

CHAPTER 11

OPERATING REQUIREMENTS

&

MONTHLY FINANCIAL REPORT

U.S. Department of Justice
Office of the U.S. Trustee
Eastern District of Wisconsin
517 East Wisconsin Avenue
Suite 430
Milwaukee, WI 53202
Phone: 414/297-4499

DEBTOR-IN-POSSESSION REPORTING REQUIREMENTS

Office of the United States Trustee
Eastern District of Wisconsin

A. GENERAL BANKRUPTCY REQUIREMENTS

1. The debtor is required to comply with the Bankruptcy Code and Rules and Local Rules of the Eastern District of Wisconsin.
2. The debtor must pay all post-petition obligations which arise in ordinary course of business including all post-petition taxes.
3. The debtor may not pay any pre-petition obligations except as allowed by the Code or ordered by the Court.
4. All notices and copies of all pleadings must be served upon the Office of the United States Trustee pursuant to Fed. R. Bankr. P 9034 and 2002(k).
5. The debtor must file and serve upon the United States Trustee, and receive Court approval, for all applications to employ and compensate professionals. This includes, but is not limited to, attorneys, accountants, auctioneers and appraisers. *The United States Trustee Also Requires the Debtor to Report Accrued Administrative Expenses on the Monthly Financial Reports for Each Professional Appointed by the Estate*.
6. The debtor has the responsibility to know the law and to operate its business within the limitations placed upon it by the bankruptcy laws, the Court and the United States Trustee Office. Questions regarding any legal aspect of this case should be directed to the attorney for the debtor. The Office of the United States Trustee will not provide legal or accounting advice.
7. Failure to comply with these requirements may result in a Motion or Application to the Bankruptcy Court for appropriate relief, including dismissal of the case, conversion to another chapter of the bankruptcy code, appointment of a Chapter 11 trustee or examiner, objection to attorney's fee, objection to discharge and/or assessment of costs, fees, penalties, or damages against individuals or other entities for such noncompliance

B. REQUIREMENTS OF THE OFFICE OF THE UNITED STATES TRUSTEE

1. Bank Accounts. The debtor shall immediately close all bank account(s) over which the debtor has possession or control and open a new account with the designation "**Debtor-in-Possession**" (not DIP), and the **case number** on all permanent checks. A "voided" sample of the pre-printed checks should be provided to the United States Trustee along with "Bank Account Declaration of Debtor" (attached) immediately upon receipt. The "Bank Account Declaration of Debtor" must be subsequently updated and re-submitted whenever additional accounts are opened or existing accounts are closed. Funds of the estate which exceed \$250,000 may only be deposited in financial institutions which are approved depositories. A list of approved depositories can be obtained from the Office of the United States Trustee.
2. Insurance. All debtors must maintain sufficient insurance to cover the value of all assets of the estate. This includes appropriate general liability, fire, theft, motor vehicle insurance, worker's compensation, and any other insurance coverages normally used in the business. You must furnish the U.S. Trustee's Office with a Certificate of Insurance for each policy with the Office of the United States Trustee named as an additional certificate holder. This will insure that should any of the insurance policies be cancelled before the expiration date thereof, the issuing company will mail 10 days prior written notice to the certificate holder and the Office of the U.S. Trustee. This serves to notify the Office of the U.S. Trustee of any insurance changes. The attached "Insurance Statement" should be filled out and returned to the United States Trustee. The "Insurance Statement" must be subsequently updated and re-submitted whenever insurance policies expire, change, or are added.
3. Quarterly Fee Payment. 28 U.S.C. § 1930(6) imposes a fee on all Chapter 11 cases, to be paid each calendar quarter until the case is converted, closed or dismissed. The amount of the fee varies depending on the dollar amount of the disbursements made during the calendar quarter; however, a minimum fee of \$325 is due each quarter even if no disbursements are made. Interest will be charged on unpaid quarterly fees pursuant to 31 U.S.C. § 3717. **The fee is payable 30 days after each quarter to the U.S. Trustee; P.O. Box 530202, Atlanta, GA 30353-0202.**

FEE SCHEDULE

<u>Disbursements</u>	<u>Quarterly Fee</u>
Under \$15,000.00	\$ 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

FAILURE TO PAY THE QUARTERLY FEE IS CAUSE FOR INVOLUNTARY CONVERSION OR DISMISSAL OF YOUR CASE. 11 U.S.C. §1112(b)(10). All fees must have been paid, or the plan must provide for payment of the fees on its effective date for a Plan of Reorganization to be confirmed by the Court. 11 U.S.C. §1129(b)(4)(K). Failure to pay quarterly fees by the effective date will be considered grounds for the revocation of confirmation under 11 U.S.C. §1144.

