting system generates a report to cover this item, it may be sufficient for U.S. Trustee purposes. Please contact the U.S. Trustee Office to obtain the Excel file or to discuss the substitution of such forms.

C. Post Confirmation Reporting Requirements

Pursuant to 11 U.S.C. Sec. 1106(a)(7), the debtor should file Post Confirmation Reports such as are necessary or as the court orders. The U.S. Trustee requests that these reports be filed quarterly for every post-confirmation calendar quarter, including the quarter in which the plan was confirmed and the quarter in which the debtor files its application for final decree. The first report should be for the entire month in which the case was confirmed through the end of the calendar quarter. The final report should include all activity through the date of the application for final decree. The Post Confirmation Quarterly Report is due **thirty days** after the end of each quarter, except for the **final** Post-Confirmation Quarterly Report, which should be filed at the same time as the Chapter 11 Final Report and Motion for Final Decree. A separate Post Confirmation Guidelines package will be sent shortly after confirmation of the debtor's plan.

EXHIBIT 1

CHAPTER 11 QUARTERLY FEES

Under 28 U.S.C. § 1930(a)(6), a quarterly fee shall be paid to the United States Trustee System Fund at Treasury in each case under chapter 11 (except small business cases under Subchapter V of chapter 11) for each calendar quarter, or portion thereof, between the date a bankruptcy petition is filed and the date the court enters a final decree closing the case, dismisses the case, or converts the case to another chapter in bankruptcy.

QUARTERLY FEE CALCULATIONS

The quarterly fee is calculated by totaling the reported disbursements for the three month calendar quarter, or portion thereof, according to the fee schedules shown below. The quarterly fee amount will be estimated if disbursements for all of the months of a calendar quarter that the case is open have not been reported to the United States Trustee. The estimated fee is based on: a) the reported disbursement history, b) the debtor's initial financial data submitted when the case was filed, or c) the United States Trustee's estimate. If there is a disagreement with the estimated quarterly fee noted on the billing statement, then Monthly Operating Reports or actual disbursement reports supporting a different calculation must be filed with the bankruptcy court and served on the United States Trustee office. A minimum fee of \$325.00 is due even if there were not disbursements during the calendar quarter. The fee is not prorated.

The Bankruptcy Judgeship Act of 2017, Pub. L. No. 115-72, temporarily amended the calculation of chapter 11 quarterly fees effective January 1, 2018. Under this amendment, during each of fiscal years 2018 through 2022, if the balance in the United States Trustee System Fund (Fund) as of September 30 of the most recent full fiscal year is less than \$200 million, the quarterly fee payable for a calendar quarter in which disbursements equal or exceed \$1 million shall be the lesser of 1 percent of such disbursements or \$250,000.

Fee Schedule for Calendar Quarters Beginning January 1, 2018 through September 30, 2020

The balance in the Fund as of September 30, 2019, was less than \$135 million. Accordingly, the amended chapter 11 quarterly fee schedule below applies for the calendar quarters beginning **October 1, 2019 through September 30, 2020***.

QUARTERLY FEE SCHEDULE (Effective Jan. 1, 2018 – Sept. 30, 2020)

[pursuant to 28 U.S.C. §1930(a)(6)]

Disbursement Range	Quarterly Fee
\$0 to \$14,999.99	\$325
\$15,000 to \$74,999.99	\$650
\$75,000 to \$149,999.99	\$975
\$150,000 to \$224,999.99	\$1,625
\$225,000 to \$299,999.99	\$1,950
\$300,000 to \$999,999.99	\$4,875
\$1,000,000 or more	1% of quarterly disbursements or \$250,000, whichever is less

*Information on the Quarterly Fees applicable to quarters prior to Jan. 1, 2018 and subsequent to Sept. 30, 2020 (i.e. any updates/changes) can be found at <https://www.justice.gov/ust/chapter-11-quarterly-fees>.

