

# REGION 3, FORM 1 FINDINGS

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## ❖ Scheduled Assets – Scheduled assets do not match Petition/Schedules.

- All assets recorded on the schedules need to be listed. Do not lump assets together. For ease of administration, most assets should be separately identified where possible.<sup>1</sup>
- Review docket for any amended schedules that may have been filed and compare the schedules against the Form 1.
- If the asset was on the original schedules and only the amount was amended, then revise the Column 2 amount to the new amount and keep as a scheduled asset.<sup>2</sup>
- If the value assigned by the debtor in the schedules is “0” or “unknown”, the trustee should enter \$0.00 or “unknown” in column 2, as appropriate.
- The amount has not been adjusted to reflect the debtor’s interest. If a debtor owns a partial interest in an asset, the value is calculated for the debtor’s interest and recorded in Column 2. A notation should be included for the asset.<sup>3</sup>
- A scheduled asset has (u) after it. The (u) designation is reserved for unscheduled assets.

## ❖ Successor Cases<sup>4</sup>

- Form 1 should account for all property listed on the debtor’s original and amended schedules as well as assets identified by the prior trustee.
- Assets identified by the successor trustee and not listed on the original schedules are listed as unscheduled assets.

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<sup>1</sup> Instructions for Form 1, Page 1

<sup>2</sup> Instructions for Form 1, Pages 1-2

<sup>3</sup> Instructions for Form 1, Page 3 footnote 2

<sup>4</sup> Instructions for Form 1, Page 2

❖ **Converted Cases – Trustee did not maintain documentation of assets remaining in case converted from Chapter 11**

- Only the assets reported in the final report required by FRBP 1019(5), or in any schedules submitted post-conversion should be listed.
- Do **not** allow your software provider to import the assets in a converted case, as this will potentially include assets administered during the Chapter 11.
- **If** all the scheduled assets were imported in error, do **not** delete or void. Simply remove the values from columns 2 and 3, and record as fully administered during the chapter 11. Include a comment that the asset was fully administered during the chapter 11.
- Review the petition, schedules, and the most recent Chapter 11 MOR to ascertain the remaining assets. Notate the draft Form 1 and keep on file with all related documentation.

❖ **Unscheduled Assets – Unscheduled assets not recorded or properly identified on Form 1**

- If the amended schedules include a new asset, record the new asset on the Form 1 as an **unscheduled** asset.<sup>5</sup>
- If the trustee discovers an asset not disclosed by the debtor, the asset is unscheduled.
- Post-petition interest, dividends, rents, and interest paid on a tax refund are unscheduled assets.<sup>6</sup>
- It is helpful to include notes for any asset where clarification would be useful.
- An unscheduled asset is identified by (u) next to the description. The (u) designation is reserved for unscheduled assets. If the (u) is missing, the asset is reported as scheduled.

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<sup>5</sup> Instructions for Form 1, Pages 1-2

<sup>6</sup> Instructions for Form 1, Page 2

### ❖ Asset Status not Accurately Reflected and Tracked on Form 1

- Column 6 should reflect either the asset is Fully Administered (FA) or the Current Trustee Value, if not fully administered. Column 6 should **never** have a value of \$0.00 or a value of \$1.00.
- \$0.00 is entered in Column 3 for every asset.
- Debtor's scheduled value is entered for every asset.
- The value of Column 3 is changed to match the actual amount received.
- If the trustee initially lists the Estimated Net Value (the "ENV") as "unknown" in column 3, the ENV should be updated as soon as the trustee has an estimate or within one year, whichever occurs first.<sup>7</sup>

### ❖ Abandonments not properly tracked on Form 1

- If an asset was formally abandoned by Court order, the trustee should enter "OA" in Column 4.<sup>8</sup>
- "OA" not timely entered.
- "OA" entered, but asset was liquidated.
- "OA" entered, but there is no Court Order.

### ❖ Miscellaneous Form 1 Errors

- Bank Accounts – only the last four digits of a bank account number should be included as part of the description.
- Assets should be split when listed separately on the schedules or supplemental pages, including, but not limited to, real property, bank accounts, insurance policies, vehicles, etc.
- Column 2 reflects the debtor's interest in an asset, but there is no description explaining the value.<sup>9</sup>

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<sup>7</sup> Instructions for Form 1, Page 3

<sup>8</sup> Instructions for Form 1, Page 3

<sup>9</sup> Instructions for Form 1, Page 3 footnote 2

- Column 3 does not account for liens, cost of sale, exemptions, etc.<sup>10</sup>
- Major Activities Affecting Case Closing is blank or out of date.<sup>11</sup>
- The Initial Projected Date of TFR is blank.
- Estimated TFR date is outdated.
- Incorrect bond amount reflected on the Form 1.
- If an asset is being investigated, it should appear on the Form 1. Rule of thumb: If the asset will appear in the trustee's professionals' time charges, it should be included on the Form 1.
- The ENV of an asset being investigated can initially be recorded in Column 2 and/or 3 as "unknown", but the ENV should be updated as soon as the trustee has an estimate or within one year, whichever occurs first.<sup>12</sup>
- Unscheduled assets lumped together.
- Preferences lumped together and the trustee did not prepare a supplemental schedule of preference collections.
- A/R lumped together and the trustee did not prepare a supplemental schedule of A/R collections.

#### ❖ **Liquidation (Column 5) Not Recorded or Improperly Recorded on Form 1**

- Earnest money held in escrow pending the final sale linked to an asset.
- Earnest money held in escrow pending the final sale linked to an asset upon deposit, but not linked to the asset when refunded.
- Earnest monies refunded not recorded as a negative deposit. You must use the same T-code as when the money was received.
- Earnest monies are not linked to the asset once the sale is consummated.
- Net receipts recorded, rather than gross proceeds.<sup>13</sup>
- Gross receipts include the non-estate portion.

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<sup>10</sup> Instructions for Form 1, Page 3

<sup>11</sup> Instructions for Form 1, Page 4

<sup>12</sup> Instructions for Form 1, Page 3

<sup>13</sup> Instructions for Form 1, Pages 3-4

- The costs for the Sale of Real Property are all incorrectly recorded with the T-code 2500. The costs should be allocated with the appropriate T-codes, as not all costs associated with the sale of property are closing costs. Each cost should be analyzed against the T-code list for the T-code that best categorizes the cost in question.
- Funds paid to a third party not recorded as a negative deposit and reducing the asset to which it was linked (do not use T-code 8500).
- Form 1 receipts cannot be reconciled to Form 2 receipts.
- Assets sold in bulk not properly allocated between the sold assets.<sup>14</sup>
- Post-petition rent is erroneously included in the related asset rather than an unscheduled asset.<sup>15</sup>

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<sup>14</sup> Instructions for Form 1, Page 4

<sup>15</sup> Instructions for Form 1, Page 2