

U.S. Department of Justice
Office of the United States Trustee
Northern District of Illinois

*219 S. Dearborn Street
Room 873
Chicago, IL 60604*

*(312)886-5785
Fax (312) 886-5794*

January 21, 2020

[Debtor's Counsel]

RE: [Debtor]; Case No.

Dear [Debtor's Counsel]:

The United States Trustee has promulgated operating instructions and reporting requirements for use in the above case. 11 U.S.C. §§ 1107, 1106 and 704(a)(8). All debtors in possession in cases under Chapter 11 of the Bankruptcy Code must comply with these requirements. These instructions may be located and downloaded at: <http://www.usdoj.gov/ust/r11/chicago/chapter11.htm>.

Both you and the Debtor's representative, who should be a member of senior management, are required to attend the following two meetings:

- 1) The Initial Debtor Interview. 28 U.S.C. § 586(a)(7) and 11 U.S.C. § 1116(2). Please come to Room 873 on [day of week], **Monday, XX, 2002, at XX:00 a.m.** [Tom/Andrew] Analyst, will be conducting the interview. If necessary, please contact him at (312) [number].
- 2) The General Meeting of Creditors. 11 U.S.C. §§341 and 343. Please come to Room 802 on day of week], **Monday, XX, 2002, at XX:00 a.m**

Please refer to the enclosure entitled EXHIBIT for further information and instructions. A copy of this letter is being mailed to the Debtor. Thank you for your cooperation.

Sincerely,

PATRICK S. LAYNG
United States Trustee

BY: _____

[name] , Trial Attorney
(312) [number]

cc: Debtor

Encl.

EXHIBIT

Initial Debtor Interview

This is a “small business case,” as defined in 11 U.S.C. §101(51C). In such cases the United States Trustee is to conduct an initial debtor interview as soon as practicable. The purpose of the interview is to (1) investigate the debtor’s viability; (2) inquire about the debtor’s business plan; (3) explain the debtor’s obligations to file required reports; (4) develop an agreed scheduling order; (5) inform the debtor of other obligations; and (6) discuss under what circumstances our office may have direct contact with the debtor. 28 U.S.C. §586(a)(7).

Compliance with 11 U.S.C. § 1116(1)

Every Debtor in a small business case is *required* to file with its voluntary petition (or no later than 7 days after entry of an order for relief in an involuntary case), “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 no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed.” 11 U.S.C. § 1116(1)(A)-(B). **If the Debtor has not yet complied with 11 U.S.C. § 1116(1)(A)-(B), this letter shall serve as a request that the Debtor comply no later than one business day prior to the date set for the Initial Debtor Interview. Failure to comply may result in the U.S. Trustee moving to dismiss or convert your case pursuant to 11 U.S.C. § 1112(b)(4)(F) and (H).**

General Meeting of Creditors

The Debtor’s representative(s) should include whoever executed the Petition, Schedules, and the Statement of Financial Affairs.

Receipt and Verification Statement

Please provide a signed Receipt and Verification Statement either prior to or on the day of the Initial Debtor Interview. Section 1 of the United States Trustee’s Chapter 11 Operating Instructions and Reporting Requirements (“the OIRR”).

Debtor in Possession Account

Please submit a voided check from the Debtor’s bank account imprinted with “Debtor in Possession.” Section 2 of the OIRR.

Proof of Insurance

Please provide evidence of all insurance currently in effect, including that covering all property of the Estate, ***within five days***. Certificates of insurance for all such insurance in effect should show the United States Trustee as certificate holder for notice purposes. Section 4 of the OIRR.

Monthly Operating Reports

Monthly Operating Reports are required to be ***filed by the 21st of the month following the close of the applicable reporting period until a plan is confirmed***. Post-confirmation reports on the status of plan payments are required to be ***filed on a quarterly basis until the case is closed***. Sections 7 and 11 of the OIRR.

Form 26

If the Debtor holds a controlling or substantial interest in an entity that is neither a debtor nor a publicly traded company, Fed. R. Bankr. P. 2015.3 requires the filing of financial information in periodic reports. The first such report must be ***filed no later than seven days before the General Meeting of Creditors***. Reports must be ***filed every six months until either the effective date of a confirmed plan or the case is either dismissed or converted***. Section 8 of the OIRR.

Quarterly Fees

United States Trustee quarterly fees continue to accrue after confirmation until the case is closed. Accordingly, the Debtor must submit and ***file the United States Trustee Quarterly Fee Statement until the case is closed.*** In addition, please note that the Debt Collection Improvement Act empowers collection of unpaid debts owed the United States Government, including Chapter 11 Quarterly Fees. Unpaid Quarterly Fees will be collected as allowed by law. Section 10 of the OIRR.

Online 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. Chapter 11 quarterly fees may be paid online at <https://www.pay.gov/public/form/start/672415208> or by mailing the tear off portion of the statement and a check, made payable to “United States Trustee”.

Declaration Regarding Electronic Filing

The Declaration Regarding Electronic Filing only covers schedules and statements that are ***filed contemporaneously with the petition.*** Any other schedule or statement that is required to be verified by the debtor’s representative [must] have the debtor’s representative’s scanned original signature filed as an attachment.

Direction of Attorney for the Debtor Concerning Contacts with Client Regarding Administrative Matters (aka the McDade Waiver)

Please provide a signed McDade Waiver indicating whether or not the United States Trustee is authorized to contact the Debtor directly. Section 12 of the OIRR.

Fee Applications

The Executive Office for United States Trustees has promulgated guidelines for fee applications under 11 U.S. C. § 330. 28 U.S.C. §586(a)(3)(A). In the case of a debtor in possession the guidelines require the applicant to state whether the debtor has been given an opportunity to review the application and has approved the requested amount. In short, the Debtor must review its attorney’s fee application before it is filed with the court.

Electronic Billing Data/LEDES File

A LEDES file (Legal Electronic Exchange Standard) is a text file version of a firm’s time charges, with the data organized in a specific order and format. Most billing software programs automatically generate LEDES files which can be shared with third-parties. To facilitate review of fee applications, the U.S. Trustee requests that all professionals in the case provide LEDES files to the U.S. Trustee Analyst at the time any interim or final fee applications are filed. Questions regarding LEDES files may be directed to your firm’s billing department or to the U.S. Trustee’s Office.

Right to Visit the Debtor’s Business Premises

The United States Trustee reserves the right, after prior written notice, to visit the business premises of the Debtor to both ascertain the state of the Debtor’s books and records and verify that the Debtor has filed its tax returns. 28 U.S.C. §586(a)(7)(B).

Right to Form a Committee of Unsecured Creditors

If there is sufficient creditor interest, the United States Trustee reserves the right to form a committee of unsecured creditors. 11 U.S.C. §1102.

Domestic Support Obligations

Pursuant to 11 U.S.C. § 704(a)(10), an individual debtor required to pay a domestic support obligation must issue the notices described in 11 U.S.C. § 704(c). Debtors should refer to 11 U.S.C. § 101(14A) for the definition of “domestic support obligation,” and to 11 U.S.C. § 704(c) for a description of the required contents of each letter. A list of the state domestic support agencies can be found at <https://www.justice.gov/ust/state-domestic-support-enforcement-agencies>. During your case, the U.S. Trustee may request copies of the notices and/or proof that the notices were issued.