



GUIDELINES AND
REQUIREMENTS FOR
CHAPTER 11
DEBTORS-IN-POSSESSION

***FOR
WOODLAND HILLS AND NORTHERN DIVISION
CASES ONLY***

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Refer to our website for the most current and up-to-date information:

What's New?

http://www.justice.gov/ust/r16/reg_whatsnew.htm

For Documents and Forms

http://www.justice.gov/ust/r16/reg_info.htm

TO: CHAPTER 11 DEBTORS, ATTORNEYS, AND TRUSTEES

The United States Trustee Program is a component of the United States Department of Justice responsible for overseeing the administration of bankruptcy cases.

Pursuant to 28 U.S.C. § 586(a)(3), the United States Trustee has extensive monitoring and oversight responsibilities with respect to chapter 11 estates. In order to fulfill these responsibilities, the United States Trustee has delineated certain duties, responsibilities and reporting requirements for chapter 11 debtors-in-possession. The Office of the United States Trustee in Woodland Hills and the Northern Division of California has developed these Chapter 11 Guidelines to assist debtors in meeting their obligations while in chapter 11.

Some of these requirements must be performed immediately upon (1) the filing of the chapter 11 petition, (2) entry of the order of conversion, or (3) the entry of the order of relief in an involuntary proceeding. Other requirements are not due until several weeks after the petition is filed, and still others are required on an ongoing basis throughout the pendency of the bankruptcy. However, ***all requirements must be met in a complete and timely fashion unless waived in writing by the U.S. Trustee attorney or analyst assigned to the case.***

These guidelines and requirements make reference to the Local Rules of Bankruptcy Procedure (Local Rules) for the Central District of California. A copy of the Local Rules may be downloaded from the United States Bankruptcy Court's website at <http://www.cacb.uscourts.gov/>.

In addition to the following requirements, all applicable provisions of the Bankruptcy Code, Federal Rules of Bankruptcy Procedure, Local Rules, General Orders, and other orders of the Court, must be observed in chapter 11 cases. Failure to comply with any requirement may result in a motion by the United States Trustee, or another party, to dismiss or convert your case, or to request other relief.

The United States Trustee reserves the right to revise, modify, or amend these guidelines and requirements from time-to-time and, as is appropriate, in an individual case.

A chapter 11 debtor-in-possession serves as a fiduciary for the benefit of the creditors and owners in the case. Providing complete and accurate financial information regarding the estate is part of the debtor's fiduciary duties.

I. Day-One Requirements

- A. **Close out all existing books and records.** All books and records of the chapter 11 debtor must be closed out as of the date the petition is filed, or an order is entered converting the case to one under chapter 11.
- B. **Open a new set of books and records.** These are the debtor-in-possession books and records, which must be maintained throughout the bankruptcy.
- C. **Close all existing bank accounts.** All accounts that the debtor owns, to which the debtor has access, or over which the debtor exercises possession, custody, or control must be closed immediately upon the filing of the petition.

D. **Open New General, Payroll, and Tax Bank Accounts**

1. In business cases, a minimum of three new debtor-in-possession bank accounts (general, payroll, and tax) must be opened in a bank appearing on the U.S. Trustee list of approved depositories (see http://www.justice.gov/ust/r16/reg_info.htm). All estate funds must be kept in these accounts. (See 11 U.S.C. §§ 541 and 1115)
2. In some cases, such as those involving individual non-business debtors, the debtor may e-mail the analyst assigned to the case prior to submitting the 7-Day Package and request permission to maintain fewer debtor-in-possession accounts.
3. If the debtor is required to segregate cash collateral, additional separate accounts must be established and maintained.
4. Each account must clearly indicate that the account is a “debtor-in-possession account” and must include the chapter 11 case number in the account name.

E. **Obtain Insurance Coverage**

1. The debtor must maintain appropriate insurance coverage for all estate property, including vacant land, naming the debtor as the primary insured. **Lender-placed insurance is not sufficient.** Listed below are the types of insurance coverage that normally are required for many bankruptcy estates.
 - (a) General comprehensive public liability insurance;
 - (b) Premises liability insurance;
 - (c) Professional liability insurance;
 - (d) Fire and theft coverage;
 - (e) Workers’ compensation insurance;
 - (f) Motor vehicle insurance;
 - (g) Product liability insurance; and/or
 - (h) Any other insurance coverage customary in debtor’s business.
2. The debtor must name the U.S. Trustee as an **additional interested party** on each and every insurance policy. The debtor must provide each insurer the complete address of the Office of the U.S. Trustee assigned to the case so in the event of any non-payment of premium or cancellation of policy, the U.S. Trustee will receive notification.