FEE DUE DATE

Quarterly fees are due no later than the last day of the month following quarter end as follows:

<u>Quarter</u>	<u>Months</u>	<u>Payment Due</u>
1	Jan, Feb, March	April 30
2	April, May, June	July 31
3	July, Aug, Sept	Oct. 31
4	Oct, Nov, Dec	Jan. 31

Failure to pay quarterly fees may result in the conversion or dismissal of the case. Payment of that quarter's fees and any past due fees and interest, if applicable, must be made before the effective date of the confirmed plan of reorganization and quarterly fees will continue to accrue until entry of the final decree, or until the case is dismissed or converted. Failure to pay these fees may result in a motion by the United States Trustee to dismiss or convert the case to a chapter 7 case.

Delinquent Fees and Interest: Interest will be assessed on chapter 11 quarterly fees not paid before the end of the month following the end of each quarter [31 U.S.C. 3717]. The interest rate assessed is the rate in effect as determined by the Treasury Department at the time the account becomes past due.

PAYMENT OPTIONS

A billing statement from the United States Trustee Program is mailed to the debtor or other designated party for each calendar quarter before the payment due date.

1) **Online Payment (new):**

Chapter 11 quarterly fees may be paid online via electronic funds transfer from a bank account* at <https://www.pay.gov/public/form/start/672415208>

*IMPORTANT NOTE: www.pay.gov DOES NOT ACCEPT debit cards, credit cards, or any other types of online payments.

2) **Payments via Check or Money Order:**

Tear off the portion of the statement and a check, made payable to the "United States Trustee".

The address to use to mail quarterly fee payment is:

United States Trustee Payment Center
P.O. Box 6200-19
Portland, OR 97228-6200

Or for Overnight Deliveries:

*U.S. Bank
Attn: Government Lockbox – U.S. Trustee Payment Center 6200-19
17650 N.E. Sandy Blvd.
Portland, OR 97230-5000*

Checks are to be made payable to The United States Trustee and mailed to the address set forth below. Fees are **not** to be mailed or delivered to the local Office of the United States Trustee. If any check is returned “unpaid” for any reason, all subsequent payments must be made by way of cashier's check, certified check, or money order.

To ensure proper credit, it is imperative that the debtor in possession and chapter 11 trustee write the 10 digit case number (for Baltimore, Maryland cases this account number starts with “161” plus the case number) on each check and remit the payment with the coupon provided with the quarterly billing.

The addresses shown above are lockboxes at a bank. Do not use these addresses for service of process, correspondence, or any purpose other than paying quarterly fees. Any other correspondence or documents sent to the lockbox other than payment form will be destroyed.

Notice to Debtors Making Payment by Check

If you send us a check, it will be converted into an electronic funds transfer (EFT). This means we will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will usually occur within 24 hours, and will be shown on your regular account statement.

You will not receive your original check back. We will destroy your original check, but we will keep the copy of it. If the EFT cannot be processed for technical reasons, you authorize us to process the copy in place of your original check. If the EFT cannot be completed because of insufficient funds, we may try to make the transfer up to 2 times.

Each quarterly fee must be paid timely. Failure to receive a bill from the Executive Office for United States Trustee fees does not excuse timely payment. Failure to pay the quarterly fee is cause for conversion or dismissal of the chapter 11 case pursuant to 11 U.S.C. § 1112(b)(4)(K) (for cases filed on or after October 17, 2005) or 11 U.S.C. § 1112(b)(10) (for cases filed before October 17, 2005).

NOTICE

DISCLOSURE OF INTENT TO USE TAXPAYER IDENTIFICATION NUMBER FOR THE PURPOSE OF COLLECTING AND REPORTING DELINQUENT QUARTERLY FEES OWED TO THE UNITED STATES TRUSTEE PURSUANT TO 28 U.S.C. 1930(a)(6)

Please be advised that, pursuant to 31 U.S.C. § 7701, the United States Trustee intends to use the debtor's Taxpayer Identification Number ("TIN") as reported by the debtor or debtor's counsel in connection with the chapter 11 bankruptcy proceedings for the purpose of collecting and reporting on any delinquent debt, including chapter 11 quarterly fees, that are owed to the United States Trustee.

