



## U.S. Department of Justice

*Office of the United States Trustee  
Southern and Western Districts of Texas  
Region 7*

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### REGION 7 GUIDELINES FOR DEBTORS-IN-POSSESSION

The United States Trustee is responsible for promoting the integrity and efficiency of the bankruptcy system for the benefit of all stakeholders: Debtors, creditors, and the public.

This includes supervising the administration of cases under chapters 7, 11, 12, and 13 of the United States Bankruptcy Code. 28 U.S.C. § 586. To fulfill this responsibility, the United States Trustee has issued these Guidelines for Debtors-in-Possession. These Guidelines impose certain administrative and reporting responsibilities on chapter 11 Debtors-in-Possession. Additionally, federal law imposes other requirements, including a requirement to pay United States Trustee quarterly fees. 28 U.S.C. § 1930(a)(6). For Debtors proceeding under Subchapter V, please also see the Notice for Subchapter V Debtors on the website at <https://www.justice.gov/ust-regions-r07/page/file/1372876/download>.

These administrative and reporting requirements are described below. **Supporting documentation is located on the U.S. Trustee Region 7 web site at <https://www.justice.gov/ust/r07>.**

#### I. GENERAL REQUIREMENTS

- A. The Debtor-in-Possession (“Debtor”) is required to fully comply with the Bankruptcy Code, Federal Rules of Bankruptcy Procedure (“FRBP”), and applicable Local Rules.
- B. Every Chapter 11 Debtor is required to attend, through senior management and counsel, hearings and meetings scheduled by the court or the U.S. Trustee, including initial debtor interviews, scheduling conferences, and meeting of creditors convened under 11 U.S.C. Section 341.
- C. The Debtor must fully and timely pay all debts arising after the bankruptcy case was filed (“post- petition”). This includes not only general business expenses, but all post- petition obligations including but not limited to:

1. Wages
  2. FICA, both employee and employer share
  3. Tax deposits withheld from wages
  4. Federal and State employment taxes
  5. Sales tax
  6. United States Trustee Quarterly Fees
  7. Any other taxes (ad valorem, property etc.)
- D. The Debtor **is prohibited from paying** pre-petition obligations except as allowed by the Bankruptcy Code or by Court order.
- E. The Debtor shall file all federal, state and local tax returns when due, or shall obtain an extension from the appropriate taxing authority, unless otherwise provided by the Bankruptcy Code or by Court order. All post-petition taxes shall be timely paid.
- F. **No** assets may be sold or disposed of, other than in the ordinary course of business, except as allowed by and in compliance with 11 U.S.C. § 363 and the FRBP governing sales.
- G. The Debtor may not pay any professionals without Court Order. Applications for employment of professionals must be submitted to and approved by the court **before** the professionals render any services to the Debtor. Further, applications for compensation of professionals must be submitted to and approved by the Court **before** the Debtor pays the professionals. Applications for employment and compensation of professionals must be served upon the United States Trustee.
- H. Section 363(c)(2) of the Bankruptcy Code provides that the Debtor may not use cash collateral without the consent of the secured creditor or the approval of the Court. Any application for use of cash collateral or approval of a cash collateral agreement must comply with FRBP 4001 and must be served upon the United States Trustee.
- I. The Debtor may not obtain credit or incur secured or unsecured debt other than in the ordinary course of business. The Debtor must comply with section 364 of the Bankruptcy Code and FRBP 4001. All applications must be served upon the United States Trustee.
- J. The Debtor must provide the United States Trustee with a current and fully accurate address and phone number of the Debtor and responsible individual, Debtor's counsel, and Debtor's responsible financial individual. Any change of address or telephone number must be reported to the United States Trustee immediately.

## II. **LISTS OF CREDITORS, SCHEDULES, AND STATEMENT OF AFFAIRS**

- A. The Debtor must comply fully with FRBP 1002, 1007 and 2015 and applicable Local Rules regarding the filing of schedules and statements of financial affairs. Either the

schedules or a complete list of all of the creditors (including their addresses) and complete description of assets must be filed with your petition.

