



U.S. Department of Justice

*Office of the United States Trustee  
Districts of South Dakota, North Dakota,  
Iowa and Minnesota*

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## OPERATING GUIDELINES AND REPORTING REQUIREMENTS OF THE UNITED STATES TRUSTEE

### FOR SMALL BUSINESS CHAPTER 11 DEBTORS IN POSSESSION

#### I. INTRODUCTION

##### A. United States Trustee's Authority to Supervise Debtor in Possession

Pursuant to 28 U.S.C. § 586 and 11 U.S.C. § 704(8), the United States Trustee has established these Operating Guidelines and Reporting Requirements (the "requirements") for chapter 11 debtors in possession (the "debtor" or "debtors"). Under these requirements, debtors must establish and observe certain operating procedures and file certain financial reports with the Bankruptcy Court, the United States Trustee, and any committee appointed in the case by the United States Trustee. Counsel should carefully review these requirements with debtor upon receipt.

##### B. Compliance, Amendments or Modifications

Timely compliance with each of the requirements contained herein is mandatory. Failure to comply with any requirement may result in the filing of a motion to dismiss or convert the case or a motion to appoint a chapter 11 trustee or examiner.

Any request to amend or modify these requirements for a particular chapter 11 case must be made in writing. To be effective, approval by the United States Trustee must be in writing.

##### C. Duties of Debtor in Possession

With the filing of a chapter 11 petition, a debtor becomes a new entity called a debtor in possession. The debtor in possession has fiduciary and statutory responsibilities to preserve and maintain the estate and to operate its business as efficiently as possible in order to maximize ultimate payments on pre-petition debts while keeping post-petition debt current. (See 11 U.S.C. §§ 1106 and 1107.)

## D. Duties of Trustee or Debtor in Possession in Small Business Cases

A "small business case" is a case in which the debtor is a "small business debtor." See 11 U.S.C. § 101 (51C) and (51D). Section 1116 of Title 11 sets out a number of additional requirements in small business cases:

- 1) The debtor must append to the voluntary petition 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 the financial statements have not been prepared or the tax return has not been filed.
- 2) The debtor must attend, through its senior management personnel and counsel, meetings scheduled by the court or the United States Trustee, including initial debtor interviews, scheduling conferences, and the §341 meeting of creditors, unless the court waives the requirement upon a finding of extraordinary and compelling circumstances.
- 3) The debtor must timely file all schedules and statements of financial affairs unless the court grants an extension of time, which shall not extend beyond 30 days after the order for relief absent extraordinary and compelling circumstances.
- 4) The debtor must file all post-petition financial and other reports required by the Federal Rules of Bankruptcy Procedures or Local Bankruptcy Rules.
- 5) The debtor must maintain insurance customary and appropriate to the industry, subject to 11 U.S.C. §363(c)(2) concerning use of cash collateral.
- 6) The debtor must timely file tax returns and other required governmental filings and timely pay all taxes entitled to administrative expense priority, except those being appropriately and diligently contested, and subject to 11 U.S.C. §363(c)(2) concerning use of cash collateral.
- 7) The debtor must allow the United States Trustee or a designated representative to inspect the debtor's business premises, books, and records at reasonable times, and after reasonable prior written notice, unless the debtor waives notice.

## II. OPERATING GUIDELINES

### A. Bank Accounts/Money of the Estate

1. The debtor must immediately close prepetition bank accounts and open new "debtor in possession" bank accounts. All receipts must flow through the debtor in possession account(s). All disbursements should be by check.
2. The account name on the bank's records must include the words "Debtor in possession." Checks for the new accounts must be pre-numbered by the printer, and must be imprinted with the words "Debtor in Possession" and the bankruptcy case number. Handwritten, typewritten, or hand-stamped versions are not acceptable. (See Exhibit 1.)

3. All money of the estate must be deposited or invested in accordance with 11 U.S.C. § 345. Examples of deposits and investments that comply with § 345(b) include, but may not be limited to, the following:

- a. Deposits that are fully insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.
- b. Investments in United States Treasury securities.
- c. Deposits and investments with an entity that has posted a surety bond in favor of the United States, or pledged securities of the kind specified in 31 U.S.C. § 9303, to secure the funds invested or on deposit.

#### B. Insurance

The debtor must maintain without interruption all insurance customarily carried in the debtor's line of business or required by law or regulation. In most cases, the debtor will be required to carry liability, workers' compensation, and property insurance, i.e., fire and extended coverage. The property insurance coverage must be for no less than the fair market value or replacement cost of the insured assets. The debtor must immediately notify the United States Trustee of any lapse, cancellation, modification, or renewal of insurance coverage. Failure by the debtor to maintain appropriate insurance that poses a risk to the estate or to the public is cause for conversion or dismissal of the case. 11 U.S.C. § 1112(b)(4)(C).