3. **If the debtor does not have the required insurance coverage at the time of filing, it must be obtained immediately. It is an ongoing requirement that the debtor provide updated proof of insurance during the pendency of the case.** If insurance coverage lapses at any time during the pendency of the bankruptcy, the U.S. Trustee must be advised and proof of new or renewed insurance must be presented at once.

II. 7-Day Package

Within *seven days* of the date the petition is filed, the case is converted, or an order for relief is entered, the debtor must submit a package of required documents (the “7-Day Package”) to the United States Trustee. The 7-Day Package **must be typed** unless the debtor is pro se.

- A. **Cover Sheet (USTSV-CS):** The 7-Day Package Cover Sheet contains a list of the documents required to be included in the 7-Day Package. For each document required, and each subcategory identified on the USTSV-CS, the debtor must select at least one category to indicate whether the document is attached, previously has been submitted, or an explanation is attached.
 1. If any document is not attached, an explanation must be provided. Inadequate explanations may result in the filing of a motion to dismiss or convert the case.
 2. An additional cover sheet (USTSV-CS) must be submitted each time that any further documentation is provided.
- B. **Real Property Questionnaire (USTSV-RPQ):** If the debtor leases, owns, has any interest in, or is in the process of purchasing real properties, the debtor must submit a separate Real Property Questionnaire (USTSV-RPQ) for EACH parcel of real property.
- C. **Pre-Petition Bank Accounts**
 1. The debtor must provide a Declaration Regarding All Pre-Petition Bank Accounts that must include the following information: the name of the depository, the account name and number, the closing balance, and the date of closure. Closing bank statements for all accounts must be attached to the Declaration Regarding All Pre-Petition Bank Accounts. Each closing statement must show a zero balance.
 2. In any case where all pre-petition accounts have not been closed, the Declaration Regarding All Pre-Petition Bank Accounts must provide a justifiable reason why this requirement has not been met.
- D. **Debtor-In-Possession Bank Accounts**
 1. The debtor must submit a Declaration Regarding Debtor-In-Possession Bank Accounts stating the establish the name of the depository, the account name and number, and the initial deposit amount for each of the required new accounts.
 2. The following information for each debtor-in-possession account must be attached to the Declaration Regarding Debtor-In-Possession Bank Accounts:

- (a) Copy of the executed bank signature card;
 - (b) Copy of the opening bank statements identifying account as a debtor-in-possession;
 - (c) Copy of a pre-printed voided check which clearly indicates on the face of the check the term “debtor-in-possession” and the chapter 11 case number.
 3. It is the debtor’s responsibility to maintain all cash of the estate in debtor-in-possession bank accounts in an approved depository throughout the pendency of the case. See Current List of Approved Depositories, located at http://www.justice.gov/ust/r16/reg_info.htm).
- E. **Proof of Insurance Coverage:** The debtor must submit proof of current insurance in the debtor’s name as described in Section I.E.
1. Proof of insurance shall consist of *ONLY* the ***declaration page or pages*** containing the following information:
 - (a) Name of insured party;
 - (b) Name of additional interest parties, including the U.S. Trustee;
 - (c) The type and extent of coverage;
 - (d) Policy expiration date; and
 - (e) The account or policy number (or other identifying information).
 2. Binders and identification cards are not accepted as proof of insurance.
 3. **Copies of the entire insurance policy should not be submitted unless specifically requested by the Office of the U.S. Trustee.**
- F. **Proof of Required Certificates and Licenses**
1. The debtor must submit proof that the debtor holds all current certificates and licenses required by federal, state, and local law for the lawful operation of the debtor’s business. The following is a non-exclusive list of licenses and certificates that typically are required:
 - *Registration with the Secretary of State*
 - *City business license*
 - *Health Department permit*
 - *Municipal tax or police permits*
 - *Liquor/tobacco licenses*
 - *Fictitious Business Name (“DBA”) Statement filed with the county recorder*