- B. Pursuant to FRBP 1007(d), the Debtor must also file a list containing the name, address, telephone number and amount of claims of your twenty (20) largest **unsecured** creditors. This list should not contain the names of any creditors who are “insiders” as that term is defined in § 101(31) of the Bankruptcy Code.
- C. Pursuant to applicable Local Rules, Debtors are required to provide the Clerk of the Bankruptcy Court with a mailing matrix for notifications to all creditors.

### III. INSURANCE REQUIREMENTS

- A. All debtors **must** maintain insurance and pay all premiums as they come due. The United States Trustee shall be identified as a party to be notified of any change, cancellation, or expiration of each policy. A 10-day advance notice is the minimum requirement. However, 30 days should be requested of the insurance company.
- B. Unless the United States Trustee otherwise directs or the Debtor obtains a Court waiver, the Debtor must maintain insurance customary in the Debtor's business as well as the following:
  - 1. If the Debtor has tangible assets susceptible to casualty loss (fire, weather, theft, vandalism, etc.), casualty insurance must be maintained;
  - 2. If the Debtor has employees, workers' compensation insurance or sufficient equivalent coverage must be maintained, unless the Debtor obtains an order of the court waiving this requirement;
  - 3. If the Debtor conducts business operations, general liability and, if appropriate, product liability insurance must be maintained.
- C. The Debtor must provide the United States Trustee proof that the required insurance is being maintained throughout the pendency of the chapter 11 case by providing the United States Trustee a copy of the Declarations page of the insurance policy. Should an insurance policy expire during the pendency of the chapter 11 case, upon expiration, termination, or renewal of any coverage, the Debtor shall **immediately** provide the United States Trustee with adequate proof of renewal or replacement coverage.

### IV. INFORMATION REGARDING BANK ACCOUNTS

- A. Upon the filing of the bankruptcy petition the Debtor shall **immediately** close all bank accounts over which the Debtor has possession or control at the time of filing.

- B. The Debtor shall **immediately** open new Debtor bank accounts at a depository approved by the United States Trustee. The new accounts are the Operating Account and, if payroll or other taxes are an issue for the Debtor, the Tax Account. If required by Court order, a separate cash collateral account **must** be established and maintained. If the Debtor has a separate payroll account pre-petition, this account should also be closed and a new payroll account should be opened. The Debtor **must** have Court approval of any request for an exemption from the United States Trustee policy regarding the use of a depository not approved by the United States Trustee.
- C. The Debtor shall ensure that the depository imprints the full name of the Debtor, including any d/b/a's, the designation "Debtor in Possession" (not D.I.P.), and the Debtor's bankruptcy case number on all permanent checks used for the new bank accounts. The Debtor must type or print all of the foregoing information on temporary checks. The new account signature cards shall clearly indicate that the Debtor is a "Chapter 11 Debtor in Possession" and show the bankruptcy case number.

ABC Corporation Debtor in Possession Case No. 13-77777 14999 Every Street Anytown, TX 77777	1313
Pay to the Order of _____	\$ _____
_____	DOLLARS
:0000000186 b : 0000000000529: 1313	

- D. The Debtor must deposit all receipts into and make all disbursements only from the approved Debtor in Possession account(s). Any funds in excess of that required for current operations should be maintained in an interest-bearing Debtor-in-Possession account.
- E. The Debtor shall deposit to the Tax Account sufficient funds to pay all tax liabilities (when incurred).
- F. All funds held by the bankruptcy estate must be deposited into an account with an Approved Depository financial institution that agrees to comply with the requirements of the United States Trustee and is so designated by the United States Trustee. The United States Trustee will monitor Debtor in Possession accounts in the Approved Depository and the Debtor in Possession accounts shall not exceed the insured or collateralized limits of that approved depository. **The current list of Approved Depositories is located on the U.S. Trustee web site.**
- G. The United States Trustee may request the Debtor provide copies of bank statements for pre-petition bank accounts and/or post-petition Debtor-in-Possession bank accounts. In

addition, the United States Trustee may request copies of supporting documentation for transactions disclosed in the bank statements. If the bank statements or supporting documentation, e.g., deposit slips, cancelled checks, are not available to the Debtor, the Debtor agrees to provide consent for the United States Trustee to request copies of bank statements and/or supporting documentation directly from the Debtor's financial institution(s).