Finally, please take notice that a Chapter 11 debtor's failure to pay quarterly fees to the United States Trustee pursuant to 28 U.S.C. §1930 has additional significant legal consequences. Please be advised that, pursuant to the Debt Collection Improvements Act of 1996, Public Law 104-134, Title III, §31001(i)(3)(A), 110 Stat. 1321-365, codified at 31 U.S.C. §3701, the United States Trustee intends to use the debtor's Taxpayer Identifying Number ("TIN") as reported by the debtor or debtor's counsel in connection with the chapter 11 bankruptcy proceedings for the purpose of collecting and reporting on any delinquent debt, including chapter 11 quarterly fees, that are owed to the United States Trustee.

The United States Trustee will provide the debtor's TIN to the 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.

4. Monthly Financial Reports. Pursuant to Fed. R. Bankr. P. 9034(k) monthly financial reports must be filed with both:

Original

The United States Trustee
517 E. Wisconsin Ave., **Room 430**
Milwaukee, WI 53202

and

The Clerk of U.S. Bankruptcy Court (**via ECF**).

If applicable, the designated representative or chairperson of a duly appointed creditors committee shall also receive monthly reports.

5. The report must be filed no later than the fifteenth (15th) day of the month following the end of the month reported. **You must use the reporting forms provided by our office and must attach bank statements and reconciliations with each report. You are also required to supply our office with any additional financial reports which are currently being generated along with our reporting forms. Incomplete reports shall be deemed not submitted.**
6. Additional Report of Entities In Which the Estate Holds a Substantial or Controlling Interest. In accordance with Bankruptcy Rule 2015.3, Chapter 11 estates shall file the "Periodic Report Regarding Value, Operations and Profitability of Entities In Which the Estate Holds a Substantial or Controlling Interest" (Form 26). The estate's interest is presumed to be substantial or controlling when the estate controls or owns at least a 20% interest of an entity not in bankruptcy. The first periodic report shall be filed no later than 5 days before the first meeting of creditors pursuant to §341 of the Code. Subsequent Reports shall be filed no less frequently than every 3 months thereafter, until a plan of reorganization becomes effective or the case is closed, dismissed, or converted. The Reports shall be filed with the United States Bankruptcy Court, United States Trustee, any committee appointed under 11 U.S.C. § 1102 of the Code, and any other party in interest that has formally requested it.

7. Modification of Requirements. In the event a Debtor-in-Possession (DIP) believes the reporting requirements to be inappropriate in whole or in part due to the circumstances of the particular case, the DIP may submit a written request to the United States Trustee for a modification of the reporting requirements setting forth the reasons the DIP believes the requirements to be inappropriate. Such requests will be reviewed by the United States trustee and responded to in writing. Until a DIP receives a written authorization to modify the reporting requirements, the DIP is required to continue to submit complete and timely reports. Monthly operating reports are not required for periods after the case is confirmed, converted or dismissed.

BANK ACCOUNT DECLARATION OF DEBTOR

CASE NAME: _____

CASE NO.: _____

I hereby declare under penalty of perjury that all pre-petition bank accounts of _____, as listed below, were closed on _____.

Depository Name	Account Name	Account No.
_____	_____	_____
_____	_____	_____
_____	_____	_____

I further hereby declare under penalty of perjury that all monies have been transferred to the following Debtor-in-Possession bank:

Depository Name	Account Name	Account No.
_____	_____	_____
_____	_____	_____
_____	_____	_____

I declare under penalty of perjury that the information provided above and on any attachment hereto is true to the best of my knowledge and belief.