#### C. Taxes

The debtor must remain current on all post petition federal, state, and local taxes and file all tax returns on a timely basis. If the debtor has payroll tax obligations, the debtor may be required to open a special tax account and report payroll tax deposits to the appropriate taxing authority. Failure by the debtor to timely pay post-petition taxes or to file post-petition tax returns is cause for conversion or dismissal of the case. 11 U.S.C. § 1112(b)(4)(I).

#### D. Quarterly Fees

Pursuant to 28 U.S.C. § 1930(a)(6), debtors are required to pay certain fees for each calendar quarter (or portion thereof) until the case is dismissed or converted or in a confirmed case, when the case is closed. (See Exhibit 2.) Failure to pay quarterly fees when due is cause for conversion or dismissal of the case. 11 U.S.C. § 1112(b)(4)(K).

#### E. Legal Documents to Be Transmitted to the United States Trustee

Pursuant to Federal Rules of Bankruptcy Procedure 2002 and 9034, it is the responsibility of the debtor and the debtor's counsel to keep the United States Trustee apprised of all matters pertaining to the case at all times. This includes ensuring that the United States Trustee is served with copies of all papers (motions, applications, etc.) filed in the case.

#### F. Initial Debtor Interview

The United States Trustee will schedule an Initial Debtor Interview ("IDI") with the debtor and counsel shortly after the case is filed. (See 11 U.S.C. § 1116(2) for specific requirements in small business cases.) The IDI will generally be conducted either at the debtor's place of business

or at the office of the United States Trustee. At the IDI, a bankruptcy analyst from the United States Trustee's office will seek to become familiar with the debtor's case as well as with the debtor's business plan and operations, assets, liabilities, and accounting methods. Accordingly, the debtor's representative(s) at the IDI should have personal knowledge and information regarding the debtor's pre-petition and post-petition operations, accounting records, tax returns and financial statements. The analyst will also discuss the role of the United States Trustee, explain the Operating Guidelines and Reporting Requirements. Prior to the IDI, the debtor must ensure that the United States Trustee has a copy of the debtor's Statement of Financial Affairs and Schedules and the debtor's Initial Financial Report. (See Section III, Reporting Requirements.) Failure by the debtor to attend meetings reasonably requested by the United States Trustee is cause for conversion or dismissal of the bankruptcy case. 11 U.S.C. § 1112(b)(4)(H).

## G. Additional Legal Requirements

The debtor's attention is directed to the following selected provisions of the Bankruptcy Code:

### 1. Meeting of Creditors

A meeting of creditors will generally be held 21 to 40 days after the petition is filed. The debtor or one of the debtor's officers, directors, or general partners must attend and respond, under oath, to questions from the United States Trustee and creditors regarding the debtor's business and financial affairs, the cause of the bankruptcy, and the status of the debtor's reorganization efforts. (See 11 U.S.C. §§ 341 and 343.) Failure by the debtor to attend the meeting of creditors without good cause shown is cause for conversion or dismissal of the case. 11 U.S.C. § 1112(b)(4)(G).

### 2. Unsecured Creditors' Committee

- a. As soon as possible after the entry of an order for relief, the United States Trustee will contact the 20 largest unsecured creditors for the purpose of forming an unsecured creditors' committee. (See 11 U.S.C. § 1102.)
- b. If a committee is appointed by the United States Trustee, the debtor must provide the committee with copies of all financial reports required by the United States Trustee.
- c. If a committee is appointed in a small business case, the debtor is no longer considered a small business debtor unless the court determines that the committee of unsecured creditors is not sufficiently active and representative to provide effective oversight of the debtor.

### 3. Cash Collateral

The debtor may not use "cash collateral" unless the secured creditor agrees to such use, or such use is authorized by the court after notice and a hearing. (See 11 U.S.C. § 363(c)(2).) Unauthorized use of cash collateral by the debtor that is substantially harmful to a creditor is cause for conversion or dismissal of the case. 11 U.S.C. § 1112(b)(4)(D).

#### 4. Obtaining Credit

The debtor may not obtain credit other than in the ordinary course of business without court authorization after notice and a hearing. (See 11 U.S.C. § 364.)

#### 5. Use, Sale or Lease of Property of the Estate

The debtor may not use, sell, or lease property of the estate when such use, sale, or lease is not in the ordinary course of business, except after notice and a hearing. (See 11 U.S.C. § 363(b)).

#### 6. Employment and Compensation of Professionals

The debtor may not employ or compensate professional persons, including the debtor's attorney, without court approval. (See 11 U.S.C. §§ 326-331, 503 and 1107.)