## V. INITIAL DEBTOR INTERVIEW

- A. Debtors are required to attend, through senior management and with counsel, meetings scheduled by the U.S. Trustee pursuant to 11 U.S.C. § 1112 and §1116. The purpose of the Initial Debtor Interview ("IDI") is to familiarize the U.S. Trustee with the Debtor's business and operations, any business associations of the Debtor, the reason for filing Chapter 11 bankruptcy, any issues in the case, and to explain the Debtor's plan to successfully emerge from Chapter 11 bankruptcy.

The IDI notification letter is emailed to debtor's counsel using the email address on the case docket. The letter is mailed to the Debtor, using the address on the case docket. All IDI notices are sent by the U.S. Trustee.

The IDI takes approximately one hour depending upon the size and complexity of the case. The Initial Report for Debtors-in-Possession ("Initial Report") and requested compliance documents will be reviewed with the Debtor and Debtor's counsel during this meeting.

- B. **The Initial Report can be found on the U.S. Trustee web site listed under the Chapter 11 section.** The Initial Report is an Adobe (pdf) fillable form. The Debtor shall complete the Initial Report and email it with all supporting compliance documents, to the U.S. Trustee email address shown at the bottom of the IDI notification letter. Timely completion and submission of this report allows for the U.S. Trustee's timely and efficient review of the Debtor. The Initial Report shall be submitted to the United States Trustee no later than seven calendar days before the IDI date.

**Do not file the Initial Report with the Clerk of the Bankruptcy Court.**

- C. The Initial Report is made up of eight exhibits (A-H) with a signature page. Below are the instructions for completing the Initial Report and an explanation of the requested compliance information (if applicable) to be included as separate attachments to the Initial Report email to the U.S. Trustee:

### **Initial Report Checklist**

The case name and bankruptcy case number, as well as the bankruptcy petition filing date should be completed on this page. Check the box for each included Exhibit.

### **Exhibit A - Initial Report Summary**

The seven (7) page summary includes 45 numbered line items that may (or may not) apply to your particular case. Each line item that does apply should be checked and/or completed, as all of these items will be addressed at the Initial Debtor Interview.

Regarding the checkboxes, a check “√” in the box means that the line item does apply and N/A means that a particular line item does not apply. For **Debtor Type (#1)**, the debtor should check all that apply, including selecting the type of debtor entity listed in the drop-down next to the words DEBTOR TYPE.

### **Exhibit B - Bank Account Declaration**

The debtor should list all pre-petition bank and brokerage (financial) accounts that have been closed in the top portion of this form (4 fields) and list the new post-petition Debtor in Possession styled bank accounts in the bottom portion of the form (3 fields). As compliance support for Exhibit B, the debtor should include the following documents as a separate attachment to the Initial Report email:

1. Proof that all pre-petition accounts have been closed. Examples are: final bank statements with a zero balance or a signed letter from the bank stating the accounts have been closed.
2. Proof of the establishment of new properly styled Debtor in Possession bank accounts:
  - a) Operating Account
  - b) Tax Account (if payroll or other taxes are an issue for the Debtor)
  - c) Any other necessary accounts, such as Payroll Account, Cash Collateral Account(s)

Note: The signature page in the Initial Report is where the debtor is declaring under penalty of perjury that the Debtor has verified the closing of all pre-petition bank accounts and stating the date each account was closed and that all monies were transferred to the new Debtor in Possession bank accounts.

### **Exhibit C – Insurance Statement**

The debtor should list all types of insurance policies here, completing each field (6) for each policy. As compliance support for Exhibit C, the debtor should include the Insurance Statement and Declarations pages as separate attachments to the Initial Report email for the following types of insurance coverage:

1. General comprehensive public liability
2. Fire and theft, or homeowner’s
3. Workers' compensation
4. Vehicle
5. Product liability
6. Any other coverage customary in the Debtor's business

The debtor may be asked to provide proof that insurance premiums are current. The U.S. Trustee should be able to determine that all insurable assets of the bankruptcy estate are covered with the proper insurance.

Note: The signature page in the Initial Report is where the debtor is declaring under penalty of perjury that the Debtor has verified that the information reported on Exhibit C as well as any attachments to Exhibit C is true and correct.

#### **Exhibit D – Projected 90-Day Profit and Loss Statement (Cash Basis)**

This is a 90-day projection of profits or losses of the debtor and should begin with the nearest month after the filing of the petition. If the operating expense categories do not apply to the debtor's business, there is space to report your own expense categories as needed.

