
UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF UTAH

STANDING ORDER NUMBER 2

This Standing Order Number 2 is issued by the United States Bankruptcy Court for the District of Utah pursuant to Local Rule 1001-2. It is effective for all cases filed on or after the effective date of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

Dated this 20th day of September, 2005.

/s/ Glen E. Clark

Glen E. Clark

Chief Judge, United States Bankruptcy Court
for the District of Utah

/s/ Judith A. Boulden

Judith A. Boulden

United States Bankruptcy Judge

/s/ William T. Thurman

William T. Thurman

United States Bankruptcy Judge

Approved

/s/ Dee Benson

Dee Benson

Chief Judge, United States District Court for the
District of Utah

UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF UTAH
STANDING ORDER NUMBER 2

**Supplementation to Local Rules 1007-2, 1020-1, 2002-1, 2003-1, 2081-1, 2083-1, 3022-1,
5003-1, 5005-1, 5080-1, 6070-1 and Appendices
Effective For All Cases Filed on or after the effective date of the Bankruptcy Abuse
Prevention and Consumer Protection Act of 2005.**

Whereas, on April 20, 2005 the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (the Act) was enacted into law; and

Whereas, most provisions of the Act are to be effective on October 17, 2005; and

Whereas, the Advisory Committee on Bankruptcy Rules has prepared Interim Rules designed to implement the substantive and procedural changes mandated by the Act; and

Whereas, the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States has also approved these Interim Rules and recommends the adoption of the Interim Rules to provide uniform procedures for implementing the Act; and

Whereas, the general effective date of the Act has not provided sufficient time to promulgate rules after appropriate public notice and an opportunity for comment; and

Whereas, the Executive Committee of the Judicial Conference of the United States on August 11, 2005 approved Official Forms;

NOW THEREFORE, pursuant to 28 U.S.C. § 2071, Rule 83 of the Federal Rules of Civil Procedure and Rule 9029 of the Federal Rules of Bankruptcy Procedure, the Interim Rules are adopted in their entirety without change, and the Official Forms are also adopted in their entirety without change, to be effective on or after the effective date of the Bankruptcy Abuse

Prevention and Consumer Protection Act of 2005.

RULE 1007-2

LISTS, SCHEDULES, STATEMENTS AND CERTIFICATIONS

(a) Petitions, Schedules, Statements, and Plans.

(1) Procedure for Dismissal of Chapter 7, 11 or 12 Cases for Failure to Timely File Certain Papers. If a debtor does not timely file certain papers identified in subsections A, B, and C below, the case will be dismissed using the following procedure. The United States trustee or case trustee must file a Section 341 Meeting Report indicating the failure to comply and serve it on the debtor and debtor's attorney. If an objection to dismissal is not filed within 20 days after service of the Section 341 Meeting Report, the clerk must enter an order dismissing the case. If an objection is timely filed, the dismissal is stayed. The objecting party must set a hearing and give notice to parties in interest as provided in Fed. R. Bankr. P. 2002(a). Unless the court orders otherwise, the clerk must enter an order dismissing the case if a hearing on the objection is not held within 40 days after the objection is filed.

(A) **Voluntary Case in Which the Debtor is Not an Individual.** The court may dismiss a voluntary case in which the debtor is not an individual, except a case that has been converted from a Chapter 11 case to a Chapter 7 case, if the debtor fails to file a list of creditors' names and addresses under Local Rules 1007-1 or 1007-2(b), a list of equity security holders, or documents required by § 521(a)(1) or § 1116(1), within the time provided by Fed. R. Bankr. P. 1007 or any extension granted under § 1116(3).

(B) **Voluntary Chapter 11 or 12 Case in Which the Debtor is an Individual.** The court may dismiss a voluntary case if the debtor fails to file a list

of creditors' names and addresses under Local Rules 1007-1 or 1007-2(b), or documents required by § 521(a)(1) or § 1116(1), within the time provided by Fed. R. Bankr. P. 1007 or within any extension granted under § 1116(3).

(C) **Voluntary Chapter 7 Case in Which the Debtor is an Individual.**

The court may dismiss a voluntary case, except a case that has been converted from a Chapter 11 case to a Chapter 7 case, if the debtor fails to file a list of creditors' names and addresses under Local Rules 1007-1 or 1007-2(b), within the time provided by Fed. R. Bankr. P. 1007 and 3015.