The United States Trustee will provide the debtor's TIN to the Department of Treasury for its use in attempting to collect overdue debts. Treasury may take the following steps:

1. submit the debt to the Internal Revenue Service Offset Program so that the amount owed may be deducted from any payment made by the federal government to the debtor, including but not limited to tax refunds;
2. report the delinquency to credit reporting agencies;
3. send collection notices to the debtor;
4. engage private collection agencies to collect the debt; and
5. engage the United States Attorney's office to sue for collection.

Collection costs will be added to the total amount of the debt. If the United States is unable to collect the full amount of any debt owed on a debtor's quarterly fee obligation, an I.R.S. Form 1099-C (Cancellation of Debt) will be filed with the Internal Revenue Service as required by law.

FORM 1
Office of the United States Trustee
District of Eastern Virginia - Alexandria Division and District of Columbia
U.S. Trustee Use Only
Do Not File with U.S. Bankruptcy Court
DEBTOR-IN-POSSESSION STATEMENT OF DEPOSITORY
AND AUTHORIZATION FOR RELEASE OF INFORMATION

TO: United States Trustee
1725 Duke St. Ste 650
Alexandria, Va 22314

RE: _____

d/b/a _____

Case No. _____

This will confirm that the above referenced Debtor in Possession has maintained or established the following account(s) at _____, that said account(s) have been designated as Debtor in Possession and are federally insured.

All open and closed accounts at this depository are as follows:

ACCOUNT NUMBER	ACCOUNT TYPE	BALANCE/DATE
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

I hereby authorize the release to the United States Trustee of any information and for copies of documents pertaining to funds or accounts that are property of the above-referenced bankruptcy estate, including, but not limited to checking accounts, savings accounts, trust, and investment accounts.

This form is to be completed and signed by the depository and debtor and the original returned to the Office of the United States Trustee.

Debtor

Bank Authority

Print Name and Title

Print Name and Title

Date: _____

Address

Telephone No./Fax No.

DEBTOR IN POSSESSION ACCOUNTS

This is an example of a correctly styled check for a debtor in possession bank account. Please use it as a guide in setting up your account and ordering checks.

The words "Debtor in Possession" or "DIP" must be *imprinted on all* checks issued by a debtor. Handwritten, typewritten and hand-stamped versions are *not* acceptable. All checks must be pre-numbered.

John Doe Holding, Inc., dba USA GOODS	1001
Debtor in Possession	
1400 Every Street	11-7/1000
Anytown, MD 20000	
(410) 111-1111	

PAY
TO THE
ORDER OF _____

_____ DOLLARS \$()

Solvent National Bank
1 Finance Street
Metropolis, MD 20001

FOR _____

|:3 25079486|:57670 008641811 - 1001

DEPOSITORIES AUTHORIZED TO HOLD BANKRUPTCY ESTATE FUNDS

District of Eastern Virginia - Alexandria Division and District of Columbia

Below is a list of depositories which have provided pledge agreements and related documents, and which have pledged collateral where needed. These banks may be used to open debtor-in-possession accounts in chapter 11 cases. List last updated May 13, 2019:

1. Associated National Bank	19. Metropolitan Commercial Bank
2. Adams National Bank	20. M&T Bank
3. AllFirst Bank	21. National Capital Bank of Washington
4. Associated Bank	22. Pinnacle Bank
5. AXOS Bank	23. Presidential Bank
6. Bank of Kansas City	24. RBC Bank (USA)
7. The Business Bank	25. Rabo Bank
8. Cadence Bank	26. Sandy Spring Bank
9. CapitalOne Bank	27. Signature Bank
10. CitiBank	28. Suntrust Bank
11. Comerica Bank	29. TD Bank
12. Congressional Bank	30. US Bank
13. East West Bank	31. Union Bank - California
14. Eagle Bank	32. United Bank
15. Encore Bank	33. Virginia Heritage Bank
16. Industrial Bank	34. Washington First Bank
17. Integrity Bank	35. Wells Fargo Bank
18. JP Morgan Chase	

Form 426, Instructions (12/1/19)
Instructions for Periodic Report Concerning Related Entities