- G. **Insider Compensation:** Before any insiders (as defined in 11 U.S.C. § 101(31)), including the owners, partners, officers, directors, or shareholders of the debtor and relatives of insiders, may receive compensation from a chapter 11 estate, the debtor must submit a Notice of Setting/Increasing Insider Compensation (“Notice”).
1. The Notice must attach proof of the insider’s compensation received from the debtor during the 12 month period immediately preceding the chapter 11 filing, such as Form W-2, 1099, or other related payroll or compensation forms.
 2. The Notice must be served on the creditors’ committee or the twenty largest unsecured creditors if no committee has been appointed, as well as on any secured creditors that claim an interest in cash collateral. Proof of service of the Notice **must** be submitted to the U.S. Trustee **by both mail and email to the Attorney assigned to the case as reflected on the court docket.**
 3. No compensation may be paid to any insiders until 15 days after the Notice has been served and no objection has been received or filed with the court. Compensation may accrue during this period.
 4. If, at any later time, the debtor proposes to increase the compensation of any insider, the debtor must submit and serve a new Notice of Setting/Increasing Insider Compensation in the manner and under the terms as set forth above, and in compliance with the Local Rules.
 5. In either case, if an objection is filed at any time, the debtor shall refrain from paying any portion of the disputed compensation or increase until the objection has been resolved.
- H. **Pre-Petition Financial Statements:** The debtor must submit copies of its most recent financial statements (audited or unaudited), including but not limited to a balance sheet, income (profit and loss) statement, and a cash flow statement. The cash flow statement must contain a detailed statement of all receipts and disbursements.
- I. **Projected Cash Flow Statement:**
1. ***Submission of bankruptcy Schedules I and J in lieu of a cash flow projection is NOT acceptable.*** The debtor must submit a projected cash flow statement, covering the first ninety (90) days of operation under chapter 11.
 2. This statement must contain at a minimum a projection of all expenses disclosed on Schedule J, expenses associated with preserving assets of the estate, and/or the operation of a business for the ninety-day period following the filing of the case.
- J. **Trust Agreements and Amendments to Trust Agreements:** The debtor must submit copies of any trust agreements and amendments thereto to which the debtor is a party or under which the debtor holds, has possession of, or operates any personal or real property or business as a trustee or otherwise. **This does not include copies of trust deeds.**

K. **Recordation of Chapter 11 Petition:** The debtor is required to record a copy of the chapter 11 petition (exhibits may be omitted) with the Recorder of each county for each parcel of real property owned by the debtor or in which the debtor has an ownership interest.

L. **Statement of Major Issues and Timetable Report:**

1. If the debtor is represented by counsel, counsel should prepare and submit the statement of major issues and timetable report. The **ONLY** time this document should be prepared by the debtor is when the debtor is *pro se*.
2. A thorough statement of major issues and a timetable report must provide a brief description of:
 - (a) The structure of any corporation, partnership, or business;
 - (b) The identity of officers and shareholders (if the debtor is a privately held corporation), principals and/or owners and managers, if applicable, with full names, addresses, and telephone numbers;
 - (c) The nature of the debtor's business;
 - (d) The major events or circumstances that led to the filing, including any environmental problems and pending foreclosures;
 - (e) The major issues, problems, and/or disputes to be resolved, and with whom, including environmental problems, PACA claims, the presence of live animals or perishable goods;
 - (f) A proposed timetable to resolve each of the problems described in such report, setting out on a single timetable the date of beginning each task, the date of completion of each step in the task resolution, and expected date of sufficient resolution of each task; and
 - (g) The expected date for filing the disclosure statement and plan.

M. **Most Recently Filed Federal and State Tax Returns:**

1. The debtor must submit copies of all federal income tax returns filed for the two fiscal years immediately preceding the filing of the chapter 11 petition. The debtor must also submit copies of the most recently filed federal and state payroll and state sales tax returns, including all schedules and attachments.
2. All taxes must be timely paid and all tax returns must be timely filed during the pendency of the chapter 11 proceeding. Copies of all future tax returns must be submitted to the Office of the U.S. Trustee within 7 days of filing with the taxing authority.
3. Copies of tax returns will be kept in a confidential file that will not be made available for public inspection.

- N. **Employee Benefit Plan Questionnaire (USTSV-EBPQ):** All debtors *must* submit an Employee Benefit Plan Questionnaire (USTSV-EBPQ) which identifies whether or not it is a public corporation and whether it sponsors a group health, dental, and/or pension plan.