#### **Exhibit E – Designation and Acceptance of Individual Responsible for Discharging the Duties of the Debtor in Possession**

The person responsible for discharging the duties of the debtor in possession under 11 U.S.C. §1107, as provided under FRBP 9001(5) will normally be the representative of the debtor that will participate on behalf of the debtor at the Initial Debtor Interview and the creditors meeting (§341 Meeting of Creditors). *This individual must also sign and date the Signature Page of the Initial Report.*

#### **Exhibit F – Designation and Acceptance of Individual Responsible for Preparation of Financial Reports for the Debtor in Possession**

The individual responsible for the preparation of all financial reports as required by the court or the United States Trustee. The Debtor will promptly designate another individual if this person is replaced, by serving upon the United States Trustee an amended Designation and Acceptance of Individual Responsible for Preparation of Financial Reports for Debtor in Possession.

#### **Exhibit G – Reporting of Pension, Retirement and Health Plans**

Questions #1 and #2 should be answered on this form by all debtors. If the debtor sponsors a health or dental plan, or sponsors a pension plan, this entire form should be completed.

#### **Exhibit H – Communications by Office of the United States Trustee Regarding Administrative Matters**

It is occasionally necessary for the Office of the United States Trustee to contact debtors-in-possession concerning financial reports, UST fees, and other administrative matters. Many Debtors-in-Possession and attorneys prefer that these administrative matters be handled directly between the debtor and the United States Trustee staff. Others prefer that all such contacts be made through counsel. Exhibit H should be carefully reviewed with your attorney who should sign the form authorizing how contacts on administrative matters will be handled.

All communication from the U.S. Trustee will go through debtor's counsel unless the first box is checked which elects that the U.S. Trustee may contact the Debtor directly regarding administrative matters only.

### **Signature Page**

**The form should be signed manually, scanned, and inserted as the last page of the Initial Report prior to email submission to the U.S. Trustee.**

**First Signature line:** Debtor in Possession –the individual that is certifying that the debtor has received the U.S. Trustee's Guidelines For Debtors-In-Possession and that all of the provided attachments as well as the information included in Exhibits A-H is true and correct to the best of the Debtor's belief as declared under penalty of perjury. (include date signed)

**Second Signature line:** Individual Responsible for Discharging the Duties of the Debtor in Possession – the individual designated with the responsibility of discharging the duties of the debtor in possession as provided under the Federal Rules of Bankruptcy Procedure (FRBP) 9001(5), under 11 U.S.C. § 1107, and as may be required by the Bankruptcy Court or the United States Trustee. (include date signed)

**Third Signature line:** Individual Responsible for Preparation of Financial Reports for the Debtor in Possession – the individual designated for the preparation of all financial reports as required by the Bankruptcy Court or the United States Trustee. If this individual ceases in their responsibility of preparing the financial reports, the debtor in possession should promptly designate another individual and provide a new Exhibit F with a new signature page to the United States Trustee. (include date signed)

**Fourth Signature line:** Attorney for Debtor – the attorney is signing (and dating) that the debtor has been provided the United States Trustee's Guidelines For Debtors-In-Possession and that Exhibit H has been completed by the attorney (if provided).

**Additional compliance documents for email submission to the U.S. Trustee include private financial data which should be redacted or encrypted by the sender, including:**

1. Complete copies of the three (3) most recent years Federal Income Tax Returns as filed with the IRS. You must also provide our office with a copy of any Federal Income Tax Return or extension filed during the pendency of your Chapter 11 case.
2. Complete copies of the three (3) most recent months State Sales Tax Returns.
3. You may be asked to provide copies of Personal and Real Property Tax statements for the last three (3) years, and you may also be asked to provide the three most recent 941 tax returns filed with the IRS.



4. The most recent Financial Statements, audited as well as unaudited, including, but not limited to, balance sheets, profit and loss statements, inventory statements, and tax reconciliations for the last three (3) years.
5. If a debtor in possession is a corporation, provide a copy of a corporate resolution authorizing the filing of the Chapter 11 petition and designating an individual to sign pleadings.
6. If a debtor in possession is a partnership, provide a copy of the written agreement to the filing of the bankruptcy case signed by all partners, or by all general partners if the debtor in possession is a limited partnership.