(Date)

(Debtor)

(Title)

(Printed Name of Signatory)

INSURANCE STATEMENT

CASE NAME: _____

CASE NO.: _____

Insurance Company (Carrier Name/Address)	Type*	Coverage Amount	Policy #	Expiration Date	Premium Amounts	Coverage Paid Thru Date
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____

I declare under penalty of perjury that the information provided above and/or any attachments hereto is true and correct to the best of my knowledge and belief.

* Types include liability, fire, casualty, vehicle, workers' comp., etc.

(Debtor's Signature)

(Title)

(Name)

(Date)

MONTHLY FINANCIAL REPORT

OFFICE OF THE U.S. TRUSTEE
EASTERN DISTRICT OF WISCONSIN

Case Name _____

Case No. _____

FOR MONTH OF _____, 20____

I. FINANCIAL SUMMARY

CASH RECEIPTS AND DISBURSEMENTS

A.	CASH ON HAND START OF MONTH	_____
B.	RECEIPTS	_____
C.	DISBURSEMENTS	_____
D.	NET RECEIPTS (DISBURSEMENTS)	_____
E.	CASH ON HAND END OF MONTH	_____

PROFIT AND LOSS STATEMENT ACCRUAL BASIS

A.	NET SALES	_____
B.	COST OF SALES	_____
C.	GROSS PROFIT	_____
D.	TOTAL OPERATING EXPENSES	_____
E.	NET INCOME (LOSS) FROM OPERATIONS	_____
F.	NON-OPERATING, NON-RECURRING REVENUE (EXPENSES)	_____
G.	NET INCOME (LOSS)	_____

II. PROFIT & LOSS STATEMENT (ACCRUAL BASIS)

A. Related to Business Operations:

Total Revenue (Sales) \$ _____

Less: Cost of Goods Sold:

Beginning Inventory at Cost \$ _____

Add: Purchases _____

Less: Ending Inventory at Cost _____

Cost of Goods Sold _____

Gross Profit _____

Less: Operating Expenses:

Officer Compensation _____

Salaries and Wages -- Other Employees _____

Employee Benefits and pensions _____

Payroll Taxes _____

Real Estate Taxes _____

Federal and State Income Taxes _____

Rent and Lease Exp.(Real & Personal Property) _____

Interest Expense (Mortgage, Loan, etc.) _____

Insurance _____

Automobile Expense _____

Utilities (Gas, Electricity, Water, Telephone, etc.) _____

Depreciation and Amortization _____

Repairs and Maintenance _____

Advertising _____

Supplies, Office Expenses, Photocopies, etc. _____

Bad Debts _____

Miscellaneous Operating Expenses _____

Total Operating Expenses _____

Net Income (Loss) from Operations _____

B. Not Related to Business Operations:

Revenue:

Interest Income _____

Net Gain (Loss) on Sale of Assets _____

Other Non-Operating Revenues (Specify) _____

Total Non-Operating Revenue _____

Expenses:

Legal and Professional Fees (Specify) _____

Other Non-Operating Expenses (Specify) _____

Total Non-Operating Expenses _____

NET INCOME/LOSS FOR PERIOD \$ _____

III. SUMMARY OF CASH RECEIPTS & DISBURSEMENTS

(Attach Copies of Bank Statements & Bank Reconciliations)

Depository Name & Location: _____

Beginning Cash Balance Per Books \$ _____

Receipts:

Sales (Cash ONLY)	\$ _____
Collection of Accounts Receivable	_____
Proceeds from Sale of Assets	_____
Interest Income	_____
Other Income (Specify)	_____
 Total Receipts	 \$ _____
(Per Attached Itemized Listing)	

Disbursements:

Purchases of Inventory	\$ _____
Officer Compensation	_____
Salaries & Wages - Other Employees	_____
Employee Benefits	_____
Legal & Professional Fees	_____
Payroll Taxes	_____
Other Taxes (Specify)	_____
Payments to Mortgagees	_____
Rent	_____
Lease Payments	_____
Automobile Expenses	_____
Insurance	_____
Utilities	_____
Supplies	_____
Other (Specify)	_____
 Total Disbursements	 \$ _____
(Per Attached Itemized Listing)	

