

# **APPENDICES**

**HANDBOOK FOR STANDING TRUSTEES  
APPENDICES**

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**APPENDIX A 28CFR - Part 58 REGULATIONS RELATING TO THE**  
**BANKRUPTCY REFORM ACTS OF 1978 AND 1994**  
**Current through November 3, 1997**

**§ 58.3 Qualification for membership on panels of private trustees.**

(a) To be eligible for appointment to the panel and to retain eligibility therefor, an individual must possess the qualifications described in paragraph (b) of this section in addition to any other statutory qualifications. A corporation or partnership may qualify as an entity for appointment to the private panel. However, each person who, in the opinion of the United States Trustee or of the Director, performs duties as trustee on behalf of a corporation or partnership must individually meet the standards described in paragraph (b) of this section, except that each United States Trustee, with the approval of the Director, shall have the discretion to waive the applicability of paragraph (b)(6) of this section as to any individual in a non-supervisory position. No professional corporation, partnership, or similar entity organized for the practice of law or accounting shall be eligible to serve on the panel.

(b) The qualifications for membership on the panel are as follows:

(1) Possess integrity and good moral character.

(2) Be physically and mentally able to satisfactorily perform a trustee's duties.

(3) Be courteous and accessible to all parties with reasonable inquiries or comments about a case for which such individual is serving as private trustee.

(4) Be free of prejudices against any individual, entity, or group of individuals or entities which would interfere with unbiased performance of a trustee's duties.

(5) Not be related by affinity or consanguinity within the degree of first cousin to any employee of the Executive Office for United States Trustees of the Department of Justice, or to any employee of the office of the United States Trustee for the district in which he or she is applying.

(6)(i) Be a member in good standing of the bar of the highest court of a state or of the District of Columbia; OR

(ii) Be a certified public accountant; OR

(iii) Hold a bachelor's degree from a full four-year course of study (or the equivalent) of an accredited college or university (accredited as described in Part II, § III of Handbook X118 promulgated by the United States Office of Personnel Management) with a major in a business-related field of study or at least 20 semester-hours of business-related courses; or hold a master's or doctoral degree in a business-related field of study from a college or university of the type

described above; OR

(iv) Be a senior law student or candidate for a master's degree in business administration recommended by the relevant law school or business school dean and working under the direct supervision of:

(A) A member of a law school faculty; or

(B) A member of the panel of private trustees; or

(C) A member of a program established by the local bar association to provide clinical experience to students; OR

(v) Have equivalent experience as deemed acceptable by the United States Trustee.

(7) Be willing to provide reports as required by the United States Trustee.

(8) Have submitted an application under oath, in the form prescribed by the Director, to the United States Trustee for the District in which appointment is sought: Provided, That this provision may be waived by the United States Trustee on approval of the Director.

**§ 58.4 Qualifications for appointment as standing trustee and fiduciary standards.**

(a) As used in this section--

(1) The term standing trustee means an individual appointed pursuant to 28 U.S.C. § 586(b).

(2) The term relative means an individual who is related to the standing trustee as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or an individual whose close association to the standing trustee is the equivalent of a spousal relationship.

(3) The term financial or ownership interest excludes ownership of stock in a publicly-traded company if the ownership interest is not controlling.

(4) The word region means the geographical area defined in 28 U.S.C. § 581.

(b) To be eligible for appointment as a standing trustee, an individual must have the qualifications for membership on a private panel of trustees set forth in §§ 58.3(b)(1)-(4), (6)-(8). An individual need not be an attorney to be eligible for appointment as a standing trustee. A corporation or partnership may be appointed as standing trustee only with the approval of the Director.

(c) The United States Trustee shall not appoint as a standing trustee any individuals who, at the time of appointment, is:

(1) A relative of another standing trustee in the region in which the standing trustee is to be appointed;

(2) A relative of a standing trustee (in the region in which the standing trustee is to be appointed), who, within the preceding one-year period, died, resigned, or was removed as a standing trustee from a case;

(3) A relative of a bankruptcy judge or a clerk of the bankruptcy court in the region in which the standing trustee is to be appointed;

(4) An employee of the Department of Justice within the preceding one-year period; or

(5) A relative of a United States Trustee or an Assistant United States Trustee, a relative of an employee in any of the offices of the United States Trustee in the region in which the standing trustee is to be appointed, or a relative of an employee in the Executive Office for United States Trustees.