## VI. CREDITORS MEETINGS

- A. Section 341(a) of the Bankruptcy Code requires a meeting of creditors in each case. Notice of the meeting is sent to all creditors. A representative of the Debtor and the counsel for the Debtor are required to attend. The Debtor's representative should have knowledge of and be familiar with the operation of the Debtor's business and the bankruptcy proceeding. In addition, the financial person for the Debtor should be available for examination at the creditor's meeting.
- B. For individual Debtors in a joint case, both Debtors should be present to testify at the creditor meeting. If the Debtor's first monthly operating report is due prior to the creditors meeting, the Debtor must file the operating report(s) and send a copy to the United States Trustee by the due date.
- C. After notice of the creditor's meeting has been mailed, meetings cannot be canceled or rescheduled to accommodate conflicts with the schedules. If a creditor's meeting must be rescheduled, Debtor's counsel or his representative must appear at the scheduled meeting and request that the meeting be rescheduled.
- D. If the request is approved, the Debtor's counsel must file a Certificate of Service with the court that notice of the rescheduled meeting has been sent to all parties in interest by the Debtor. The Debtor may be responsible for costs and expenses associated with the rescheduling.
- E. The United States Trustee or a member of the staff will preside at the creditor's meeting, administer the oaths, and examine the Debtor and/or other appropriate person(s). The meeting will be digitally recorded.
- F. Requests for copies of recordings must be made in writing to the United States Trustee. The request must include: the case name, case number, district, and the date of the meeting of creditors.

## VII. OPERATING REPORTS

### A. REPORTING REQUIREMENTS IN NON-SMALL BUSINESS AND NON-SUBCHAPTER V CASES.

On June 21, 2021, the United States Trustee Program’s rule entitled *Uniform Periodic Reports in Cases Filed Under Chapter 11 of Title 11*, published at 28 C.F.R. § 58.8 (the “Final Rule”) became effective. The Final Rule, mandated by 28 U.S.C. § 589b, requires that chapter 11 debtors-in-possession and trustees, other than in small business and subchapter V cases, file monthly operating reports and post-confirmation reports using streamlined, data-embedded, uniform forms in every judicial district where the U.S. Trustee Program operates.

UST Form 11-MOR, Monthly Operating Report (“MOR”), is the periodic financial report that must be filed on a calendar monthly basis from the petition date to the earlier of the effective date of a confirmed plan, the conversion date of the case to another chapter, or the dismissal of the case.

UST Form 11-PCR, Post-confirmation Report (“PCR”), is the periodic financial report that must be filed on a calendar quarterly basis once the effective date of a confirmed plan occurs by any post-confirmation entities, which would include the reorganized debtor and any other “authorized parties” charged with administering the confirmed plan, until the earlier of the date the case is closed, dismissed, or converted to another chapter.

Report filers must refer to the Final Rule and instructions for the MOR and PCR forms for important information, including who must file each report, when the reports must be filed, who the reports must be served upon and what documentation must be filed along with each report. United States Trustee personnel will instruct the DIP as to which supplemental statements are also required in the DIP’s case.

To access the latest version of the MOR and PCR forms, instructions for their use and filing, and other important information related to periodic reporting under the Final Rule, please navigate to <https://www.justice.gov/ust/chapter-11-operating-reports>. While at that webpage, please subscribe to the “Chapter 11 Operating Reports E-mail Updates” feature to automatically receive email updates about periodic reporting under the Final Rule.

### B. REPORTING REQUIREMENTS FOR SMALL BUSINESS DEBTORS.

In cases where the DIP is a “small business debtor” as defined by 11 U.S.C. § 101 (51D), monthly operating reports must be filed on Official Form B 425C, which is available at <http://www.uscourts.gov/forms/bankruptcy-forms>. United States Trustee personnel will instruct the DIP as to which supplemental statements are also required in the DIP’s case.

The initial Report filed by a DIP in its Chapter 11 case shall cover the period from the date of the commencement of the bankruptcy case to the end of the month in which the case was commenced. However, if the case is filed after the 15<sup>th</sup> day of the month, the

activity for the remainder of the first month can be included in the report for the next calendar month, pursuant to Interim Bankruptcy Rule 2015. The opening balance for inventory, cash and receivables in the initial Report should reflect the DIP's financial condition as of the date the case commenced. Liabilities of the DIP should always start at zero since the DIP is a "new" reporting entity. Pre-petition liabilities should not be included in the DIP Reports.

