

Uniform Trustee Final Reports are Revised to Accommodate Local Variations, Allow Flexibility

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Introduction

On April 1, 2009, the new uniform forms for trustee final reports became effective. As you might expect, the implementation of these new report forms has generated some issues for the United States Trustee Program (Program) to consider in order to accommodate common local variations and allow more flexibility, without compromising national uniformity. Based on feedback from trustees and Program personnel, the Program identified the most pressing concerns and developed changes to the uniform forms that would address the concerns and benefit the most users. This article highlights the changes to the uniform forms for chapter 7 final reports, which we anticipate will take effect by September 1, 2009.

Changes to Chapter 7 Forms

Certain changes are common to the *Notice of Trustee's Final Report and Application for Compensation and Deadline to Object* (NFR), *Chapter 7 Trustee's Final Report* (TFR), and *Chapter 7 Trustee's Final Account and Distribution Report* (TDR). Certain changes are common to the RFT and NFR, but not the TDR. Finally, certain changes pertain only to the NFR.

Changes common to the NFR, TFR and TDR:

- Increased flexibility is provided in the caption area of each report to accommodate local requirements such as the division within the judicial district, the bankruptcy judge's initials or name, and similar information.
- A field is added in the name of each report to allow viewers of final reports to easily identify reports that have been amended. This change does not require a change in CM/ECF, as there is already a docket event in CM/ECF for filing amended reports.

Changes common to the TFR and NFR, but not the TDR:

- The following paragraph is added as a footnote to notify viewers of these reports that the actual amount distributed to creditors may differ slightly on the TDR from the amounts listed in the TFR and NFR, if interest is earned between the time the TFR is filed and funds are disbursed:

“The balance of funds on hand in the estate may continue to earn interest until disbursed. The interest earned prior to disbursement will be distributed pro rata to creditors within each priority category. The trustee may receive additional compensation

not to exceed the maximum compensation set forth under 11 U.S.C. § 326(a) on account of the disbursement of the additional interest.”

- To be consistent with the description of timely allowed general (unsecured) claims, the following paragraphs are added for tardily filed claims and subordinated claims:

“Tardily filed claims of general (unsecured) creditors totaling \$ _____ have been allowed and will be paid pro rata only after all allowed administrative, priority, and timely filed general (unsecured) claims have been paid in full. The tardily filed claim dividend is anticipated to be ____ percent.

Subordinated unsecured claims for fines, penalties, forfeitures, or damages totaling \$ _____ have been allowed and will be paid pro rata only after all allowed administrative, priority, and general (unsecured) claims have been paid in full. The dividend for subordinated unsecured claims is anticipated to be ____ percent.”

Changes specific to the NFR:

- The noticing provisions of the NFR were moved from the last page to the front of the report and a third alternative for noticing was added. These changes address concerns raised by various courts that the content and placement of the noticing provisions did not comply with local bankruptcy rules.
- The time to object specified in the first and second noticing alternatives in the NFR was changed from a fixed 20-day period to an open field that allows the court or trustee to enter the number of days. This change accommodates local rules that require a notice period other than 20 days.
- With the movement of the noticing provisions to the front of the report, the financial information is now the second part of the NFR form and appears under the heading entitled “Summary of Trustee’s Final Report and Applications for Compensation” (“Summary”).
- A date field and signature block were added at the end of the noticing provisions to indicate the date mailed and the person mailing the form, and a second signature block was added at the end of the Summary for the trustee’s signature. These changes address two concerns raised by local courts and trustees. First, in some jurisdictions the NFR is noticed by the court and not the trustee, and therefore the notice must have a place for court personnel to sign. Second, the NFR previously did not clearly indicate when the time to object started to run.

In addition to making the changes noted above, we recently advised trustees not to use the virtual Report of No Distribution (NDR) to file a final report when a case is reassigned. For

most jurisdictions, this change in policy is consistent with prior practice. Trustees who practice in jurisdictions where the court requires a trustee who resigns to file a final report should consult with their local office of the United States Trustee for further instructions. We anticipate that we will make changes to the NDR form later this fall.

Conclusion

Thank you for your patience and your hard work in making the implementation of the uniform forms for trustee final reports a success. Please continue to send your comments and suggestions for enhancements to the final report forms to your local office of the United States Trustee.