(d) A standing trustee must, at a minimum, adhere to the following fiduciary standards:

(1) Employment of relatives.

(i) A standing trustee shall not employ a relative of the standing trustee.

(ii) A standing trustee shall also not employ a relative of the United States Trustee or of an Assistant United States Trustee in the region in which the trustee has been appointed or a relative of a bankruptcy court judge or of the clerk of the bankruptcy court in the judicial district in which the trustee has been appointed.

(iii)(A) Paragraphs (d)(1)(i) and (ii) of this section shall not apply to a spouse of a standing trustee who was employed by the standing trustee as of August 1, 1995.

(B) For all other relatives employed by a standing trustee as of August 1, 1995, paragraphs (d)(1)(i) and (ii) of this section shall be fully implemented by October 1, 1998, unless specifically provided below:

(1) The United States Trustee shall have the discretion to grant a written waiver for a period of time not to exceed 2 years upon a written showing by the standing trustee of compelling circumstances that make the continued employment of a relative necessary for a standing trustee's performance of his or her duties and written evidence that the salary to be paid is at or below market rate.

(2) Additional waivers, not to exceed a period of two years each, may be granted under paragraph (d)(1)(iii)(B)(1) of this section provided the standing trustee makes a similar written showing within 90 days prior to the expiration of a present waiver and the United States Trustee determines that the circumstances for waiver are met.

(3) No waivers will be granted for a relative of the United States Trustee or of an Assistant United States Trustee.

(2) Related Party Transactions.

(i) A standing trustee shall not direct debtors or creditors of a bankruptcy case administered by the standing trustee to an individual or entity that provides products or services, such as insurance or financial counseling, if a standing trustee is a relative of that individual or if the standing trustee or relative has a financial or ownership interest in the entity.

(ii) A standing trustee shall not, on behalf of the trust, contract or allocate expenses with himself or herself, with a relative, or with any entity in which the standing trustee or a relative of the standing trustee has a financial or ownership interest if the costs are to be paid as an expense out of the fiduciary expense fund.

(iii)(A) The United States Trustee may grant a waiver from compliance with paragraph (d)(2)(ii) of this section for up to three years following the appointment of a standing trustee if the newly-appointed standing trustee can demonstrate in writing that a waiver is necessary and the cost is at or below market.

(B) The United States Trustee may grant a provisional waiver from compliance with the allocation prohibition contained in paragraph (d)(2)(ii) of this section if one of the following conditions is present:

(1) A standing trustee has insufficient receipts to earn maximum annual compensation as determined by the Director during any one of the last three fiscal years and provides the United States Trustee with an appraisal or other written evidence that the allocation is necessary and the allocated cost is at or below market rate for that good or service, or

(2) A Chapter 13 standing trustee also serves as a trustee in Chapter 12 cases and provides the United States Trustee with an appraisal or other written evidence that the allocation is necessary and the allocated cost is at or below market rate for that good or service.

(C) Except as otherwise provided in this paragraph, a standing trustee may seek a reasonable extension of time from the United States Trustee to comply with paragraph (d)(2)(ii) of this section. To obtain an extension, a standing trustee must demonstrate by an appraisal or other written evidence, satisfactory to the United States Trustee, that the expense is necessary and at or below market rate. In no event shall an extension be granted for the use and occupation of real estate beyond October 1, 2005. For personal property and personal service contracts, no extension shall be granted beyond October 1, 1998.

(3) Employment of Other Standing Trustees. A standing trustee shall not employ or contract with another standing trustee to provide personal services for compensation payable from the fiduciary expense fund. This section does not prohibit the standing trustee from reimbursing the actual, necessary expenses incurred by another standing trustee who provides necessary assistance to the standing trustee provided that the reimbursement has been pre-approved by the United States Trustee.

(e) Paragraph (d) of this section is effective July 2, 1997. As to those standing trustees who are appointed as of July 2, 1997, paragraph (d) will be applicable on the first day of their next fiscal year (i.e., October 1, 1997 for chapter 13 trustees and January 1, 1998 for chapter 12 trustees).