The MOR must be dated and signed by the DIP. Reports with the scanned original signature of an officer, member, or owner of the DIP shall be filed with the Court, using the Electronic Case Filing (ECF) System. Neither electronic nor stamp signatures are acceptable. MORs shall be filed not later than the 21<sup>st</sup> of each month following the period covered by that report. Reports are required for every month the case is open, until the case has been closed, converted, or dismissed unless the case status changes such that quarterly reports are due instead. **Reports must be complete, signed, contain all necessary attachments, and be properly filed with the Court before they will be deemed to have met the reporting requirements.**

For post-confirmation quarterly reporting, small business debtors as defined by 11 U.S.C. § 101(51D) must file a Post-Confirmation Quarterly Summary Report. After a plan's effective date, the "Post-Confirmation Quarterly Summary Report" allows the United States Trustee to monitor the appropriate receipt of quarterly fees after confirmation. [See Exhibit D].

### C. REPORTING REQUIREMENTS IN SUBCHAPTER V CASES.

In cases where the DIP has elected to proceed under subchapter V of chapter 11, monthly operating reports should be filed on Official Form B 425C, which is available at <http://www.uscourts.gov/forms/bankruptcy-forms>. United States Trustee personnel will instruct the DIP as to which supplemental statements are also required in the DIP's case.

The initial Report filed by a DIP in its Chapter 11 case shall cover the period from the date of the commencement of the bankruptcy case to the end of the month in which the case was commenced, even if that partial period is for one day. The opening balance for inventory, cash and receivables in the initial Report should reflect the DIP's financial condition as of the date the case commenced. Liabilities of the DIP should always start at zero since the DIP is a "new" reporting entity. Pre-petition liabilities should not be included in the DIP Reports.

The MOR must be dated and signed by the DIP. Reports with the scanned original signature of an officer, member, or owner of the DIP shall be filed with the Court, using the Electronic Case Filing (ECF) System. Neither electronic nor stamp signatures are acceptable. MORs shall be filed not later than the 21<sup>st</sup> of each month following the period covered by that report. Reports are required for every month the case is open, until the case has been closed, converted, or dismissed unless the case status changes such that quarterly reports are due instead. **Reports must be complete, signed, contain all necessary attachments, and be properly filed with the Court before they will be**

**deemed to have met the reporting requirements.**

Because subchapter V debtors are not required to pay quarterly fees, subchapter V debtors are not required to file post-confirmation quarterly reports of disbursements, unless ordered to do so by the Bankruptcy Court.

- D. A copy of the CM-ECF drop down of the possible docket entries for filing Monthly Operating Reports (MOR) and Post-Confirmation Reports (PCR) is shown below. When making the docket entry, please include the period ending date of the report as part of the docket entry.

operating Click your selection, or use arrows to highlight it as

**Available Events (click to select events)**

Operating Report  
Operating Report - Chapter 11 Post-Confirmation  
Operating Report - Debtor-in-Possession Monthly

Next Clear

## VIII. QUARTERLY FEES

- A. Unless proceeding under Subchapter V, Debtors are required to pay a quarterly fee to the United States Trustee pursuant to 28 U.S.C. § 1930(a)(6). Quarterly fees must be paid for every calendar quarter, or a part of a quarter, in which the chapter 11 case is pending until the date of entry of an order closing dismissing or converting the case. If a case is pending as a chapter 11 case for even one day during a quarter, payment of the fee for that quarter is required.
- B. If a chapter 11 case has been jointly administered with another case or has been consolidated with other cases for administrative purposes only, quarterly fees will accrue in each case and the Debtor is responsible for payment of the quarterly fees assessed in each of the individual cases. If the court has ordered the case to be substantively consolidated (consolidated for all purposes), then quarterly fees will accrue only in the main case number. However, the Debtor is responsible for the payment of quarterly fees accrued in each of the individual cases prior to the entry of the order of consolidation.
- C. The amount of the quarterly fee depends upon the dollar amount of the Debtor's disbursements during each calendar quarter. A minimum fee of \$250 is due each quarter even if \$0 in disbursements are made during that quarter. **The current U.S. Trustee fee schedule is located at <https://www.justice.gov/ust/chapter-11-quarterly-fees>**