General Instructions

1. This form periodic report (“Periodic Report”) on value, profitability, and operations of entities in which the estate holds a substantial or controlling interest (the “Form”) implements ' 419 of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Pub. L. No. 19-8, 119 Stat. 23 (April 20, 2005)(“BAPCPA”). This Form should be used when required by Fed. R. Bankr. P. 2015.3, with such variations as may be approved by the court pursuant to subdivisions (d) and (e) of that rule.
2. In a chapter 11 case, the trustee or debtor in possession shall file Periodic Reports of the value, operations, and profitability of each entity that is not also a debtor in a case under title 11, and in which the estate holds a substantial or controlling interest. The reports shall be prepared as prescribed by this Form, and shall be based upon the most recent information reasonably available to the trustee or debtor in possession.
3. Rule 2015.3 provides that, where the estate controls or owns at least a 20 percent interest of an entity, the estate’s interest is presumed to be substantial or controlling. Where the estate controls or owns less than a 20 percent interest, the rule presumes that the estate’s interest is not substantial or controlling. The question of substantial or controlling interest is, however, a factual one to be decided in each case.
4. The first Periodic Report required by subdivision (a) of Rule 2015.3 shall be filed no later than five days before the first date set for the meeting of creditors under 341 of the Code. Subsequent Periodic Reports shall be filed no less frequently than every six months thereafter, until a plan of reorganization becomes effective or the case is closed, dismissed, or converted. Copies of the Periodic Report shall be served on the U.S. Trustee, any committee appointed under 1102 of the Code, and any other party in interest that has filed a request therefore.
5. The source of the information contained in each Periodic Report shall be indicated.

Specific Instructions

6. Each entity subject to the reporting requirement of Rule 2015.3 shall be listed in the table contained on the first page of the form. Reports for each such entity shall be placed behind separate tabs, and each such report shall consist of three exhibits. Exhibit A shall provide valuation information; Exhibit B shall provide financial statements; and Exhibit C shall provide a description of operations.

Fill in this information to identify the case:

Debtor Name _____
United States Bankruptcy Court for the: _____ District of _____
(State)
Case number: _____

Official Form 426

**Periodic Report Regarding Value, Operations, and Profitability of Entities
in Which the Debtor’s Estate Holds a Substantial or Controlling Interest**

12/17

This is the *Periodic Report* as of _____ on the value, operations, and profitability of those entities in which a Debtor holds, or two or more Debtors collectively hold, a substantial or controlling interest (a “Controlled Non-Debtor Entity”), as required by Bankruptcy Rule 2015.3. For purposes of this form, “Debtor” shall include the estate of such Debtor.

[Name of Debtor] holds a substantial or controlling interest in the following entities:

Name of Controlled Non-Debtor Entity	Interest of the Debtor	Tab #

This *Periodic Report* contains separate reports (*Entity Reports*) on the value, operations, and profitability of each Controlled Non-Debtor Entity.

Each *Entity Report* consists of five exhibits.

Exhibit A contains the most recently available: balance sheet, statement of income (*loss*), statement of cash flows, and a statement of changes in shareholders’ or partners’ equity (*deficit*) for the period covered by the *Entity Report*, along with summarized footnotes.

Exhibit B describes the Controlled Non-Debtor Entity’s business operations.

Exhibit C describes claims between the Controlled Non-Debtor Entity and any other Controlled Non-Debtor Entity.

Exhibit D describes how federal, state or local taxes, and any tax attributes, refunds, or other benefits, have been allocated between or among the Controlled Non-Debtor Entity and any Debtor or any other Controlled Non-Debtor Entity and includes a copy of each tax sharing or tax allocation agreement to which the Controlled Non-Debtor Entity is a party with any other Controlled Non-Debtor Entity.

Exhibit E describes any payment, by the Controlled Non-Debtor Entity, of any claims, administrative expenses or professional fees that have been or could be asserted against any Debtor, or the incurrence of any obligation to make such payments, together with the reason for the entity’s payment thereof or incurrence of any obligation with respect thereto.

This *Periodic Report* must be signed by a representative of the trustee or debtor in possession.