### **§ 58.5 Non-discrimination in appointment.**

The United States Trustees shall not discriminate on the basis of race, color, religion, sex, national origin or age in appointments to the private panel of trustees or of standing trustees and in this regard shall assure equal opportunity for all appointees and applicants for appointment to the private panel of trustees or as standing trustee. Each United States Trustee shall be guided by the policies and requirements of Executive Order No. 11478 of August 8, 1969, relating to equal employment opportunity in the Federal Government, section 717 of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e- 16), section 15 of the Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. 633a), and the regulations of the Office of Personnel Management relating to equal employment opportunity (5 CFR Part 713).



## **§ 58.6 Procedures for Suspension and Removal of Panel Trustees and Standing Trustees**

(a) A United States Trustee shall notify a panel trustee or a standing trustee in writing of any decision to suspend or terminate the assignment of cases to the trustee including, where applicable, any decision not to renew the trustee's term appointment. The notice shall state the reason(s) for the decision and should refer to, or be accompanied by copies of, pertinent materials upon which the United States Trustee has relied and any prior communications in which the United States Trustee has advised the trustee of the potential action. The notice shall be sent to the office of the trustee by overnight courier, for delivery the next business day. The reasons may include, but are in no way limited to:

- (1) Failure to safeguard or to account for estate funds and assets;
- (2) Failure to perform duties in a timely and consistently satisfactory manner;
- (3) Failure to comply with the provisions of the Code, the Bankruptcy Rules, and local rules of court;
- (4) Failure to cooperate and to comply with orders, instructions and policies of the court, the bankruptcy clerk or the United States Trustee;
- (5) Substandard performance of general duties and case management in comparison to other members of the chapter 7 panel or other standing trustees;
- (6) Failure to display proper temperament in dealing with judges, clerks, attorneys, creditors, debtors, the United States Trustee and the general public;
- (7) Failure to adequately monitor the work of professionals or others employed by the trustee to assist in the administration of cases;
- (8) Failure to file timely, accurate reports, including interim reports, final reports, and final accounts;
- (9) Failure to meet the eligibility requirements of 11 U.S.C. § 321 or the qualifications set forth in 28 CFR § 58.3 and § 58.4 and in 11 U.S.C. § 322;
- (10) Failure to attend in person or appropriately conduct the 11 U.S.C. § 341(a) meeting of creditors;
- (11) Action by or pending before a court or state licensing agency which calls the trustee's competence, financial responsibility or trustworthiness into question;

- (12) Routine inability to accept assigned cases due to conflicts of interest or to the trustee's unwillingness or incapacity to serve;
- (13) Change in the composition of the chapter 7 panel pursuant to a system established by the United States Trustee under 28 CFR § 58.1;
- (14) A determination by the United States Trustee that the interests of efficient case administration or a decline in the number of cases warrant a reduction in the number of panel trustees or standing trustees.

(b) The notice shall advise the trustee that the decision is final and unreviewable unless the trustee requests in writing a review by the Director, Executive Office for United States Trustees, no later than 20 calendar days from the date of issuance of the United States Trustee's notice ("request for review"). In order to be timely, a request for review must be received by the Office of the Director no later than 20 calendar days from the date of the United States Trustee's notice to the trustee.

(c) A decision by a United States Trustee to suspend or terminate the assignment of cases to a trustee shall take effect upon the expiration of a trustee's time to seek review from the Director or, if the trustee timely seeks such review, upon the issuance of a final written decision by the Director.

(d) Notwithstanding paragraph (c) of this section, a United States Trustee's decision to suspend or terminate the assignment of cases to a trustee may include, or may later be supplemented by an interim directive, by which the United States trustee may immediately discontinue assigning cases to a trustee during the review period. A United States Trustee may issue such an interim directive if the United States Trustee specifically finds that:

- (1) A continued assignment of cases to the trustee places the safety of estate assets at risk;
- (2) The trustee appears to be ineligible to serve under applicable law, rule, or regulation;
- (3) The trustee has engaged in conduct that appears to be dishonest, deceitful, fraudulent, or criminal in nature; or
- (4) The trustee appears to have engaged in other gross misconduct that is unbecoming his or her position as trustee or violates the trustee's duties.

(e) If the United States Trustee issues an interim directive, the trustee may seek a stay of the interim directive from the Director if the trustee has timely filed a request for review under paragraph (b) of this section.

(f) The trustee's written request for review shall fully describe why the trustee disagrees with

the United States Trustee's decision, and shall be accompanied by all documents and materials that the trustee wants the Director to consider in reviewing the decision. The trustee shall send a copy of the request for review, and the accompanying documents and materials, to the United States Trustee by overnight courier, for delivery the next business day. The trustee may request that specific documents in the possession of the United States Trustee be transmitted to the Director for inclusion in the record.