U. S. Trustee Fees are to be timely paid according to the following schedule:

Quarter	Months	Ending	Due Date for Payment
1 <sup>st</sup> Quarter	Jan-Feb-Mar	Mar. 31	April 30
2 <sup>nd</sup> Quarter	April-May-June	June 30	July 31
3 <sup>rd</sup> Quarter	July-Aug-Sept	Sept 30	Oct. 31
4 <sup>th</sup> Quarter	Oct-Nov-Dec	Dec. 31	Jan. 31

- D. Pursuant to § 1129(a)(12) of the Bankruptcy Code, a plan of reorganization must provide for payment of all unpaid quarterly fees as of its effective date, or it cannot be confirmed. Failure to include provisions for payment of post-confirmation quarterly fees in the Plan will result in the United States Trustee filing objections to confirmation of the Plan. The **following language is a sample** quarterly fee provision for inclusion in a disclosure statement, plan of reorganization, and confirmation order:

*The debtor will pay pre-confirmation fees owed to the U. S. Trustee on or before the effective date of the plan. After confirmation, the reorganized debtor [Debtor/Plan Proponent] will file with the court and serve on the U. S. Trustee quarterly financial reports in a format prescribed by the U. S. Trustee, and the Debtor [Debtor/Plan Proponent] will pay post- confirmation quarterly fees to the U. S. Trustee until a final decree is entered or the case is converted or dismissed. 28 U.S.C. § 1930(a)(6).*

- E. Each Debtor will receive a Chapter 11 Quarterly Fee Statement from the U.S. Trustee regarding the fee prior to each of the due dates. If you do not receive an invoice, contact the United States Trustee Office.
- F. For the most expeditious fee payment processing, please pay all U.S. Trustee chapter 11 quarterly fee payments online through *Pay.gov* at <https://www.pay.gov/public/form/start/672415208>. The site will only accept payments made by electronic funds transfer from a bank account. Payments using a debit card, credit card, or other types of online payments such as PayPal will NOT be accepted.
- G. If Debtors choose to pay by mail, each statement contains a payment stub which must be returned along with the Debtor's check made payable to "United States Trustee" to the following lockbox address: **U. S. Trustee Payment Center, P. O. Box 620019, Portland OR 97228-6200.**

The Debtor's account number from the statement should be written on the memo line of the check. Failure to include the statement payment stub with your payment, may result in the payment center being unable to properly apply your payment. Do not mail payments to a U.S. Trustee office as this will further delay your payment processing while the payment is mailed to our Portland, Oregon lockbox address.

- H. Please remember that the United States Trustee Payment Center in Portland is a bank lockbox and only processes your quarterly fee payments. The payment center address

may not be used for service of process, correspondence, or for any purpose other than quarterly fee payments.

- I. If a check is returned for insufficient funds, all future quarterly fee payments must be made by cashier's check, certified funds, or money order.
- J. If the case is converted to a proceeding under chapter 7, 12, or 13 of the Bankruptcy Code, quarterly fees will be due for the period the case was pending as a chapter 11 through the date the order of conversion is entered. After conversion, the Debtor will be required to file a schedule of unpaid obligations incurred after the commencement of the chapter 11 case, pursuant to § 348(d) of the Bankruptcy Code and FRBP 1019(5)(A)(i), including accrued United States Trustee quarterly fees, considered administrative expenses under 11 U.S.C. § 503(b).
- K. The United States Trustee will oppose dismissal unless the dismissal order includes provision for payment of unpaid quarterly fees with language substantially similar to that set forth below.