Net Receipts (Disbursements) \$ _____

Ending Cash Balance Per Books \$ _____

CASH RECEIPTS LISTING

[illegible]

Total: _____

CASH DISBURSEMENTS LISTING

[illegible]

IV. BALANCE SHEET

ASSETS

Current

Cash	\$ _____	
Inventory	_____	
Accounts Receivable	_____	
Other (specify)	_____	
Total Current Assets		\$ _____

Fixed

Property and Equipment	_____	
Accumulated Depreciation	< _____ >	
Other (specify)	_____	
Total Fixed Assets		_____
Total Assets		\$ _____

LIABILITIES

Current

Post Chapter 11 Payables	\$ _____	
Post-Petition Taxes Payable	_____	
Accrued Professional Fees	_____	
Other (specify)	_____	
Total Current Liabilities		\$ _____

Long Term Debt

Pre-Chapter 11 Payables	\$ _____	
Notes & Loan Payable	_____	
Other (specify)	_____	
Total Long Term Debt		_____
Total Liabilities		_____

STOCKHOLDERS EQUITY/<DEFICIT>

Capital Stock	\$ _____	
Retained Earnings (Deficit)	_____	
Current Surplus (Deficit)	_____	
Total Stockholders Equity		\$ _____

Total Liabilities & Stockholder Equity		\$ _____
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V. SUPPORTING SCHEDULES

1. OTHER MONIES ON HAND (Specify type, location, and amount; i.e. petty cash, cash on hand, etc.):

2. AGING OF ACCOUNTS PAYABLE & ACCOUNTS RECEIVABLE(exclude pre-petition accounts payable):

		Accts Payable	Accts Receivable
Current	Under 30 Days	\$ _____	\$ _____
Overdue	31-60 Days	_____	_____
Overdue	61-90 Days	_____	_____
Overdue	91-120 Days	_____	_____
Overdue	Over 121 Days	_____	_____
	Total	\$ _____	\$ _____

Itemize all post-petition payables over 30 days old on a separate schedule.

3. ACCRUED PROFESSIONAL FEES (POST PETITION)

<u>Name/Profession</u>	<u>Amount Due</u>
_____	_____
_____	_____
_____	_____
_____	_____

4. STATUS OF PAYMENTS TO SECURED CREDITORS & LESSORS

<u>Name of Creditor/ Lessor</u>	<u>Frequency Of Regular Payments</u>	<u>Amount of Regular Payment</u>	<u>Date of Last Payment</u>	<u>Amount of Payments Delinquent*</u>
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*Include Only Post Petition Payments.
Explanation for Non Payment:

VI. TAX LIABILITY QUESTIONNAIRE

Debtors in Possession and trustees are required to pay all taxes incurred after the filing of their Chapter 11 petition on an as-due basis. Applicable tax liabilities should also be accrued between tax due dates for each pay period. Please indicate the amounts of post petition taxes and withholdings that have been paid and accrued through this reporting period. Any taxes that do not apply to the Debtor should be marked: Not applicable (NA) or \$-0-.

	<u>Date Paid</u>	<u>Amount Paid</u>	<u>Amount Accrued</u>	<u>Amount Overdue</u>
FICA Withholdings	_____	_____	_____	_____
Employer's FICA	_____	_____	_____	_____
Federal Employee Withholding	_____	_____	_____	_____
Federal Unemployment Taxes	_____	_____	_____	_____
Federal Income Taxes	_____	_____	_____	_____
State Income Taxes	_____	_____	_____	_____
State Unemployment Taxes	_____	_____	_____	_____
State Employee Withholding	_____	_____	_____	_____
State Sales & Use Taxes	_____	_____	_____	_____
Real Estate Taxes	_____	_____	_____	_____
Personal Property Taxes	_____	_____	_____	_____
Other Taxes (Specify):				
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

If any of these applicable tax liabilities have not been paid currently, please explain:

VII. DECLARATION

I, _____, declare under penalty of perjury that the information contained in this Financial Report is true and complete to the best of my knowledge.

Print Name & Capacity of Person
signing this Declaration

Date: _____

Signature

Name, Title & Telephone No. of Preparer:

