



## United States Department of Justice

### *Office of the United States Trustee Region 11*

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780 Regent St.  
Ste. 304  
Madison, WI 53715

Phone (608) 264-5522  
Fax (608) 264-5182

## **EXHIBIT D INFORMATION SHEET**

### **OFFICIAL COMMITTEE OF UNSECURED CREDITORS**

**Purpose of Unsecured Creditors' Committees.** To increase participation in the chapter 11 proceeding, section 1102 of the Bankruptcy Code requires that the United States Trustee appoint a committee of unsecured creditors (the "Committee") as soon as practicable after the order for relief has been entered. The Committee ordinarily consists of the persons, willing to serve, who hold the seven (7) largest unsecured claims of the kinds represented on such committee. The debtor has filed a list indicating that your claim may be among the largest unsecured claims against the debtor, and for that reason, you may be eligible to serve on the Committee. There must be at least three (3) unsecured creditors willing to serve in order to form a Committee.

**Powers and Duties of Unsecured Creditors' Committees.** Members of the Committee are fiduciaries who represent all unsecured creditors as a group without regard to the types of claims which individual unsecured creditors hold against the debtor. Section 1103 of the Bankruptcy Code provides that the Committee may consult with the debtor, investigate the debtor and its business operations and participate in the formulation of a plan of reorganization. The Committee may also perform such other services as are in the interests of the unsecured creditors which it represents. Moreover, Federal Rule of Bankruptcy Procedure 2019, as amended, requires each member of an official committee to file a verified statement disclosing its name, its address, and the nature and amount of each "disclosable economic interest"<sup>1</sup> held in relation to the debtor on the date the committee was formed. Rule 2019 also requires the committee to file a verified supplemental statement updating the earlier information (if information previously disclosed has materially changed) when taking a position before the court or soliciting votes on a plan.

**Employment of Professionals.** Section 1103 of the Bankruptcy Code provides that the Committee may, subject to the bankruptcy court's approval, employ one or more attorneys, accountants, or other professionals to represent or perform services for the Committee. The

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<sup>1</sup>"Disclosable economic interest" means any claim, interest, pledge, lien, option, participation, derivative instrument, or any other right or derivative right granting the holder an economic interest that is affected by the value, acquisition, or disposition of a claim or interest.

decision to employ particular professionals should occur at a scheduled meeting of the Committee where a majority of the Committee is present. All professionals retained by the Committee may be compensated from assets of the debtor's estate pursuant to section 330 of the Bankruptcy Code. Applications for the payment of professional fees may be monitored by the Office of the United States Trustee and are subject to the Court's approval. However, the Committee should carefully review all applications and not rely on the Court or the United States Trustee to discover and object to unreasonable or unnecessary professional fees or costs.

**Other Matters.** The Committee should elect a chairperson and may adopt bylaws. As a party in interest, the Committee may be heard on any issue in the bankruptcy proceeding. Federal Bankruptcy Rule 2002(i) requires that the Committee (or its authorized agent) receive all notices concerning motions and hearings in the bankruptcy proceeding. In the event you are appointed to an official committee of creditors, the United States Trustee may require periodic certifications of your claims while the bankruptcy case is pending. Creditors wishing to serve as fiduciaries on any official committee are advised that they may not purchase, sell or otherwise trade in or transfer claims against the Debtor while they are committee members absent an order of the Court. By submitting the enclosed Questionnaire and accepting membership on an official committee of creditors, you agree to this prohibition. The United States Trustee reserves the right to take appropriate action, including removing a creditor from any committee, if the information provided in the Questionnaire is inaccurate, if the foregoing prohibition is violated, or for any other reason the United States Trustee believes is proper in the exercise of her discretion. You are hereby notified that the United States Trustee may share this information with the Securities and Exchange Commission if deemed appropriate.

**Privacy Act Statement.** 11 U.S.C. § 1102 authorizes the collection of this information. The information will be used by the United States Trustee to determine your qualifications for appointment to the Committee. Disclosure of this information may be to a bankruptcy trustee or examiner when the information is needed to perform the trustee's or examiner's duties, or to the appropriate federal, state, local, regulatory, tribal, or foreign law enforcement agency when the information indicates a violation or potential violation of law. Other disclosures may be made for routine purposes. For a discussion of the types of routine disclosures that may be made, you may consult the Executive Office for United States Trustee's systems of records notice, UST-001, "Bankruptcy Case Files and Associated Records." See 71 Fed. Reg. 59,818 et seq. (Oct. 11, 2006). A copy of the notice may be obtained at the following link: [http://www.justice.gov/ust/eo/rules\\_regulations/index.htm](http://www.justice.gov/ust/eo/rules_regulations/index.htm). Your disclosure of information is voluntary; however, failure to provide the requested information may result in the rejection of your application to be appointed to the Committee.

Should you have any additional questions concerning the Committee or your membership on the Committee, please contact the Office of the United States Trustee.