III. Additional and Ongoing Requirements

In addition to all requirements set forth above, the debtor is required to comply with the following ongoing requirements:

- A. **Attendance at the Initial Debtor Interview (“IDI”), first meeting of creditors (“§ 341(a) meeting”), and other necessary meetings:**
1. San Fernando Valley Cases: The analyst assigned to the case will determine whether the IDI and the § 341(a) meeting will be held at the same time. If the analyst determines that the IDI will be held at a time other than the § 341(a) meeting, the debtor and/or debtor’s counsel will be notified.
 2. Northern Division: The IDI will be conducted at a different date and time than the § 341(a) meeting. The debtor and debtor’s counsel will receive notice of the date and time of the IDI from the Office of the U.S. Trustee. (The § 341(a) meeting will be noticed by the court.)
 3. Debtors are required to attend the IDI and § 341(a) meeting, as well as any other meetings required by the U.S. Trustee.
 4. If the debtor wishes to continue the date of the § 341(a) meeting and/or IDI, the debtor and/or debtor’s counsel must timely notify the analyst assigned to the case and obtain permission for the continuance. If the debtor requests a continuance, the debtor will be required to timely notice all creditors of any continuance of the § 341(a) meeting.
- B. **Monthly Operating Reports (Business (USTSV-MORB) and Non-Business (USTSV-MORBN))**
1. The debtor must timely file Monthly Operating Reports (“MORs”) with the court **and** provide timely service thereof to the U.S. Trustee. Service of the MORs must be effectuated on the U.S. Trustee by **email** adhering to the electronic submission guidelines in Appendix A. After January 1, 2012, hard copy of the MORs will not be accepted unless the debtor is pro se.
 2. The Guideline regarding completion of the MORs is available in the *Notice of Financial Reporting Requirements for Chapter 11 Debtors-In-Possession*, on the UST Region 16 website. (See http://www.justice.gov/ust/r16/reg_info.htm).
- C. **Post Confirmation Quarterly Status Reports (USTSV-PCR)**
1. Upon the entry of an order confirming a chapter 11 plan of reorganization, the debtor will no longer be obligated to submit Monthly Operation Reports. The debtor will be required to submit Post Confirmation Quarterly Status Reports (USTSV-PCR) to the Office of the U.S. Trustee via email adhering to the

electronic submission guidelines in Appendix A. After January 1, 2012, hard copy of the Post Confirmation Quarterly Status Report will not be accepted unless the debtor is pro se.

2. The Post Confirmation Quarterly Status Reports (USTSV-PCR) are required to be filed by the debtor on a quarterly basis until a final decree is entered or the case is dismissed or converted to another chapter.

D. Quarterly Fees:

1. Chapter 11 debtors are required to pay a quarterly fee to the U.S. Trustee for every calendar quarter that the debtor is in bankruptcy (including any fraction thereof). The amount of the quarterly fee varies, depending upon the dollar amount of disbursements made by the debtor or for the benefit of the debtor during the calendar quarter, with the minimum fee required regardless of the amount disbursed.
2. Unless otherwise specified, quarterly fee payments should be mailed to the Payment Processing Center address available on the Region 16 website (http://www.justice.gov/ust/r16/reg_info.htm). Payments should include the case name and case number on the check.
3. The current *Guide to Quarterly Fees*, including the address to which checks should be mailed, is available at the U.S. Trustee Region 16 website. (See http://www.justice.gov/ust/r16/reg_info.htm). A copy of the *Guide to Quarterly Fees* is also attached hereto as Appendix C.

E. On-site Audits and Inspections

1. The U.S. Trustee may conduct on-site audits and inspections of the debtor's books, records, and facilities to verify the information provided and to ensure that the estate assets are appropriately safeguarded.
2. Under 18 U.S.C. § 152, concealment of books, records, or assets of a bankruptcy estate is a felony, punishable by a maximum sentence of 5 years imprisonment and a fine.

F. Use, Sale, or Lease of Estate Property: Where the court has authorized the use, sale, or lease of property of the estate outside the ordinary course of business of the debtor and an escrow is opened relating thereto, a copy of the escrow instructions must be submitted to the U.S. Trustee. A copy of the escrow instructions must be attached to the Monthly Operating Report for the month in which the escrow closes.

G. Notice of Address Change: The debtor must notify the U.S. Trustee and file with the court a notice of any change of address or telephone number within seven days of the change.