(g) The United States Trustee shall have 15 calendar days from the date of the trustee's request for review to submit to the Director a written response regarding the matters raised in the trustee's request for review. The United States Trustee shall provide a copy of this response to the trustee. Both copies shall be sent by overnight courier, for delivery the next business day.

(h) The Director may seek additional information from any party in the manner and to the extent the Director deems appropriate.

(i) Unless the trustee and the United States Trustee agree to a longer period of time, the Director shall issue a written decision no later than 30 calendar days from the receipt of the United States Trustee's response to the trustee's request for review. That decision shall determine whether the United States Trustee's decision is supported by the record and the action is an appropriate exercise of the United States Trustee's discretion, and shall adopt, modify or reject the United States Trustee's decision to suspend or terminate the assignment of future cases to the trustee. The Director's decision shall constitute final agency action.

(j) In reaching a determination, the Director may specify a person to act as a reviewing official. The reviewing official shall not be a person who was involved in the United States Trustee's decision or a Program employee who is located within the region of the United States Trustee who made the decision. The reviewing official's duties shall be specified by the Director on a case by case basis, and may include reviewing the record, obtaining additional information from the participants, providing the Director with written recommendations, or such other duties as the Director shall prescribe in a particular case.

(k) This rule does not authorize a trustee to seek review of any decision to increase the size of the chapter 7 panel or to appoint additional standing trustees in the district or region.

(l) A trustee who files a request for review shall bear his or her own costs and expenses, including counsel fees.

**APPENDIX B UNITED STATES TRUSTEE SYSTEM STANDING TRUSTEE  
EVALUATION RECORD**

Name of Trustee: \_\_\_\_\_  
 Region/Judicial Dist(s): \_\_\_\_\_  
 \_\_\_\_\_  
 Date of Original Appointment: \_\_\_\_\_  
 Evaluation for Period Beginning \_\_\_\_\_  
 and Ending \_\_\_\_\_

**TOTAL CASELOAD**

Total Cases at Beginning of Period	
Total Cases Received During Period	
Total Cases Disposed of During Period	
Total Cases at End of Period	
Total Cases 60 Months Old and Older	
Percentage of Cases Over 60 Months Old	%

**EVALUATION FACTORS:**

- |  |  |
|--|--|
| 1. Monthly Reports filed by the Standing Trustee     | 5. Budgets, Annual Reports and Final Reports |
| 2. §341 Meetings                                     | 6. Response to Audits/Inquiries              |
| 3. Substantive Case Administration/Court Performance | 7. Bonding, Estate Deposits/Investments      |
| 4. Public Complaints/Lawsuits                        |  |

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Signature of Evaluating Officials**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Assistant United States Trustee/Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Standing Trustee Coordinator

\_\_\_\_\_  
Date

\_\_\_\_\_  
United States Trustee

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A. TRUSTEE DUTY:

No. 1        Prepares and files appropriate Monthly Reports with  
                 bank account information.

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B. EVALUATION CRITERIA:

Timeliness

Completeness/accuracy

Bank information attached

Trustee attentiveness to variances in receipts and budgetary  
items

C. COMMENTS (DETAILED NARRATIVE):

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A. TRUSTEE DUTY:

No. 2 Investigates financial affairs of the debtor  
Presides over and conducts the §341 meeting of  
creditors.

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B. EVALUATION CRITERIA:

Punctuality  
Thoroughness  
Demeanor  
Preparedness  
Use of Substitutes  
Efficiency of Meeting  
Review of Plans and Budgets  
Follow-up of Deadlines Imposed  
Reports Instances of Criminal Conduct to the  
U.S. Trustee when detected

C. COMMENTS (DETAILED NARRATIVE):

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A. TRUSTEE DUTY:

- No. 3 Substantively administers cases by filing appropriate pleadings and appears effectively before the United States Bankruptcy Court.

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B. EVALUATION CRITERIA:

Pleadings

- Motions to Dismiss
- Confirmation Objections
- Objections to Claims
- Objections to Attorney Fees

Court Performance

- Preparation
- Demeanor
- Knowledge of Case

Compliance with U. S. Trustee Policies

- Familiarity with UST policies/guidelines, including Handbook and compliance with same.
- Nature and number of declinations of cases

C. COMMENTS (DETAILED NARRATIVE):

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A. TRUSTEE DUTY:

No. 4 Responds to inquiries from the public, parties in interest/responds to complaints.