Debtor Name _____

Case number _____

The undersigned, having reviewed the *Entity Reports* for each Controlled Non-Debtor Entity, and being familiar with the Debtor's financial affairs, verifies under the penalty of perjury that to the best of his or her knowledge, (i) this *Periodic Report* and the attached *Entity Reports* are complete, accurate, and truthful to the best of his or her knowledge, and (ii) the Debtor did not cause the creation of any entity with actual deliberate intent to evade the requirements of Bankruptcy Rule 2015.3

For non-individual Debtors:

X

Signature of Authorized Individual

Printed name of Authorized Individual

Date _____
MM / DD / YYYY

For individual Debtors:

X

Signature of Debtor 1

Printed name of Debtor 1

Date _____
MM / DD / YYYY

X

Signature of Debtor 2

Printed name of Debtor 2

Date _____
MM / DD / YYYY

Debtor Name _____

Case number _____

Exhibit A: Financial Statements for [Name of Controlled Non-Debtor Entity]

Debtor Name _____

Case number _____

Exhibit A-1: Balance Sheet for [Name of Controlled Non-Debtor Entity] as of [date]

[Provide a balance sheet dated as of the end of the most recent 3-month period of the current fiscal year and as of the end of the preceding fiscal year.

Describe the source of this information.]

Exhibit A-2: Statement of Income (*Loss*) for [Name of Controlled Non-Debtor Entity] for period ending [date]

[Provide a statement of income (*loss*) for the following periods:

(i) For the initial report:

- a. the period between the end of the preceding fiscal year and the end of the most recent 3-month period of the current fiscal year; and
- b. the prior fiscal year.

(ii) For subsequent reports, since the closing date of the last report.

Describe the source of this information.]

Exhibit A-3: Statement of Cash Flows for [Name of Controlled Non-Debtor Entity] for period ending [date]

[Provide a statement of changes in cash position for the following periods:

(i) For the initial report:

a. the period between the end of the preceding fiscal year and the end of the most recent 3-month period of the current fiscal year; and

b. the prior fiscal year.

(ii) For subsequent reports, since the closing date of the last report.

Describe the source of this information.]

**Exhibit A-4: Statement of Changes in Shareholders'/Partners' Equity (*Deficit*) for [Name of Controlled Non-Debtor Entity]
for period ending [date]**

[Provide a statement of changes in shareholders'/partners equity (*deficit*) for the following periods:

(i) For the initial report:

- a. the period between the end of the preceding fiscal year and the end of the most recent 3-month period of the current fiscal year; and
- b. the prior fiscal year.

(ii) For subsequent reports, since the closing date of the last report.

Describe the source of this information.]

Debtor Name _____

Case number _____

Exhibit B: Description of Operations for [Name of Controlled Non-Debtor Entity]

[Describe the nature and extent of the Debtor's interest in the Controlled Non-Debtor Entity.

Describe the business conducted and intended to be conducted by the Controlled Non-Debtor Entity, focusing on the entity's dominant business segments.

Describe the source of this information.]

Debtor Name _____

Case number _____

Exhibit C: Description of Intercompany Claims

[List and describe the Controlled Non-Debtor Entity's claims against any other Controlled Non-Debtor Entity, together with the basis for such claims and whether each claim is contingent, unliquidated or disputed.

Describe the source of this information.]

Debtor Name _____

Case number _____

Exhibit D: Allocation of Tax Liabilities and Assets

[Describe how income, losses, tax payments, tax refunds, or other tax attributes relating to federal, state, or local taxes have been allocated between or among the Controlled Non-Debtor Entity and one or more other Controlled Non-Debtor Entities.

Include a copy of each tax sharing or tax allocation agreement to which the entity is a party with any other Controlled Non-Debtor Entity.

Describe the source of this information.]

Debtor Name _____

Case number _____

Exhibit E: Description of Controlled Non-Debtor Entity's payments of Administrative Expenses, or Professional Fees otherwise payable by a Debtor

[Describe any payment made, or obligations incurred (or claims purchased), by the Controlled Non-Debtor Entity in connection with any claims, administrative expenses, or professional fees that have been or could be asserted against any Debtor.

Describe the source of this information.]

Debtor Name _____

Case number _____