#### 7. Prohibition on Payment of Pre-Petition Debts

The debtor must not pay any prepetition debts without court approval. (See 11 U.S.C. § 549).

### III. REPORTING REQUIREMENTS

In addition to the reports described below, the United States Trustee may require the submission of any additional information that may be necessary to properly monitor the administration of the estate. The Initial Financial Report is to be submitted to the United States Trustee only; it is not to be filed with the Clerk of Court. The Monthly Operating Reports bearing an original signature is to be submitted to the United States Trustee. A copy of the report must be filed with the Clerk of Court. 11 U.S.C. § 704(8) Copies of the Monthly Operating Reports must also be provided to any committee appointed by the United States Trustee. The debtor's unexcused failure to satisfy timely any filing or reporting requirement is cause for conversion or dismissal of the case. 11 U.S.C. § 1112(b)(4)(F).

#### A. Initial Financial Report

1. The Initial Financial Report is due fifteen days after the petition is filed. It is submitted only to the United States Trustee.
2. The Initial Financial Report consists of the following:
  - a. Cover Sheet (Form 1).
  - b. Latest fiscal year financial statements and tax returns. The debtor must provide a complete set of financial statements for its most recent fiscal year. Audited statements should be submitted if available. If audited statements are not available, the debtor should submit its last two federal income tax returns, along with unaudited statements. Individual debtors should redact any Social Security Numbers for themselves and their dependents that are included on the tax returns.
  - c. Balance sheet as of the end of the month immediately prior to filing.

(Debtors in small business cases are required to append their most recent balance sheet to the petition. 11 U.S.C. § 1116(1)(A). If the balance sheet was filed with the petition, the debtor may check the "previously submitted" box on Form 1.)

- d. Profit and loss statement (statement of operations) for the month immediately prior to filing and the year to date, through the end of that month.

(Debtors in small business cases are required to append their most recent statement of operations to the petition. 11 U.S.C. § 1116(1)(A). If the statement of operations was filed with the petition, the debtor may check the "previously submitted" box on Form 1.)

- e. Proof of insurance coverage. The debtor must provide a certificate(s) of insurance, signed by an authorized representative of the carrier or agent, with the United States Trustee named as a party to be notified in the event of cancellation. All documents provided as evidence of insurance must clearly indicate the policy expiration date, the types and amounts of coverage, the location(s) covered, the deductible, the named insured, the insurer, and the name, address, and telephone number of the local agent.
- f. Projections. The debtor must submit a projected statement of monthly revenue, expenses, and cash flow that covers the first 180 days of post-petition operations. Significant assumptions used in the projections must be described. The statement must provide sufficient detail to support a review of reasonableness when compared with other financial statements provided with the report.
- g. Information concerning debtor in possession account(s). The debtor must submit a sample voided check for each debtor in possession account. If a sample check is not yet available, the debtor must, in the interim, provide the account number and name and address of financial institution where the account is located. The debtor must also submit a completed, original signature Bank Account Reporting Form (attached) and copies of signature cards for all bank accounts open as of the filing date, and opened since the filing date.

## B. Monthly Operating Reports in Small Business Cases.

As noted above, a "small business case" is a case in which the debtor is a "small business debtor." See 11 U.S.C. § 101 (51C) and (51D). With respect to the financial reports required in a small business case pursuant to 11 U.S.C. 308(b) and Fed.R.Bankr.P. 2015(a)(6), the following shall apply.

1. A Small Business Monthly Operating Report must be submitted for each month. If the order for relief is within the first 15 days of a calendar month, the report shall be filed for the portion of that month. If the order for relief is after the 15<sup>th</sup> day of that month, the period for the remainder of the month shall be included in the report for the next calendar month. The obligation to file monthly reports terminates for the months subsequent to the effective date of the plan, or conversion or dismissal of the case. The Small Business Monthly Operating Report submitted for the month in which an order confirming the plan is entered

should cover the entire month.

2. The Small Business Monthly Operating Report must be prepared on Official Form 25C (attached). System-generated reports may be attached as exhibits if prior approval from the United States Trustee has been obtained.

3. The Small Business Monthly Operating Report is due twenty-one (21) days after the end of the month covered by the report. The Monthly Operating Report bearing an original signature is submitted to the United States Trustee. A copy of the report must be filed with the Clerk of the Court. 11 U.S.C. § 704(8) Copies must also be provided to any committee appointed in the case.

4. Individual debtors should discuss appropriate monthly reporting requirements with the bankruptcy analyst assigned to the case. Reports must include detailed reporting of all financial activity of the bankruptcy estate, including transactions generated by post-petition earnings from personal services, operation of a business, and sales of property of the estate. Individuals who derive their income from closely held corporations, partnerships or limited liability companies may be required to provide periodic financial statements for those closely-held entities.

