



MEMORANDUM

TO: All Chapter 7 Trustees, Region 2

FROM: Kathleen Dunivin Schmitt, Assistant U.S. Trustee - Rochester
Lisa Penpraze, Assistant U.S. Trustee – Albany
TFR/TDR Consolidation Supervisors

SUBJECT: TFR/TDR Updates and News

DATE: June 16, 2015 October 28, 2015

If you have any questions or concerns, please reach out to our reviewers, Sharon, Rhonda, Ercilia, and our newest member, Cheuk Ng. Cheuk formerly worked in the SDNY clerk's office and has a MBA and a degree in computer science and accounting. Erin, our team leader, also is available to assist you and your staff. Remember, your calls are not an interruption.

TFRS IN CONVERTED CASES:

The TFR Consolidation team is seeking your assistance with the submission of TFR's in converted cases. Most of the TFR's for converted cases are submitted noting that the case was filed as a Chapter 7 case, rather than providing the chapter of origin.

While this information seems insignificant, it is important to the Team. Not only does it give us guidance to determine the resources and time that may be needed to go into the TFR review, it also assists us to determine whether banking or other documentation may be needed before the TFR review may be performed.

As such, we would appreciate your review of your proposed TFR at paragraph 1 of the Uniform Form to determine whether the information is accurate before the report is uploaded to the mailbox. The information should mirror your Form 1. Thank you for your anticipated cooperation.

TDR REMINDERS AND COMMON ERRORS OBSERVED

In corporate cases, the TDR cover page in paragraph 2 frequently shows a dollar value for claims discharged without payment. The TDR should show a "0" or "NA" on this line.

Please make sure to enter the exemption amounts listed in the Schedules and/or Amended Schedules filed by the Debtor.

Please wait to submit your TDR until you have a zero balance bank statement. Lately, we have seen an increase in the number of trustees submitting TDRs before they have a zero balance statement.

TFR REMINDERS AND COMMON ERRORS OBSERVED

Because error reports slow down the TFR review and approval process, please double check your TFR submission before submitting it to the TFR Mailbox.

The following are some common reasons for Error Reports:

- The gross receipts reported on the TFR do not reconcile to the total funds received by the estate.
- The balance of funds on hand at the end of Form 2 does not reconcile to the bank statement balance that is submitted with the TFR.
- Required exhibits are missing from the TFR electronic file.
- The most recent, reconciled bank statement is missing (for cases with <25k or single asset) from the submission.
- Claim errors -- If you run the claims register early on in the case, you should look at it again before you prepare the TFR. Also, review the docket before you run the TFR to see if any claims assignments have occurred.
- Deposits on Form 2 are not linked to the assets on Form 1.
- Failure to pay the Debtor's exemption.
- Incorrect interest rate used for the calculation of interest on claims in surplus cases. The website: <http://www.utd.uscourts.gov/documents/judgpage.html> has the correct rates for interest.
- Improper recording of receipts from bulk sales of assets. The amount received from a bulk sale of assets should be allocated to the assets sold based on your best judgment. For example, do not create a new asset "Interest in vehicles" after a sale of the estate's interest in vehicles when the vehicles are already on Form 1. Refer to the Handbook for Chapter 7 Panel Trustees - Supplementary Materials, Sample Chapter 7 Case and Illustrative Forms 1, 2 and 3.
- Numbers that don't reconcile -- before hitting the send button, please take a quick double check and confirm that the total gross receipts on your TFR matches the number at the bottom of your Form 1 (total funds received by the estate) and that the TFR balance on hand mirrors the number at the bottom of your Form 2 and the bank statement that you are submitting with your TFR.

Remember, we don't want to send an error memo and know that you don't want to receive one . . . thanks - the TFR team

DON'T BILL TRUSTEE TIME AS LEGAL TIME

Just a reminder that Trustee duties cannot be billed by professionals retained in the estate. 11 U.S.C. § 704, Fed. R. Bankr. P. 2015(a). See also the Chapter 7 Handbook at 4-21.

The following non-exhaustive list includes examples of services considered to fall within the duties of a trustee:

- 1) Preparing for and examining the debtor at the meeting of creditors in order to verify factual matters;

- 2) Examining proofs of claim and filing routine objections to the allowance of any claim that is improper;
- 3) Investigating the financial affairs of the debtor;
- 4) Furnishing information to parties in interest on factual matters;
- 5) Collecting and liquidating assets of the estate by employing auctioneers or other agents and soliciting offers;
- 6) Preparing required reports;
- 7) Performing banking functions;
- 8) In appropriate cases, filing applications for employment of professionals and supervising those professionals.
- 9) Contacting special counsel for updates.
- 10) Supervision of professionals in a PI case.
- 11) Working with an auctioneer in preparation of an auction.
- 12) Initial request for assets such as the turnover of the non-exempt portion of Debtor's income tax refund; Jet-ski; auto; and insurance refunds.
- 13) Receipt and depositing estate check into a bank account.
- 14) Emailing/corresponding with taxing authorities about their original and/or amended Proof of Claim(s).

COMMON CONCERNS IN PROFESSIONAL FEE APPLICATIONS

Please make sure that you review your professional's fee applications before submitting them to the team for review. We are continuing to see objectionable entries. Below is a list of some of the most common items that have led to a communication from the team:

- 1) Trustee time on Attorney for Trustee fee applications, see above.
- 2) Overhead such as downloading and e-filing documents billed as attorney or paralegal time in a routine case.
- 3) Lumping of services so that it is impossible to tell how much time was billed for a discreet task.
- 4) Charging full attorney rates for travel time
- 5) Combining all Adversary Proceedings into one category so the team cannot tell how much time was spent on each adversary and how much was collected for that adversary.