



U.S. Department of Justice

*Office of the United States Trustee
Eastern District of Kentucky*

Operating Guidelines and Reporting Requirements For Debtors-in-Possession in Chapter 11 Cases

Section 586(a)(3) of Title 28, United States Code, directs the United States Trustee to supervise the administration of Chapter 11 cases. These Guidelines assist the United States Trustee in its supervision and should assist the Debtor in progressing toward Confirmation of a Plan. These Guidelines do not set forth the requirements imposed upon the Debtor by the United States Bankruptcy Code, Local Rules of the United States Bankruptcy Court for Eastern District of Kentucky, or any order of the Court.

The failure of the Debtor to timely comply with these Guidelines, the provisions of the United States Bankruptcy Code, or any orders of the United States Bankruptcy Court, will likely result in the filing of a motion to dismiss your case, to convert it to a chapter 7 liquidation, or to appoint a trustee or examiner.

All documents that you are asked to submit to the United States Trustee should be emailed to john.t.wright@usdoj.gov or delivered to:

Office of the United States Trustee
100 E. Vine St., Suite 500
Lexington, KY 40507

1. Books, Records, and Accounts

The Debtor must close its books and records as of the petition date and open new books and records. The Debtor must separately account for pre- and post-petition accounts receivable and payable in all reporting.

2. Bank Accounts

The Debtor must close all existing bank accounts as soon as practicable upon the filing of the petition, and open new debtor-in-possession operating, payroll, and tax accounts at an Authorized Depository. A list of Authorized Depositories in the Eastern District of Kentucky accompanies these Guidelines as Appendix 1. The bank signature cards must indicate that the Debtor is a “chapter 11 debtor in possession.” All checks must also note that the Debtor is a “debtor in possession” on their face.

Within seven days of filing the petition, the Debtor shall provide the United States Trustee with a Declaration stating that the Debtor has closed all pre-petition bank accounts and transferred all funds to new debtor-in-possession accounts. A sample of the Declaration is attached as Appendix 2.

The Debtor is responsible for ensuring that all monies of the estate are adequately protected. *See* 11 U.S.C. § 345.

3. Insurance

Within seven days of filing the petition, the Debtor shall provide the United States Trustee with certificates of insurance showing that each policy of insurance required for the estate is in full force and effect. The loss payee or beneficiary should read “[Debtor], debtor in possession” and the United States Trustee should be listed as a party to be notified of any change, cancellation or expiration of each policy.

The Debtor must maintain appropriate casualty insurance for all tangible assets subject to casualty loss (e.g., fire, theft, weather, vandalism). If the Debtor conducts business operations, the Debtor must have general liability insurance, and if appropriate product liability insurance. A Debtor with employees must maintain workers’ compensation insurance. In addition, a Debtor must maintain any other coverage customary in its industry or business (e.g., professional liability insurance for a physician or lawyer).

4. Initial Debtor Interview

The Debtor and its attorney must attend an Initial Debtor Interview (“IDI”) within seven days of filing the petition. Your attorney will be contacted upon filing with a preliminary date and time for the IDI. The IDI is usually held at the Office of the United States, but may be scheduled at the discretion of the United States Trustee at the Debtor’s place of business.

The Debtor must provide the United States Trustee with the following documents on or before the IDI:

- Proof that new bank accounts have been opened;
- Certificates of Insurance, as discussed above;
- Financial statements for the prior two years; and
- Federal Income Tax returns for the last two years filed.

5. Monthly Operating Reports and Quarterly Disbursement Reports

The Debtor is required to file an operating report for each month the Debtor remains in chapter 11. If the Debtor confirms a Plan, the Debtor going forward is required to file Quarterly Disbursement Reports until a Final Decree is entered, or the case converted or dismissed.

Monthly Operating Reports are due no later than 20 days after the end of the month reported. Quarterly Disbursement Reports are due no later than 20 days after the end of the quarter reported.

The form of Monthly Operating Report appropriate to the Debtor will accompany these Guidelines.