5. The Monthly Operating Report must be legible. If possible, the report should be typed. No entries should be left blank; if an item does not apply, enter "0" or "N/A".

6. Regardless of who prepared the Small Business Monthly Operating Report, the report must be signed, under penalty of perjury, by the debtor(s), a corporate officer, or the general partner, as appropriate.

#### C. Reports Regarding Entities In Which Debtor Holds An Interest

Pursuant to Fed.R.Bankr.P. 2015.3, the debtor must file with the court periodic financial reports of the value, operations, and profitability of each other entity that debtor holds a substantial or controlling interest (except that the debtor does not need to file reports regarding any entity that is either a publicly traded corporation or is in bankruptcy). It is presumed that the debtor holds a substantial or controlling interest if the debtor controls or owns at least a 20% interest in the entity.

1. The periodic financial report must be prepared on the attached form (Official Form 26);
2. The first report shall be filed no later than seven (7) days before the first date set for the §341 meeting of creditors. Subsequent reports shall be filed at least every six (6) months thereafter. The obligation to file the periodic reports terminates upon the effective date of the plan, or conversion or dismissal of the case.
3. In addition to filing the periodic financial report with the Court, copies of the report shall be served on the United States Trustee, any committee appointed in the case, and any other party in interest that has filed a request therefor.

#### D. Reports on Cases Converted to Chapter 7

Pursuant to Fed.R.Bankr.P. 1019(5), the debtor must: 1) within fourteen days after entry of an order converting the case to a case under chapter 7, file a schedule of unpaid debts incurred

after commencement of the chapter 11 case, such list to include the name and address of each post petition creditor; and 2) within 30 days after entry of the order of conversion, file with the court and transmit to the United States Trustee a final report and account.

#### E. Post Confirmation Reporting Requirements

Pursuant to 11 U.S.C. Sec. 1106(a)(7), the debtor must file a Post Confirmation Quarterly Report (Form 3) for every post-confirmation calendar quarter, including the quarter in which the plan was confirmed and the quarter in which the debtor files its application for final decree. The first report should be for the entire calendar quarter, not just the post-confirmation period. The final report should include all activity through the date of the application for final decree. The Post Confirmation Quarterly Report is due twenty-one days after the end of each quarter, except for the final Post-Confirmation Quarterly Report, which should be filed at the same time as the Chapter 11 Final Report and Motion for Final Decree.



DEBTOR IN POSSESSION ACCOUNTS

This is an example of a correctly styled check for a debtor in possession bank account. Please use it as a guide in setting up your account and ordering checks.

The words "Debtor in Possession" and the bankruptcy case number must be imprinted on all checks issued by a debtor. Handwritten, typewritten and hand-stamped versions are not acceptable. The use of the abbreviation "DIP" for "debtor in possession" is not acceptable. In addition, the checks must be pre-numbered by the printer.

\*\*\*\*\*

John Doe Holding, Inc., dba USA GOODS 1001

Debtor in Possession

Case No. 05C-20000

1400 Every Street

11-7/1000

Anytown, CO 80000

(303) 111-1111

PAY

TO THE

ORDER OF \_\_\_\_\_, \$( )  
DOLLARS

Solvent National Bank

1 Finance Street

Metropolis, CO 80001

FOR \_\_\_\_\_

|:3 25079486|:57670 008641811 - 0801

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## CHAPTER 11 QUARTERLY FEES

The chapter 11 debtor in possession is responsible for paying this fee. The amount of the fee depends on disbursements made during the calendar quarter.

Fee payments are due no later than the last day of the month following the quarterly reporting period. In order for a plan to be confirmed in the case, the plan must provide that payment of quarterly fees will continue until a final decree is entered and the case is closed.

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### FEE SCHEDULE

<u>TOTAL QUARTERLY DISBURSEMENTS</u>	<u>QUARTERLY FEE</u>
\$ 0 to \$ 14,999.99	\$ 325
15,000 to 74,999.99	650
75,000 to 149,999.99	975
150,000 to 224,999.99	1,625
225,000 to 299,999.99	1,950
300,000 to 999,999.99	4,875
1,000,000 to 1,999,999.99	6,500
2,000,000 to 2,999,999.99	9,750
3,000,000 to 4,999,999.99	10,400
5,000,000 to 14,999,999.99	13,000
15,000,000 to 29,999,999.99	20,000
30,000,000 or more	30,000

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Failure to pay the quarterly fee is cause for conversion or dismissal of the chapter 11 case. [11 U.S.C. § 1112(b)(4)(K)].