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B. EVALUATION CRITERIA:

Responses

Courtesy

Helpfulness/Cooperation with creditors, debtors' counsel

Accuracy/completeness

Number of public complaints/resolution

Lawsuits

Nature

Outcome

C. COMMENTS (DETAILED NARRATIVE):



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A. TRUSTEE DUTY:

No. 5 Timely files budgets, annual reports and final reports; Judiciously uses expense funds.

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B. EVALUATION CRITERIA:

Budgets

Timely Filed

Accurately Calculated/Corrections made promptly

Reasonable, actual and necessary expenses

Contains proper attachments (job descriptions, proof of insurance, list of property, affidavits from banks)

Annual Reports

Timely filed

Accurately Calculated/Corrections made promptly

Number of Cases over 60 Months Old

Level of Misdisbursements, corrections made promptly

Final Reports

Timely Filed

C. COMMENTS (DETAILED NARRATIVE):

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A. TRUSTEE DUTY:

No. 6            Responds to audits, site visits and reviews;  
                     responds to requests of United States Trustee.

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B. EVALUATION CRITERIA:

Audits, Site Visits, Reviews

Accurate Record Keeping

Well Organized Files

Timeliness in Responses to Audits

Major Findings

Proper Corrective Action

Qualified Audits

Responses to United States Trustee

Expeditiousness, completeness

Attendance at UST training meetings

Enforcement actions necessarily taken by UST

C. COMMENTS (DETAILED NARRATIVE):

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A. TRUSTEE DUTY:

- No. 7        Maximizes and safeguards estate/investments.  
                 Complies with UST policy on banking and bonding.

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B. EVALUATION CRITERIA:

Use of Approved Depositories  
Proper Collateralization  
Reconciliation of Bank Statements  
Sufficiency of Bond

C. COMMENTS (DETAILED NARRATIVE):

**APPENDIX C SECTION 341(a) MEETING OF CREDITORS**

**REQUIRED STATEMENTS/QUESTIONS<sup>1</sup>**

1. State your name for the record. Is the address on the petition your current address?
2. Please provide your picture ID and Social Security number card for review.
  - a. If the documents are in agreement with the § 341(a) meeting notice, a suggested statement for the record is:

“I have viewed the original State of \_\_\_\_\_ drivers license (or other type of original photo ID) and original Social Security card (or other original document used for proof) and they match the name and Social Security number on the § 341(a) meeting notice.”
  - b. If the documents are not in agreement with the § 341(a) meeting notice, a suggested statement for the record is:

“I have viewed the original Social Security card (or other original document used for proof) and the number does not match the number on the § 341(a) meeting notice. I have instructed the debtor (or debtor’s counsel) to submit to the court an amended verified statement by [date], with notice of the correct number to all creditors, the United States Trustee, and the trustee; and to file with the court a redacted copy of the notice, showing only the last four digits of the Social Security number, and a certificate of service.”
  - c. When the documents do not match the petition, the trustee shall attempt to ascertain why and shall report the matter to the United States Trustee.
  - d. If the debtor did not bring proof of identity and Social Security number, the trustee shall determine why.
3. Did you sign the petition, schedules, statements, and related documents and is the signature your own? Did you read the petition, schedules, statements, and related documents before you signed them?
4. Are you personally familiar with the information contained in the petition, schedules, statements and related documents? To the best of your knowledge, is the information contained in the petition, schedules, statements, and related documents true and correct? Are there any errors or omissions to bring to my attention at this time?

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<sup>1</sup> These statements/questions are required. The trustee shall ensure the debtor answers the substance of each of the questions on the record. The trustee may exercise discretion and judgment in varying the wording of the statements/questions, if the substance of the questions is covered.

5. Are all of your assets identified on the schedules? Have you listed all of your creditors on the schedules?
6. Have you previously filed bankruptcy? (If so, the trustee must obtain the case number and the discharge information to determine the debtor(s) discharge eligibility.)
7. What is the address of your current employer?
8. Is the copy of the tax return you provided a true copy of the most recent tax return you filed?
9. Do you have a domestic support obligation? To whom? Please provide the claimant's address and telephone number, but do not state it on the record. Are you current on your post-petition domestic support obligations?
10. Have you filed all required tax returns for the past four years?