6. Quarterly Fees

The Debtor is required to pay quarterly fees in all pending chapter 11 cases pursuant to 28 U.S.C. § 1930(a). These fees are paid to the United States Trustee for

each quarter until the case is dismissed, converted to another chapter, or closed by the Bankruptcy Court. The fee due is based upon the total disbursements made by the Debtor during the applicable quarter without proration, as follows¹:

Total Disbursements	Fee
\$0.00 to \$14,999.99	\$325.00
\$15,000.00 to \$74,999.99	\$650.00
\$75,000.00 to \$149,999.99	\$975.00
\$150,000.00 to \$224,999.99	\$1,625.00
\$225,000.00 to \$299,999.99	\$1,950.00
\$300,000.00 to \$999,999.99	\$4,875.00
\$1,000,000.00 or more	1% of quarterly disbursements or \$250,000.00, whichever is less

Quarterly fees are due no later than one month following the end of each calendar quarter. If the amount due is not paid by that time, interest as determined by the U.S. Treasury Department will be assessed on all past due amounts. Failure to pay quarterly fees may result in the conversion or dismissal of the case. Payment of the current quarter's fee and past due fees, if applicable, must be made before confirmation of a Plan of Reorganization.

¹The quarterly fee table listed on this page includes amendments made by Section 219 of the Consolidated Appropriations Act, 2020, Pub. L. No. 116-93, 133 Stat. 2317 (Dec. 20, 2019). The revised fee schedule will remain in effect through fiscal year 2021 (ending September 30, 2021), unless the balance in the United States Trustee System Fund at the end of fiscal year 2020 exceeds \$300 million.

The Debtor will receive a statement from the Executive Office for United States Trustees in Washington, DC for each calendar quarter, prior to the payment due date. Failure to receive a statement *does not* excuse the Debtor from payment. The Debtor may pay this amount by electronic funds transfer at <https://www.pay.gov/public/form/start/672415208>, or may pay by check payable to "United States Trustee," and mailed with the tear-off portion of the statement to:

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

Or

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

The address shown above is a bank lockbox. It may not be used for service of process, correspondence or any purpose other than payment of quarterly fees. If any check is returned for insufficient funds, the Debtor must make all future payments by cashiers' check, certified funds, or money order.

All checks received will be converted to an electronic funds transfer that will usually take place within 24 hours of receipt. The original check will be destroyed once it is converted to an electronic funds transfer. By filing for chapter 11 relief, the Debtor authorizes the United States Trustee to process a copy of the Debtor's original check should the initial electronic funds transfer fail for technical reasons. If an electronic funds transfer cannot be completed because of insufficient funds, the United States Trustee will try to make the transfer up to two times.

Disclosure of intent to use Taxpayer Identification Number (“TIN”) to collect and report delinquent Quarterly Fees owed to the United States Trustee

Pursuant to 31 U.S.C. § 3701, the United States Trustee intends to use the Debtor’s TIN as reported by the Debtor or Debtor’s counsel in connection with the chapter 11 bankruptcy case for the purpose of collecting and reporting on any delinquent debt, including chapter 11 quarterly fees, that are owed the United States Trustee.

The United States Trustee will provide the Debtor’s TIN to the U.S. 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.

7. Individual Debtors – Approval of Budget

Income earned by a Debtor after commencement of the bankruptcy case from services performed is property of the bankruptcy estate. 11 U.S.C. § 1115(a)(2). Therefore, an individual Debtor must provide “notice and a hearing” before using any income for personal living expenses. *See* 11 U.S.C. § 363(b)(1). The United States Trustee recommends that all individual Debtors seek Court approval of a budget for living expenses as soon as practicable. The United States Trustee may file a motion to convert your case, dismiss the case, or appoint a trustee if estate property is used without authorization.

Enclosures:

Appendix 1: Authorized Depositories

Appendix 2: Declaration on Closure of bank accounts

List of Depositories Authorized for use in Chapter 11 Cases

<p>Atlantic Capital Bank 3280 Peachtree Road, Suite 1600 Atlanta, GA 30305 Telephone (404) 995-6050</p>	<p>Associated Bank 525 W. Monroe St., Ste 2400 Chicago, IL 60661 Telephone (312) 544-4550 Contact Michele Jackson</p>
<p>Banc of California, NA 18500 Von Karman Avenue, Ste. 1100 Irvine, CA 92612 Telephone (877) 770-2262 Contact J. Francisco Turner Email Francisco.turner@bancofcal.com</p>	<p>Bank of America 901 Main, 21st Floor Dallas, TX 75202 Telephone (800) 342-7722 Contact Daryl Hurst</p>
<p>Bank of Kansas City 1 William Center, 15th Floor Tulsa, OK 74172 Telephone (913) 239-6658 Contact Priscilla Daugherty</p>	<p>Bank of Kentucky, Florence P.O. Box 557 Florence, KY 41042 Telephone (859) 371-2340 Contact Patty McDermott</p>
<p>Bank of New York Mellon 500 Ross St., Room 1380 Pittsburgh, PA 15262 Telephone (412) 234-5000 Contact Thomas M. Horgan</p>	<p>BofI Federal Bank 4350 La Jolla Village Drive, Ste. 100 San Diego, CA 92122 Telephone (877) 247-8002 Contact Lorena McWilliams Email lmcwilliams@bofifederalbank.com</p>
<p>California Republic 18400 Von Karman 11th Fl Irvine, CA 92612 Telephone (949) 527-3400 Contact Chris Pierce</p>	<p>Central Bank & Trust 300 W Vine St Lexington, KY 40507 Telephone (859) 253-6222 Contact David Moore</p>