Checks are to be made payable to The United States Trustee and mailed to the address set forth below. Fees are not to be mailed or delivered to the local Office of the United States Trustee. If any check is returned "unpaid" for any reason, all subsequent payments must be made by way of cashier's check, certified check, or money order.

To ensure proper credit, it is imperative that the debtor in possession write the case number on each check and remit the payment with the coupon provided with the quarterly billing. A separate check and coupon is required for each quarterly payment even if more than one quarterly fee is paid at the same time.

Send all payments to: U.S. Trustee Payment Center  
Post Office Box 530202  
Atlanta, GA 30353-0202

BANK ACCOUNT REPORTING FORM

Case Name \_\_\_\_\_ Case No. \_\_\_\_\_

(This is a master form. Signed copies of this form should be used for providing information if the debtor has more than four accounts. Copies should also be used for reporting on accounts which the debtor opens or closes after the submission of the initial form.)

<u>DEPOSITORY INSTITUTION</u>	<u>ACCOUNT DESCRIPTION</u> <small>(ie. Payroll or tax acct. etc.)</small>	<u>ACCOUNT NO.</u>	<u>DATE</u> <u>ACCOUNT</u> <u>OPENED</u>
Name: _____ Address: _____ _____	_____	_____	_____
P hone: _____ Contact Person: _____	_____	_____	_____
Name: _____ Address: _____ _____	_____	_____	_____
P hone: _____ Contact Person: _____	_____	_____	_____
Name: _____ Address: _____ _____	_____	_____	_____
P hone: _____ Contact Person: _____	_____	_____	_____
Name: _____ Address: _____ _____	_____	_____	_____
P hone: _____ Contact Person: _____	_____	_____	_____

I/we certify that the above is a complete report of all bank accounts/investments owned by the debtor as of the date of the filing of debtor's petition or, where applicable, opened or closed by debtor after the submission of the initial form.

I/we certify that all above-listed depository institutions have been notified of the date and place of the filing of this chapter 11 petition.

In addition, I/we hereby authorize any accredited representative of the United States Trustees Office to obtain any information from the above listed financial institutions. This information may include, but is not limited to, bank statements, signature cards, canceled checks, correspondence and other documentation for all accounts listed hereon.

THE UNDERSIGNED DECLARES UNDER PENALTY OF PERJURY THAT THE ABOVE INFORMATION IS TRUE, COMPLETE AND ACCURATE.

DATE: \_\_\_\_\_

SIGNATURE(S): \_\_\_\_\_

(A copy of this form must be signed by all persons who are authorized signatories on the accounts listed above.)

# UNITED STATES BANKRUPTCY COURT

District of \_\_\_\_\_

In re \_\_\_\_\_,  
*Debtor*

Case No. \_\_\_\_\_

Small Business Case under Chapter 11

## SMALL BUSINESS MONTHLY OPERATING REPORT

Month: \_\_\_\_\_

Date filed: \_\_\_\_\_

Line of Business: \_\_\_\_\_

NAISC Code: \_\_\_\_\_

IN ACCORDANCE WITH TITLE 28, SECTION 1746, OF THE UNITED STATES CODE, I DECLARE UNDER PENALTY OF PERJURY THAT I HAVE EXAMINED THE FOLLOWING SMALL BUSINESS MONTHLY OPERATING REPORT AND THE ACCOMPANYING ATTACHMENTS AND, TO THE BEST OF MY KNOWLEDGE, THESE DOCUMENTS ARE TRUE, CORRECT AND COMPLETE.

RESPONSIBLE PARTY:

\_\_\_\_\_  
Original Signature of Responsible Party

\_\_\_\_\_  
Printed Name of Responsible Party

<b>Questionnaire:</b> <i>(All questions to be answered on behalf of the debtor.)</i>	<b>Yes</b>	<b>No</b>
1. IS THE BUSINESS STILL OPERATING?	>	>
2. HAVE YOU PAID ALL YOUR BILLS ON TIME THIS MONTH?	>	>
3. DID YOU PAY YOUR EMPLOYEES ON TIME?	>	>
4. HAVE YOU DEPOSITED ALL THE RECEIPTS FOR YOUR BUSINESS INTO THE DIP ACCOUNT THIS MONTH?	>	>
5. HAVE YOU FILED ALL OF YOUR TAX RETURNS AND PAID ALL OF YOUR TAXES THIS MONTH?	>	>
6. HAVE YOU TIMELY FILED ALL OTHER REQUIRED GOVERNMENT FILINGS?	>	>
7. HAVE YOU PAID ALL OF YOUR INSURANCE PREMIUMS THIS MONTH?	>	>
8. DO YOU PLAN TO CONTINUE TO OPERATE THE BUSINESS NEXT MONTH?	>	>
9. ARE YOU CURRENT ON YOUR QUARTERLY FEE PAYMENT TO THE U.S. TRUSTEE?	>	>
10. HAVE YOU PAID ANYTHING TO YOUR ATTORNEY OR OTHER PROFESSIONALS THIS MONTH?	>	>
11. DID YOU HAVE ANY UNUSUAL OR SIGNIFICANT UNANTICIPATED EXPENSES THIS MONTH?	>	>
12. HAS THE BUSINESS SOLD ANY GOODS OR PROVIDED SERVICES OR TRANSFERRED ANY ASSETS TO ANY BUSINESS RELATED TO THE DIP IN ANY WAY?	>	>
13. DO YOU HAVE ANY BANK ACCOUNTS OPEN OTHER THAN THE DIP ACCOUNT?	>	>