(2) Procedure for Dismissal of a Voluntary Case under Chapter 13 for Failure to Timely File Certain Papers. The court may dismiss a voluntary case, except a case that has been converted from a Chapter 7 case to a Chapter 13 case, if the debtor fails to file a list of creditors' names and addresses under Local Rules 1007-1 or 1007-2(b), or a Chapter 13 plan within the time provided by Fed. R. Bankr. P. 1007 and 3015. In a Chapter 13 case, a hearing on an objection filed in response to the trustee's Section 341 Meeting Report will be held at the time scheduled as the confirmation hearing on Official Form 9I, unless the court orders otherwise. No notice in addition to the notice of hearing contained on Official Form 9I is required.

(b) **List of Creditors and Equity Security Holders.** The debtor must file a list of all creditors and, if applicable, an additional list of creditors holding claims under § 507(a)(1)(A) and (B), and a list of equity security holders, in the manner prescribed by the clerk's office to facilitate the use of automated equipment. If the debtor files a list of creditors holding claims under § 507(a)(1)(A) and (B), the clerk may provide the notice specified in § 704(c)(1)(A) and (B) at least 20 days prior to the meeting of creditors under § 341. The clerk may mail the notice

provided by the trustee as specified in § 704(c)(1)(C) within 20 days after the debtor is granted a discharge under § 727.

(c) **Cover Sheets in Contested Matters.** Unless papers are filed electronically, a properly completed amendment cover sheet must be filed with the clerk with each amendment to a petition, statement of financial affairs, schedule, list of creditors, Chapter 12 or Chapter 13 plan, or other document required by the court. A properly completed civil cover sheet must be filed with the clerk with each notice of appeal and motion to withdraw the reference. Copies of the appropriate cover sheets may be obtained from the clerk.

(d) **Section 109(h) Compliance.**

(1) **Section 109 (h) Certification.** If the debtor fails to certify compliance with § 109(h)(1) on the petition, or request a waiver under § 109(h)(3)(A) on the petition and file a separate application for exemption and proposed order with the petition, or fails to file a request for determination by the court under § 109(h)(4) with the petition, the clerk must enter an order dismissing the case.

(2) **Certification of Eligibility for Exemption.** A debtor who requests a waiver under § 109(h)(3)(A) on the petition must also file with the petition a separate application for exemption and proposed order granting the application for exemption. The court may grant the application for exemption, set the application for exemption for hearing, or may deny the application for exemption without hearing. If the application for exemption is granted, the debtor must timely file a certification indicating compliance with the requirements of § 109(h)(1) or the clerk must enter an order of dismissal. If the application for exemption is denied, the clerk must enter an order of dismissal.

(3) **Section 109(h)(4) Hearing.** A debtor who timely files a request for

determination by the court under § 109(h)(4) must set the matter for a hearing to be held within 40 days of filing the petition with notice pursuant to Local Rule 2002-1. If the court does not determine that § 109(h)(4) is applicable within 40 days of the filing of the petition, or within such additional time as the court, for cause, determines, the clerk must enter an order of dismissal.

RULE 2002-1

NOTICE TO CREDITORS AND OTHER INTERESTED PARTIES

- (a) **Scope of Rule.** [No change.]
- (b) **Form of Notice.** [No change.].
- (c) **Service of Notice.** [No change.]
- (d) **Returned Notices.** [No change.]
- (e) **Notice of Compensation in Chapter 7 Case.** [No change.]
- (f) **Notice of Entry of Confirmation Order.** [No change.]
- (g) **Notice to Certain Governmental Entities.** In addition to all other notice requirements found in the Federal Rules of Bankruptcy Procedure, when notices are required to be sent to the Internal Revenue Service, the Utah State Tax Commission, the Utah Department of Workforce Services, or the Office of Recovery Services, notices should be mailed or delivered to the following addresses:

Internal Revenue Service
Attn: Special Procedures, Mail Stop 5021
50 South 200 East
Salt Lake City, Utah 84111

Taxpayer Service Division
Utah State Tax Commission
Attn: Bankruptcy Unit
210 North 1950 West
Salt Lake City, Utah 84134-3340

Utah Department of Workforce Services
Collections - Bankruptcy
140 East 300 South
P.O. Box 45288
Salt Lake City, Utah 84145-0288

Office of Recovery Services
P. O. Box 45033
Salt Lake City, Utah 84145-0033

The above addresses are correct as of the effective date of these Local Rules. The party providing notice is responsible for obtaining any new addresses.

