



## U.S. Department of Justice

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### **NOTICE OF FINANCIAL REPORTING REQUIREMENTS FOR CHAPTER 11 DEBTORS IN POSSESSION ("FINANCIAL REPORTING REQUIREMENTS")**

\*\*\*\*\*New Requirement, please note\*\*\*\*\*

**Effective November 15, 2004, Interim Statements and Operating Reports for new cases will not be accepted. If your case was commenced prior to said date, please check with the U.S. Trustee Analyst assigned to your case to determine whether the MOR must be used. For all other cases, you MUST use the MOR.**

#### **General Instructions**

A chapter 11 debtor in possession serves as a fiduciary for the benefit of the creditors and owners in the case. Providing complete and accurate financial information regarding the estate is part of the debtor's fiduciary duty. The Financial Report Form ("Report") that is to be used for this purpose is attached.

#### **What Must Be Reported**

Monthly Operating Reports (MOR's) contain information regarding bank accounts over which the debtor has possession, custody, control, access or signatory authority, even if the account is not in the debtor's name, and whether or not the account contains only post-petition income. MOR's must include a narrative statement regarding the status of the reorganization effort, and any problems or issues that have arisen since the filing of the prior MOR.

Debtors are required to report all their financial information. Any portion of the debtor's post-petition income that the debtor believes is not included in the estate should nevertheless be reported, with the source of the income specifically identified. Information on all bank accounts must be reported, even if the debtor believes that the account contains only post-petition income that is not part of the bankruptcy estate.

## **Reporting Periods**

MOR's must be completed on a calendar monthly basis (unless modified in writing by the OUST) and must be submitted within 15 days after the last day of each month. MOR's must be submitted whether or not any financial activity has occurred. If an unusual event occurs that will delay filing of any of the MOR's, you must submit a written explanation of the delay in lieu of the MOR. Insufficient explanations may result in the filing of a motion to convert or dismiss your case.

## **Applicable Accounting Rules**

The MOR's are designed to enable debtors in possession to complete them without professional assistance. However, if professionals are utilized, they should follow Generally Accepted Accounting Principles (GAAP). Also, the MOR's should indicate whether inventories are maintained on LIFO, FIFO or another valuation method.

Part I of the MOR is to be prepared on the cash basis only. The Profit and Loss Statement (Part IX) and the Balance Sheet portion (Part X) of the MOR are to be prepared on the accrual basis only. The term "accrual" denotes revenues that have been earned or expenses that have been incurred, whether or not cash has actually been received or paid. Assets listed on the schedules at fair market value should be converted to historical cost for purposes of the MOR unless otherwise specifically noted.

## **Completing the Reports and Use of Customized Reports**

The MOR is meant to be generic so that it can be easily adapted to various types of businesses. MOR's must be typed or completed on a computer and signed by the debtor in possession. Any attachments must have the case name and number noted. All financial statements must be two hole punched and must not be blue-backed or submitted in duplicate.

The OUST will not conform or return copies of these forms. Each MOR must be separately submitted. Do not staple groups of MOR's together. All blanks must be filled out completely. If any information requested on the MOR is inapplicable, this must be noted on the MOR. If an MOR is incomplete, it will be treated as if it had not been filed. If you believe that the MOR needs significant modifications to be useful for your estate or if you already are preparing the Balance Sheet or Profit and Loss Statement, etc., in a format customized for your business, you should consult with the U.S. Trustee analyst assigned to your case, from whom you must obtain written permission before you may submit alternative reports.

## **Where to Submit Reports**

Reports must be submitted to the United States Trustee. Do not file them with the Bankruptcy Court. Copies of the reports should also be submitted to the attorney for the debtor in possession and the chair of any creditors' committee appointed in the case.

## **Failure to Submit or Submission of Incomplete Reports**

Failure to submit MOR's to the United States Trustee in a timely fashion may result in a motion to convert or dismiss the bankruptcy. The submission of MOR's that are incomplete or not prepared in accordance with this Guide will be treated as a failure to submit. All MOR's signed by anyone other than the debtor in possession or a responsible designate will be treated as not having been submitted.

## **DOs and DON'Ts**

Do sign and date the MOR, otherwise it will not be accepted;

Do file it on time: by the 15<sup>th</sup> day after the end of a calendar month;

Do include all financial institution accounts in the MOR;

Don't complete the MOR in handwriting. It will be rejected;

Don't blueback the MOR;

Don't modify the MOR without OUST permission;

Don't have the debtor's attorney sign the MOR. Debtor must sign it.