B 25 (Official Form 25C) (12/08)

- 14. HAVE YOU SOLD ANY ASSETS OTHER THAN INVENTORY THIS MONTH? > >
- 15. DID ANY INSURANCE COMPANY CANCEL YOUR POLICY THIS MONTH? > >
- 16. HAVE YOU BORROWED MONEY FROM ANYONE THIS MONTH? > >
- 17. HAS ANYONE MADE AN INVESTMENT IN YOUR BUSINESS THIS MONTH? > >
- 18. HAVE YOU PAID ANY BILLS YOU OWED BEFORE YOU FILED BANKRUPTCY? > >

**TAXES**

DO YOU HAVE ANY PAST DUE TAX RETURNS OR PAST DUE POST-PETITION TAX OBLIGATIONS? > >

IF YES, PLEASE PROVIDE A WRITTEN EXPLANATION INCLUDING WHEN SUCH RETURNS WILL BE FILED, OR WHEN SUCH PAYMENTS WILL BE MADE AND THE SOURCE OF THE FUNDS FOR THE PAYMENT.

*(Exhibit A)*

**INCOME**

PLEASE SEPARATELY LIST ALL OF THE INCOME YOU RECEIVED FOR THE MONTH. THE LIST SHOULD INCLUDE ALL INCOME FROM CASH AND CREDIT TRANSACTIONS. *(THE U.S. TRUSTEE MAY WAIVE THIS REQUIREMENT.)*

**TOTAL INCOME** \$ \_\_\_\_\_

**SUMMARY OF CASH ON HAND**

Cash on Hand at Start of Month \$ \_\_\_\_\_

Cash on Hand at End of Month \$ \_\_\_\_\_

PLEASE PROVIDE THE TOTAL AMOUNT OF CASH CURRENTLY AVAILABLE TO YOU **TOTAL** \$ \_\_\_\_\_

*(Exhibit B)*

**EXPENSES**

PLEASE SEPARATELY LIST ALL EXPENSES PAID BY CASH OR BY CHECK FROM YOUR BANK ACCOUNTS THIS MONTH. INCLUDE THE DATE PAID, WHO WAS PAID THE MONEY, THE PURPOSE AND THE AMOUNT. *(THE U.S. TRUSTEE MAY WAIVE THIS REQUIREMENT.)*

**TOTAL EXPENSES** \$ \_\_\_\_\_

*(Exhibit C)*

**CASH PROFIT**

INCOME FOR THE MONTH *(TOTAL FROM EXHIBIT B)* \$ \_\_\_\_\_

EXPENSES FOR THE MONTH *(TOTAL FROM EXHIBIT C)* \$ \_\_\_\_\_

*(Subtract Line C from Line B)* **CASH PROFIT FOR THE MONTH** \$ \_\_\_\_\_

**UNPAID BILLS**

PLEASE ATTACH A LIST OF ALL DEBTS (INCLUDING TAXES) WHICH YOU HAVE INCURRED SINCE THE DATE YOU FILED BANKRUPTCY BUT HAVE NOT PAID. THE LIST MUST INCLUDE THE DATE THE DEBT WAS INCURRED, WHO IS OWED THE MONEY, THE PURPOSE OF THE DEBT AND WHEN THE DEBT IS DUE. *(THE U.S. TRUSTEE MAY WAIVE THIS REQUIREMENT.)*

**TOTAL PAYABLES** \$ \_\_\_\_\_

*(Exhibit D)*

**MONEY OWED TO YOU**

PLEASE ATTACH A LIST OF ALL AMOUNTS OWED TO YOU BY YOUR CUSTOMERS FOR WORK YOU HAVE DONE OR THE MERCHANDISE YOU HAVE SOLD. YOU SHOULD INCLUDE WHO OWES YOU MONEY, HOW MUCH IS OWED AND WHEN IS PAYMENT DUE. *(THE U.S. TRUSTEE MAY WAIVE THIS REQUIREMENT.)*

**TOTAL RECEIVABLES** \$ \_\_\_\_\_

*(Exhibit E)*

**BANKING INFORMATION**

PLEASE ATTACH A COPY OF YOUR LATEST BANK STATEMENT FOR EVERY ACCOUNT YOU HAVE AS OF THE DATE OF THIS FINANCIAL REPORT OR HAD DURING THE PERIOD COVERED BY THIS REPORT.