<p>Chase (Existing Customers Only) 450 West 33rd Street New York, NY 10001 Telephone (800) 634-5273 Contact Jerrold Bennett</p>	<p>Citi Bank All Branches Telephone (718) 248-3121 Contact John Abrahams</p>
<p>Citizens Bank of N. KY 34 N. Ft. Thomas Ave Ft. Thomas, KY 41075 Telephone (859) 442-7791 Contact Derrick Taylor</p>	<p>Community Trust P.O. Box 2947 Pikeville, KY 41501 Telephone (800) 282-7762 Contact Jennifer Blackburn</p>
<p>East West Bank All Branches Telephone (626) 768-6709 Contact Debbie Anderson</p>	<p>Fifth Third Bank All Branches Telephone (513) 534-3126 Contact John Langlitz</p>
<p>First National Bank & Trust 202 S. Main St. London, KY 40741 Telephone (606) 877-2200</p>	<p>First State Financial P.O. Box 400 Middlesboro, KY 40965 Telephone (606) 248-5950 Contact Baylor Fulton</p>
<p>First Tennessee Bank 185 Madison Ave. Memphis, TN 38103 Telephone (901) 523-4280 Contact Gwen Dunn</p>	<p>Heritage Bank, Burlington P.O. Box 357 Burlington, KY 41005 Telephone (859) 586-9200 Contact Patricia Reckers</p>
<p>New York Community Bank 390 N. Broadway, Suite 100 Jericho, NY 11753 Telephone (888) 201-8123 Contact Elliot Selig</p>	<p>Peoples Bank & Trust 101 N. Main Owenton, KY 40359 Telephone (502) 484-3466 Contact Todd Marston</p>

<p>PNC Bank, NA All Branches Telephone (412) 762-2774 Contact Melissa Bitzer</p>	<p>The Private Bank 70 W. Madison Chicago, IL 60602 Telephone (312) 564-1292 Contact Gerry Mihas</p>
<p>Republic Bank & Trust Company All branches Telephone (502) 561-7151 Contact Caroline Robinson</p>	<p>Salyersville National Bank 200 East Maple St. Salyersville, KY 41465 Telephone (606) 349-3131 Contact Janet Cole</p>
<p>Southern Community Bank 1400 N. Jackson Street Tullahoma, TN 37388 Telephone (931) 393-2265 Contact William L. Yoder</p>	<p>Sterling Bank P.O. Box 40333 Houston, TX 77240-0333 Telephone (713) 507-1292 Contact Shelly McDrummond</p>
<p>Suntrust Bank 999 S. Shady Grove Rd., Suite 100 Memphis, TN 38120 Telephone (800) 269-1895 Contact Samuel Ettingoff</p>	<p>Traditional Bank All Branches Telephone (859) 263-2801 Contact Sarah Hall</p>
<p>Union Bank of California 18300 Von Karman Ave., Suite 250 Irvine, CA 92612 Telephone (800) 846-5249 Contact Victor Owens</p>	<p>United Bank 45 Glastonbury Blvd Glastonbury, CT 06074 Telephone (866) 959-2265 Contact Eric Newell Email enewell@bankatunited.com</p>

Wells Fargo All Branches Telephone (503) 721-5300 Contact Lori Pugh or Luana Tafoya	Zions First National Bank 1 South Main St. Salt Lake City, UT Telephone (800) 737-6470 Contact Maria Kranski
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If you wish to use a bank that is not on this list, that bank will need to execute a Depository Agreement with the United States Trustee. This Agreement requires the bank to report monthly to our Office on all debtor in possession accounts and to properly collateralize funds on deposit. Please contact Todd Wright at john.t.wright@usdoj.gov for more information. *Rev. April 27, 2020*

Declaration of Debtor regarding Bank Accounts

Case: _____

I hereby declare under penalty of perjury that all prepetition bank accounts of the above-captioned Debtor are closed, as listed below:

I further declare under penalty of perjury that all monies from the above accounts have been transferred to the following debtor in possession bank accounts:

Dated: _____

Signature

Printed Name of Signatory