RULE 2003-1

MEETING OF CREDITORS AND EQUITY SECURITY HOLDERS

- (a) **Attendance.** [No change.]
- (b) **Telephonic Appearance at Meeting of Creditors.** [No change.]
- (c) **Debtor Identification.** [No change.]
- (d) **Information Requested by the Trustee or by the United States Trustee at the**

Meeting of Creditors. The debtor must produce the following materials no later than 10 days after a written request by the trustee or United States trustee:

(1) bank statements, canceled checks, checkbooks, advices of payment, and tax returns, in addition to those required to be filed with the court pursuant to 11 U.S.C.

§ 521; and

(2) any other documents, recorded information, or other information reasonably necessary for the effective administration of the estate.

(3) Requests for documents made pursuant to this subsection are distinct from documents required to be filed pursuant to § 521. Documents requested to be produced to the trustee or United States trustee, pursuant to this subsection, are not required to be filed with the court.

- (e) **Costs of Meeting Facilities.** [No change.]
- (f) **Notice of Rescheduled Meetings of Creditors.** [No change.]

RULE 2081-1

CHAPTER 11 - GENERAL

(a) **Initial Financial Reports and Other Documents.** Not later than 20 days after filing a Chapter 11 petition, non-small business debtors must provide the United States trustee with an initial financial report in the form approved by the United States trustee, and not later than 7 days after filing a Chapter 11 petition, all Chapter 11 debtors shall provide evidence of any permits, licenses of operations, and any policies of insurance maintained by the debtor, unless the court orders otherwise.

(b) **Monthly Financial Reports.** [No change.]

(c) **Post-Confirmation Summary Report.** [No change.]

RULE 2083-1

CHAPTER 13 - GENERAL

(a) **Chapter 13 Plan Payments.** [No change.]

(b) **Preconfirmation Payments Pursuant to § 1326(a)(1).** The Chapter 13 plan shall list the creditor name, address, account number, payment due date, and payment amount for each creditor entitled to preconfirmation adequate protection, or lease payments to be paid by the trustee.

(1) **Adequate Protection.** Unless otherwise ordered by the court, all preconfirmation adequate protection payments to holders of secured claims required under § 1326(a)(1) shall not be made by the debtor directly to the secured claimant, but shall be paid to and disbursed by the trustee. The debtor's preconfirmation plan payments to the trustee shall include the amount required under § 1326(a)(1) and the amount necessary to pay the trustee's statutory fee.

(2) **Lease Payments.** If the Chapter 13 plan provides for lease payments over the term of the plan to be paid by the trustee, preconfirmation lease payments to such lessors shall be paid by the trustee and the above provisions regarding preconfirmation adequate protection payments shall apply. If the Chapter 13 plan provides for lease payments to be paid by the debtor and not by the trustee over the term of the plan, then preconfirmation lease payments to such lessors required under § 1326(a)(1) shall be made directly by the debtor and not by the trustee.

(c) **Documents Provided to the Trustee at the Meeting of Creditors.** [No change.]

(d) **Failure to Make Payments or to Provide Documents.** [No change.]

(e) **Postpetition Child Support, Alimony, Maintenance Payments Deemed**

Voluntary. [No change.]

(f) **Eligibility Hearing.** [No change.]

(g) **Distribution in Preconfirmed Cases.**

(1) **Preconfirmation Disbursements by the Chapter 13 Trustee.** Preconfirmation disbursements under § 1326(a)(1) are hereby authorized without further order, but such disbursements shall not be made unless such creditor has filed a proof of claim with the court. Preconfirmation disbursements under § 1326(a)(1) shall be made to creditors within 30 days of the filing of the proof of claim, unless, within 7 business days prior to the end of such 30 day period, the trustee has not received sufficient, cleared funds to make such payment. The trustee is authorized to deduct from an allowed claim all § 1326(a)(1) preconfirmation disbursements.

(2) **Distribution in Discontinued Preconfirmation Cases.** [No change].

(h) **Confirmation.** [No change.]

(i) **Request for Discharge.** As soon as practicable after the completion of all payments under the plan, the trustee shall file with the court and serve upon the debtor and debtor's counsel a Notice of Completion of Plan Payments. Within 60 days thereafter, the debtor shall file and serve on all parties in interest a Verification and Request for Discharge in the form attached to these Local Rules as Appendix E. If no written objection to the Verification and Request for Discharge is filed within 20 days after service thereof, the court may enter a discharge pursuant to § 1328(a) without further notice or hearing.