*(Exhibit F)*

**EMPLOYEES**

NUMBER OF EMPLOYEES WHEN THE CASE WAS FILED? \_\_\_\_\_

NUMBER OF EMPLOYEES AS OF THE DATE OF THIS MONTHLY REPORT? \_\_\_\_\_

**PROFESSIONAL FEES**

*BANKRUPTCY RELATED:*

PROFESSIONAL FEES RELATING TO THE BANKRUPTCY CASE PAID DURING THIS REPORTING PERIOD? \$ \_\_\_\_\_

TOTAL PROFESSIONAL FEES RELATING TO THE BANKRUPTCY CASE PAID SINCE THE FILING OF THE CASE? \$ \_\_\_\_\_

*NON-BANKRUPTCY RELATED:*

PROFESSIONAL FEES NOT RELATING TO THE BANKRUPTCY CASE PAID DURING THIS REPORTING PERIOD? \$ \_\_\_\_\_

TOTAL PROFESSIONAL FEES NOT RELATING TO THE BANKRUPTCY CASE PAID SINCE THE FILING OF THE CASE? \$ \_\_\_\_\_

B 25C (Official Form 25C) (12/08)

**PROJECTIONS**

COMPARE YOUR ACTUAL INCOME AND EXPENSES TO THE PROJECTIONS FOR THE FIRST 180 DAYS OF YOUR CASE PROVIDED AT THE INITIAL DEBTOR INTERVIEW.

	Projected	Actual	Difference
INCOME	\$ _____	\$ _____	\$ _____
EXPENSES	\$ _____	\$ _____	\$ _____
CASH PROFIT	\$ _____	\$ _____	\$ _____

TOTAL PROJECTED INCOME FOR THE NEXT MONTH:

\$ \_\_\_\_\_

TOTAL PROJECTED EXPENSES FOR THE NEXT MONTH:

\$ \_\_\_\_\_

TOTAL PROJECTED CASH PROFIT FOR THE NEXT MONTH:

\$ \_\_\_\_\_

**ADDITIONAL INFORMATION**

PLEASE ATTACH ALL FINANCIAL REPORTS INCLUDING AN INCOME STATEMENT AND BALANCE SHEET WHICH YOU PREPARE INTERNALLY.

United States Bankruptcy Court  
District of \_\_\_\_\_

In re \_\_\_\_\_,

Case No. \_\_\_\_\_

Debtor

Chapter 11

**PERIODIC REPORT REGARDING VALUE, OPERATIONS AND PROFITABILITY OF ENTITIES IN WHICH THE ESTATE OF [NAME OF DEBTOR] HOLDS A SUBSTANTIAL OR CONTROLLING INTEREST**

This is the report as of \_\_\_\_\_ on the value, operations and profitability of those entities in which the estate holds a substantial or controlling interest, as required by Bankruptcy Rule 2015.3. The estate of [Name of Debtor] holds a substantial or controlling interest in the following entities:

Name of Entity	Interest of the Estate	Tab #

This periodic report (the "Periodic Report") contains separate reports ("Entity Reports") on the value, operations, and profitability of each entity listed above.

Each Entity Report shall consist of three exhibits. Exhibit A contains a valuation estimate for the entity as of a date not more than two years prior to the date of this report. It also contains a description of the valuation method used. Exhibit B contains a balance sheet, a statement of income (loss), a statement of cash flows, and a statement of changes in shareholders' or partners' equity (deficit) for the period covered by the Entity Report, along with summarized footnotes. Exhibit C contains a description of the entity's business operations.

**THIS REPORT MUST BE SIGNED BY A REPRESENTATIVE OF THE TRUSTEE OR DEBTOR IN POSSESSION.**

The undersigned, having reviewed the above listing of entities in which the estate of [Debtor] holds a substantial or controlling interest, and being familiar with the Debtor's financial affairs, verifies under the penalty of perjury that the listing is complete, accurate and truthful to the best of his/her knowledge.



Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Authorized Individual

\_\_\_\_\_  
Name of Authorized Individual

\_\_\_\_\_  
Title of Authorized Individual

[If the Debtor is an individual or in a joint case]

Signature(s) of Debtor(s) (Individual/Joint)

\_\_\_\_\_  
Signature of Debtor

\_\_\_\_\_  
Signature of Joint Debtor

**Exhibit A**  
**Valuation Estimate for [Name of Entity]**

[Provide a statement of the entity's value and the value of the estate's interest in the entity, including a description of the basis for the valuation, the date of the valuation and the valuation method used. This valuation must be no more than two years old. Indicate the source of this information.]