APPENDIX A

Electronic Service Instructions

IMPORTANT UPDATE

The following procedures are to be used **only** to serve compliance items upon the United States Trustee. The United States Trustee will not accept service of legal pleadings pursuant to these procedures. Legal pleadings must be served upon the United States Trustee in accord with the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rules. These procedures do not, in any manner, constitute a waiver of the requirements of the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rules regarding rules regarding service of legal pleadings upon the United States Trustee.

- I. Mandatory electronic service of the 7-Day Package is required for all debtors represented by counsel. *If service is not completed in the manner set forth herein, the submission will be rejected and returned to the submitting party via email. Service will not be successful until a 7-Day Package is served that fully complies with these procedures.*
- A. Pro Se Exception: A person who is not represented by an attorney may file and serve papers in hard copy.
- B. Limited Exception for Attorneys: An attorney who is not approved to electronically file documents with the bankruptcy court and who serves papers in *fewer than five (5)* filed bankruptcy cases or adversary proceedings in a single calendar year, may file papers non-electronically. However, we encourage all attorneys to utilize these electronic service procedures.
1. Any attorney claiming the Limited Attorney Exemption will be required to include, with the initial submission of the 7-Day Package, a declaration stating that he or she is not approved to file documents electronically with the bankruptcy court and has filed fewer than five (5) cases in a single calendar year.
 2. The Office of the U.S. Trustee reserves the right in its sole discretion to revoke this limited exception at any time upon notice to the attorney.

All 7-Day Packages submitted by counsel **must be typed**.

IMPORTANT UPDATE

- C. **Email Address for Monthly Operating Reports and Post-Confirmation Quarterly Status Reports ONLY:** MORs and Post-Confirmation Quarterly Status Reports are to be submitted via email to the analyst assigned to the case.
1. carolyn.j.feinstein@usdoj.gov for Judges Mund and Tighe
 2. maria.marquez@usdoj.gov for Judges Ahart, Kaufman, and Riblet

The subject line of each email directed to an analyst **MUST** include the case name and case number at a minimum.

MORs and Post-Confirmation Quarterly Status Reports will not be accepted to the regional email address listed below. DO NOT directly send or carbon copy other parties or the regional email.

- D. **Email Address for 7-Day Package and Compliance Updates ONLY:** Documentation required to be filed electronically must be submitted to the United States Trustee via the following email address:

USTP.REGION16@USDOJ.GOV (not case sensitive)

DO NOT directly send or carbon copy the documentation to the UST attorney, analyst, paralegal, etc. Documents must be sent to the above email address ONLY.

DO NOT send MORs or Post-Confirmation Quarterly Status Reports to the regional mailbox.

- E. Subject Line of Email Submissions to the regional mailbox: The subject line for each submittal must clearly state the **name of the debtor, the full case number (including Judge's initials), and date of submission**. Please refer to the following examples.

For a Corporate Debtor: CH 11 Compliance 1:11-bk-12345-GM, A Happy Family, Inc., 12/7/11

For an Individual Debtor: CH 11 Compliance 1:11-bk-12345-GM, Last Name, First Name, 12/7/11

- F. Submissions in Parts: If a submission must be sent in parts due to file size, each part must be clearly identified in the email subject line. As an example:

CH 11 Compliance 1:11-bk-12345-GM, A Happy Family, Inc., 12/7/11 **PART 1 OF 2**

- G. Signatures: All documents that require the signature of a party shall be electronically imaged by scanning, and electronically filed in portable document format (.pdf). (Attorneys are required to retain any wet signatures contained on the documents for five (5) years.)

- H. Document Size: Document files shall not be larger than 5 megabytes (MB) in size. Approximately 100 pages of text, converted from a standard word processing format to a PDF image, should not exceed 5 MB. However, a PDF file created by scanning a document or by inserting additional pages that have been scanned may result in a file exceeding 5 MB. In particular, scanning a document with graphics or dark areas will significantly affect file size. A file exceeding the 5 MB limit must be broken into smaller sections. Any scanning should be done in black and white only and at a minimum of 200 dpi.

- I. Image Size: Individual pages of documents shall not exceed 8.5 x 11 inches. PDF files with pages exceeding the 8.5 x 11 inch limit must be modified before uploading.

- J. Submission of Tax Returns: Tax returns always must be submitted **as a separate attachment**. Any email that includes tax returns may also include other compliance items as long as the tax returns are contained in a separate PDF.