RULE 3022-1

FINAL REPORT/DECREE (Ch. 11)

(a) **Non-Individual**. A Chapter 11 plan filed by a non-individual should set a date, not later than 1 year after the entry of the order confirming the plan, prior to which a final decree closing the case will be entered under § 350 of the Code and Fed. R. Bankr. P. 3022. Not later than 30 days before such date, the reorganized debtor should file, serve upon all interested parties and set for hearing, a motion for a final decree. The motion must set forth evidence of full administration for the purpose of entering the final decree. A party may object to entry of the final decree prior to the date set forth in the plan or prior to the expiration of 1 year from the entry of the order confirming the plan, whichever is earlier. The objection must be served on the reorganized debtor and debtor's attorney and must be set for a hearing. If the plan of reorganization does not provide a date certain for entry of a final decree or if the reorganized debtor fails to timely file a motion for a final decree, the final decree may be entered by the court, on or after 1 year from entry of the order confirming the plan. The decree must specify that the case is closed upon entry of the final decree. The court may extend the time for entry of the final decree upon motion and notice to all parties.

(b) **Individual**. A final decree must be sought by an individual within 30 days after completion of all payments under the plan. The final decree shall serve as a notice of the order of discharge of the individual debtor once all payments under the plan are complete.

RULE 5003-1

THE CLERK'S AUTHORITY

(a) **Orders, Judgments and Other Documents.** The clerk may sign his or her name, unless directed by the court to sign or imprint the court's facsimile signature and enter the following without further directive from the court:

- (1) an order entering default for failure to plead or otherwise defend under Fed. R. Bankr. P. 7055;
- (2) a subpoena for a party not represented by an attorney;
- (3) an order of discharge;
- (4) an order of dismissal, as directed by Local Rules 2003-1(a), 2082-1(b), 2083-1(d) and 7041-1, or similar dismissal orders arising from the failure of the debtor to respond to a motion to dismiss; and
- (5) any other order or document that does not require approval or order by the court under Fed. R. Civ. P. 77(c).

(b) **Review of Clerk's Actions.** [No change.]

RULE 5005-1

FILING REQUIREMENTS

- (a) **Filing of Papers.** [No change.]
- (b) **Date-Stamped Copies.** [No change.]
- (c) **Facsimile Filing.** [No change.]

RULE 5080-1

FEES - GENERAL

(a) **Payment of Fees.** [No change.]

(b) **Dishonored Payments.** [No change.]

(c) **Application for Waiver of Chapter 7 Filing Fee.** A Chapter 7 debtor seeking a fee waiver under 28 U.S.C. § 1930(f) must file a fee waiver using Official Form 3B. The court may grant, deny, or set the fee waiver application for hearing. If the court denies the fee waiver application, notice will be given to the debtor giving the debtor 10 days after the notice is sent to pay the filing fee in full, submit an application to pay in installments, or to request a hearing. The clerk will enter an order dismissing the case if the debtor fails to act within the 10 days. If a hearing is requested and granted, the court will schedule a hearing with 10 days' notice to the United States trustee, panel trustee, and the debtor. The clerk will enter an order dismissing the case if the debtor fails to appear at the scheduled hearing. If a hearing is requested and denied, the debtor has 10 days to pay the filing fee in full, submit an application to pay in installments, or appeal, or the clerk will enter an order dismissing the case. If an order denying a fee waiver application is appealed and affirmed, the debtor has 10 days to pay the filing fee or submit an application to pay in installments, or the clerk will enter an order dismissing the case.

RULE 6070-1

TAX RETURNS AND TAX REFUNDS

(a) **Tax Requirements in Chapter 11, 12 and 13 Cases.** Debtors in possession, Chapter 11 trustees, and Chapter 12 and 13 debtors, are subject to the requirements and regulations of the Internal Revenue Service and any applicable state or local taxing authority. Debtors who are not employers are required to comply only with subsection (6) below.

(1) **Federal Taxes.** The debtor, debtor in possession or the trustee must comply with the Internal Revenue Code and regulations regarding withholding of taxes from the wages of employees, the payment of the employer's FICA and FUTA tax liabilities, the making of deposits of such taxes, and the filing of employment tax returns as well as any excise or income tax returns for which the estate is liable.

(2) **State Taxes.** The debtor, debtor in possession or the trustee must comply with the laws and regulations of any applicable state or local taxing authority regarding withholding of taxes from the wages of employees; the collection and remittance of other types of tax which the estate is required to collect, deposit with, or remit to any applicable state or local taxing authority; the payment of unemployment insurance contributions to the appropriate state or local taxing authority; and the timely filing of returns accounting for the same.