Exhibit B  
Financial Statements for !Insert Name of Entity!

**Exhibit B-1**  
**Balance Sheet for [Name of Entity]**  
As of [date]

[Provide a balance sheet dated as of the end of the most recent six-month period of the current fiscal year and as of the end of the preceding fiscal year. Indicate the source of this information.]

**Exhibit B-2**  
**Statement of Income (Loss) for [Name of Entity]**  
Period ending [date]

[Provide a statement of income (loss) for the following periods:

- (i) For the initial report:
  - a. the period between the end of the preceding fiscal year and the end of the most recent six-month period of the current fiscal year; and
  - b. the prior fiscal year.
- (ii) For subsequent reports, since the closing date of the last report.

Indicate the source of this information.]

**Exhibit B-3**  
**Statement of Cash Flows for [Name of Entity]**  
For the period ending [date]

[Provide a statement of changes in cash flows for the following periods:

- (i) For the initial report:
  - a. the period between the end of the preceding fiscal year and the end of the most recent six-month period of the current fiscal year; and
  - b. the prior fiscal year.
- (ii) For subsequent reports, since the closing date of the last report.

Indicate the source of this information.]

**Exhibit B-4**  
**Statement of Changes in Shareholders'/Partners' Equity (Deficit) for [Name of Entity]**  
period ending [date]

[Provide a statement of changes in shareholders'/partners equity (deficit) for the following periods:

- (i) For the initial report:
  - a. the period between the end of the preceding fiscal year and the end of the most recent six-month period of the current fiscal year; and
  - b. the prior fiscal year.
- (ii) For subsequent reports, since the closing date of the last report.

Indicate the source of this information.]

**Exhibit C**  
**Description of Operations for [name of entity]**

[Describe the nature and extent of the estate's interest in the entity.

Describe the business conducted and intended to be conducted by the entity, focusing on the entity's dominant business segment(s). Indicate the source of this information.]



DEBTOR: \_\_\_\_\_

CASE NUMBER: \_\_\_\_\_

INITIAL FINANCIAL REPORT  
CHAPTER 11

COVER SHEET

\_\_\_\_\_  
Date of Report

**THIS REPORT IS DUE 15 DAYS AFTER THE PETITION FILING DATE**

Debtor must attach each of the following documents or a satisfactory explanation for failure to attach a document. **Submit original report to U.S. Trustee.** Do not file report with Clerk of Court.

Mark One Box for Each  
Required Document:

Document Attached	Previously Submitted	Explanation Attached	REQUIRED DOCUMENTS
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1. Latest Fiscal Year Financial Statements or Tax Returns
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	2. Balance Sheet as of Month End Immediately Preceding Filing
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	3. Profit and Loss Statement for Month and Year Immediately Preceding Filing
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	4. Proof of Insurance Coverage:
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	a. General Liability Insurance
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	b. Property (Fire, Theft, etc.) Insurance
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	c. Workers' Compensation Insurance
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	d. Vehicle Insurance
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	e. Other:
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	5. Projected Revenue, Expenses and Cash Flow for First 180 Days of Post Petition Operations
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	6. Name and Address of Financial Institution, Account Number and Sample Voided Check for Each Debtor in Possession Bank Account and Bank Account Reporting Form
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	a. General Account
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	b. Tax Account (if required)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	c. Bank Account Reporting Form

**I declare under penalty of perjury that the following Initial Financial Report, and any attachments thereto, are true and correct to the best of my knowledge and belief.**

Executed on: \_\_\_\_\_

Debtor(s): \_\_\_\_\_

By: \_\_\_\_\_

Position: \_\_\_\_\_

**Office of the United States Trustee  
District of South Dakota**

**Case Name:**  
**Dakota Case**  
**Number:**

**Summary of Cash Receipts and Disbursements  
For the Quarter Ending**

	<u>Month</u>	<u>Month</u>	<u>Month</u>	<u>Total for Calendar Quarter</u>
Total Receipts	\$ -	\$ -	\$ -	\$ -
Total Disbursements	\$ -	\$ -	\$ -	\$ -

**I CERTIFY UNDER PENALTY OF PERJURY THAT THE INFORMATION PROVIDED IN THIS  
QUARTERLY REPORT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.**

\_\_\_\_\_  
Preparer's Signature

\_\_\_\_\_  
Debtor or Officer of Debtor

\_\_\_\_\_  
Print Name of Preparer

\_\_\_\_\_  
Print Name of Signature

\_\_\_\_\_  
Date