**SAMPLE GENERAL QUESTIONS**  
(To be asked when deemed appropriate.)

1. Do you own or have any interest whatsoever in any real estate?  
  
If owned: When did you purchase the property? How much did the property cost? What are the mortgages encumbering it? What do you estimate the present value of the property to be? Is that the whole value or your share? How did you arrive at that value?  
If renting: Have you ever owned the property in which you live and/or is its owner in any way related to you?
2. Have you made any transfers of any property or given any property away within the last one year period (or such longer period as applicable under state law)?  
If yes: What did you transfer? To whom was it transferred? What did you receive in exchange? What did you do with the funds?
3. Does anyone hold property belonging to you?  
If yes: Who holds the property and what is it? What is its value?
4. Do you have a claim against anyone or any business?  
If there are large medical debts, are the medical bills from injury?  
Are you the plaintiff in any lawsuit?  
What is the status of each case and who is representing you?
5. Are you entitled to life insurance proceeds or an inheritance as a result of someone's death?  
If yes: Please explain the details.

If you become a beneficiary of anyone's estate within six months of the date your bankruptcy petition was filed, the trustee must be advised within ten days through your counsel of the nature and extent of the property you will receive. FRBP 1007(h)

6. Does anyone owe you money?  
If yes: Is the money collectible? Why haven't you collected it? Who owes the money and where are they?
7. Have you made any large payments, over \$600, to anyone in the past year?
8. Were federal income tax returns filed on a timely basis? When was the last return filed? Do you have copies of the federal income tax returns? At the time of the filing of your petition, were you entitled to a tax refund from the federal or state government?  
  
If yes: Inquire as to amounts.
9. Do you have a bank account, either checking or savings?  
If yes: In what banks and what were the balances as of the date you filed your petition?
10. When you filed your petition, did you have:
  - a. any cash on hand?
  - b. any U.S. savings bonds?
  - c. any other stocks or bonds?
  - d. any certificates of deposit?
  - e. a safe deposit box in your name or in anyone else's name?
11. Do you own an automobile?  
If yes: What is the year, make, and value? Do you owe any money on it? Is it insured?
12. Are you the owner of any cash value life insurance policies?  
If yes: State the name of the company, face amount of the policy, cash surrender value, if any, and the beneficiaries.
13. Do you have any winning lottery tickets?
14. Do you anticipate that you might realize any property, cash or otherwise, as a result of a divorce or separation proceeding?
15. Have you been engaged in any business during the last six years?  
If yes: Where and when? What happened to the assets of the business?

**APPENDIX D SAMPLE SECTION 341(a) MEETING OF CREDITORS**  
**(Business Debtors)**

In cases where debtors are engaged in business, the following questions should be considered:

1. Who was responsible for maintaining financial records?
2. Which of the following records were maintained?
  - a. Cash receipts journal
  - b. Cash disbursements journal
  - c. General journal
  - d. Accounts receivable ledger
  - e. Accounts payable ledger
  - f. Payroll ledger
  - g. Fixed asset ledger
  - h. Inventory ledger
  - i. General ledger
  - j. Balance sheet, income statement, and cash flow statements
3. Where are each of the foregoing records now located?
4. Who was responsible for preparing financial statements?
5. How often were financial statements prepared?
6. For what periods are financial statements available?
7. Where are such financial statements now located?
8. Was the business on a calendar year or a fiscal year? If fiscal year, identify.
9. Were federal income tax returns filed on a timely basis? When was the last return filed?
10. Do you have copies of the federal income tax returns? Who does have the copies?
11. What outside accountants were employed within the last three years?
12. Do you have copies of the reports of such accountants? Who does have copies?
13. What bank accounts were maintained within the last three years?
14. Where are the bank statements and canceled checks now located?

15. What insurance policies were in effect within the last year? What kind, and why?
16. From whom can copies of such insurance policies be obtained?
17. If the business is incorporated, where are the corporate minutes?
18. Is the debtor owed any outstanding accounts receivable? From whom? Are they collectible?
19. Is there any inventory, property, or equipment remaining?