(3) **Trust Accounts.** Within 20 days after the petition date, the debtor in possession or trustee must open separate bank trust accounts for the Internal Revenue Service and for each applicable state and local taxing authority for all tax deposits. Only the tax deposits due each entity are to be made into these trust accounts as they accrue each pay period. A Chapter 12 or 13 debtor must provide the applicable trustee proof of

such trust accounts at the § 341 meeting.

(4) Notification. The debtor in possession or trustee should notify the Internal Revenue Service and each state or local taxing authority of the location and account numbers of the respective trust accounts opened under subsection (a)(3) of this rule. The notices should be sent within 5 days after the date the account is opened. Notices to the Internal Revenue Service, the Utah State Tax Commission, and the Utah Department of Workforce Services must be mailed or delivered to addresses cited in Local Rule 2002-1(g).

(5) State Deposit Verification. The debtor, debtor in possession or trustee must, if applicable, file the Utah State Tax Commission's Verification of Taxpayer Deposit at the address shown in Local Rule 2002-1(g) within 5 days after making the required deposit.

(6) Filing and Payment. The debtor, debtor in possession or trustee must: (A) timely file any required tax returns with the Internal Revenue Service; (B) timely file any required tax returns with any applicable state or local taxing authority; (C) timely file unemployment insurance contribution reports with applicable state or local authorities; and (D) pay taxes on a current basis. Returns and reports filed with and payments made to the Internal Revenue Service, the Utah State Tax Commission and the Utah Department of Workforce Services should be delivered to the addresses stated in Local Rule 2002-1(g), not to the regular addresses for filing the returns and reports.

(b) Tax Returns in Chapter 12 Cases. [No change.]

(c) Tax Returns in Chapter 13 Cases. [No change.]

APPENDIX E

FORM FOR VERIFICATION AND REQUEST FOR DISCHARGE

[INSERT CAPTION STATED IN LOCAL RULE 9004-1(a)]

The Debtor(s), in the above-captioned case, being duly sworn, state as follows:

1. The Chapter 13 Trustee has issued a Notice of Completion of Plan Payments and the Debtors hereby request the court to enter a discharge in this case.
2. The Debtors have filed Official Form 23.
3. A. I/We have not been required by a judicial or administrative order, or by statute to pay any domestic support obligation as defined in 11 U.S.C. §101(14A) either before this bankruptcy was filed or at any time after the filing of this bankruptcy.

OR

[Note: If "B" is applicable, all information required in questions B.1 through 4 must be provided]

B.1. I/We certify that prior to the date of this affidavit I/We have paid all amounts due under any domestic support obligation [as defined in 11 U.S.C. §101(14A)] required by a judicial or administrative order, or by statute including amounts due before this bankruptcy was filed, to the extent provided for by the plan. The name and address of each holder of a domestic support obligation are as follows:

(NAME)

(ADDRESS)

B.2. My/Our most recent address is as follows:

(ADDRESS)

B.3. The name and address of my/our most recent employer(s) is as follows:

(NAME)

(ADDRESS)

B.4. The following creditors hold a claim that is not discharged under 11 U.S.C. § 523 (a)(2) or (a)(4) or a claim that was reaffirmed under 11 U.S.C. § 524(c):

(NAME)

(NAME)

4. I/We have not received a discharge in a Chapter 7, 11 or 12 bankruptcy case filed within 4 years prior to filing this Chapter 13 bankruptcy.

5. I/We have not received a discharge in another Chapter 13 bankruptcy case filed within 2 years prior to filing this Chapter 13 bankruptcy.

6. A. I/We did not have either at the time of filing this bankruptcy or at the present time, equity in excess of \$125,000.00 in the type of property described in 11 U.S.C. § 522(p)(1)[generally the debtor's homestead]

OR

B. There is not currently pending any proceeding in which I [in an individual case] or either of us [in a joint case] may be found guilty of a felony of the kind described in 11 U.S.C. § 522 (q)(1)(A) or liable for a debt of the kind described in 11 U.S.C. § 522 (q)(1)(B).

/s/ _____
Debtor

/s/ _____
Debtor

NOTICE

Any objection to this verification must be filed within 20 days after service of this verification. If no objection is filed, the court may enter a discharge pursuant to 28 U.S.C. § 1328(a) without further notice or hearing.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on _____ (date) _____, 200_, a true and correct copy of the Affidavit Requesting Issuance of Discharge was served on all creditors and parties in interest listed on the attached matrix by either first-class, U.S. mail or via the CM/ECF system of the United States Bankruptcy Court.

/s/ _____
(Signature of person completing service)