*ORDERED that the Debtor in Possession shall pay to the United States Trustee the appropriate sum required pursuant to 28 U.S.C. § 1930(a)(6) within fourteen (14) days from the entry of this Order and provide the United States Trustee an appropriate affidavit indicating the cash disbursements for the relevant period(s). The Court shall retain jurisdiction to enforce the payment of these fees.*

- L. Failure to pay the Quarterly Fee is cause for conversion or dismissal of a Chapter 11 Case under § 1112(b)(10) of the Bankruptcy Code. Anyone filing a false report will be subjected to Civil Liability under 31 U.S.C. § 3729(a)(7) and to Criminal Penalties under 18 U.S.C. § 1001 and 19 U.S.C. § 1621. Further, the United States Trustee intends to use the Debtor's Taxpayer Identifying Number for the purpose of collecting and reporting delinquent Quarterly Fees to the Department of Treasury pursuant to the Debt Collection Improvements Act of 1996. Public Law 104-134, 31 U.S.C. §§ 3701, et Seq., Amended 31 U.S.C. §§ 3701-3720. The United States Trustee is required to refer unpaid U.S. Trustee fees in closed cases to the Department of the Treasury, or other agencies, for collection.

## **IX. OTHER REGULATORY AGENCY REPORTING**

- A. If the Debtor has 100 or more employees and benefit plan assets in excess of \$1,000,000 or has participant claim issues, the Debtor must complete and submit the U.S. Department of Labor ("DOL") Questionnaire (also see Initial Report Exhibit G). Debtors that have a company sponsored group health/dental/pension plan are reviewed with respect to the DOL Questionnaire.

- B. If the Debtor is required to file periodic reports (e.g., forms 10K and 10Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and is requesting relief under chapter 11 of the Bankruptcy Code, then Exhibit A to the Voluntary Petition must have been completed and filed with the Voluntary Petition.
- C. If, to the best of the Debtor's knowledge, the Debtor owns or has possession of property that poses or is alleged to pose a threat of imminent and identifiable harm to the public health or safety, then Exhibit C to the Voluntary Petition must have been completed and filed with the Voluntary Petition and a response must have been provided to Form 7 Statement of Financial Affairs, question no. 17. If the Debtor has not done so, the Debtor is required to report this information to the Environmental Protection Agency.

## **X. NOTICE REQUIREMENTS ON UNITED STATES TRUSTEE**

Notices and copies of pleadings must be served on the United States Trustee as required by FRBP 1007, 1009, 2002(a)(2), (5), (7), 2002(b), 2002(f), 2014, 2015, 2016 and applicable Local Rules.

## **XI. EFFECT OF NON-COMPLIANCE**

Failure to comply with the United States Trustee Guidelines, including the timely filing of operating reports, as well as the timely payment of quarterly U.S. Trustee fees, may result in conversion, dismissal, or other appropriate relief.

### **GOVERNMENTAL TAXING AUTHORITY ADDRESSES FOR MONTHLY OPERATING REPORTS FILED IN REGION 7 (Not Including Local Authorities):**

Texas Workforce Commission  
Bankruptcy Section  
P.O. Box 149080  
Austin, Texas 78714-9080

Texas Comptroller of Public Accounts  
Revenue Accounting Division Bankruptcy Section  
P.O. Box 13528  
Austin, Texas 78711-3528

Internal Revenue Service  
Centralized Insolvency Operation  
P. O. Box 7346  
Philadelphia, PA 19101-7346

**THE UNITED STATES TRUSTEE MAY MODIFY OR AMEND THESE GUIDELINES AND REQUIREMENTS FROM TIME TO TIME, AND AS IS APPROPRIATE IN AN INDIVIDUAL CASE. QUESTIONS CONCERNING THESE REQUIREMENTS MAY BE DIRECTED TO THE UNITED STATES TRUSTEE OFFICE FOR REGION 7 AT THE FOLLOWING ADDRESSES:**

**SOUTHERN DISTRICT:**

Houston, Galveston, and Victoria Divisions:

United States Trustee Office  
515 Rusk Street, Suite 3516  
Houston, Texas 77002  
713-718-4650

Corpus Christi, Brownsville, McAllen, and Laredo Divisions:

United States Trustee Office  
615 E. Houston Street, Suite 533  
San Antonio, Texas 78205  
210-472-4640

**WESTERN DISTRICT:**

San Antonio and El Paso Divisions:

United States Trustee Office  
615 E. Houston Street, Suite 533  
San Antonio, Texas 78205  
210-472-4640

Austin, Waco and Midland Divisions:

United States Trustee Office  
903 San Jacinto, Suite 230  
Austin, Texas 78701  
512-916-5328

**KEVIN M. EPSTEIN  
UNITED STATES TRUSTEE  
REGION 7**