**APPENDIX E BUSINESS EXAMINATION CHECKLISTS AND OPERATING  
REPORT FORMS: SAMPLE #1**

*Date this form is due:* 15 Days after the petition is filed with the Bankruptcy Clerk  
*Form must be sent to:* Trustee's Office  
*Attachments to form:* All copies and attachments required in questionnaire  
*Who uses this form:* All Debtors that are self employed

Pursuant to the Trustee Guidelines all Debtors that are self employed must submit this form. The purpose of the form is to help the Trustee gain as much knowledge as possible of the business activities of the Debtor. This form will be reviewed prior to the First Meeting of Creditors as to help expedite the actual meeting when it is held. The following points should be reviewed before the questionnaire is submitted to the Trustee:

- All information provided in the questionnaire should be complete and accurate.
- The questionnaire must have the original signature of all Debtors in the case.
- The questionnaire must be dated.
- A copy of the questionnaire should be kept by the Debtor for future reference.

TRUSTEE NAME  
STANDING BANKRUPTCY TRUSTEE  
ADDRESS  
CITY, STATE, ZIP CODE  
TELEPHONE NUMBER  
FAX NUMBER

## BUSINESS CASE QUESTIONNAIRE

Dated: \_\_\_\_\_

Debtors Name: \_\_\_\_\_ Case Number: \_\_\_\_\_

The Trustee requires all debtors who are self employed to complete the following questions. All questions should be answered. Use a separate page if additional room is needed but be sure to reference the additional page next to the item you are answering. All information provided must be complete and organized. Failure to provide detail and accurate information may result in the Trustee filing a motion to dismiss the case.

### 1. What circumstances lead you to file this Chapter 13 Bankruptcy?

### 2. Give description of business:

a) List current names and all past names used by the business.

b) Type of business that you operate.

c) Main product and/or service.

d) Is your business a:

Sole Proprietorship     Partnership     Corporation

e) Name of owners

f) When did the current business start operating?

g) Location where the business is operated.

h) Are you leasing office space?  Yes  No

If yes, list all leases, terms of each lease, and if you wish to continue each lease.

i) Are you leasing any business equipment?  Yes  No

If yes, list all leases, terms of each lease, and if you wish to continue each lease.

j) Is your business seasonal?  Yes  No

If yes, specify your good months and poor months and reason for fluctuation.

k) Have you pledged your receivables, rents, profits, or other cash as collateral for any loans?  Yes  No

If yes, identify asset or revenue pledged.

### 3. Description of assets:

a) On a separate page, describe each item with a value over \$500.00. Also include 1) What you would sell the item for in its present condition and assuming a fair price; 2) How much the item cost you originally; 3) The age of each item.

b) What would you estimate the market value of your inventory to be?  
\$ \_\_\_\_\_

c) What would you estimate the market value of your accounts receivable to be? \$ \_\_\_\_\_

d) If you were to buy your business today, how much would you pay for your business? \$ \_\_\_\_\_

**4. Description of all bank accounts to which you have access:**

- a) Provide copies, not originals, of bank statements for all accounts for 6 months prior to the time of filing your Chapter 13 Case. (Note: The Trustee may request copies of one or more canceled checks from this time period in order to clarify data contained in the bank statements.)
- b) Are you the only authorized signatory(ies) on the accounts?  Yes  No  
If no, specify other persons that are an authorized signer \_\_\_\_\_

Bank Name	Account Number	Type of Account	Purpose

**5. List all full time and part time employees:**

Name of Employee	Position/Function	Monthly Salary	Part Time/Full Time

**6. Proof of payment of employee withholding taxes:**

- a) If you have employees, provide copies of proof of payment for 3 months prior to the month your case was filed.

**7. Proof of payment of sales taxes:**

- a) If applicable, provide copies of proof of payment for 3 months prior to the month your case was filed.

**8. Federal Tax Returns:**

- a) Provide a copy of your most recent federal tax return.

**9. Insurance:**

- a) In addition to the insurance listed in the Affidavit of Chapter 13 Debtors, provide copies of the policy or binder for the following:
  - 1) Liquor liability insurance
  - 2) Worker's compensation insurance
  - 3) All other insurance for which premiums are currently being paid

**10. Licenses:**

- a) Provide copies of the following if applicable:
  - 1) Business License (If a business license is not required for your business explain why) \_\_\_\_\_
  - 2) Seller's permit
  - 3) Contractor's license
  - 4) Other license currently used \_\_\_\_\_

I/WE declare under penalty of perjury that the forgoing statement of information is true and correct to the best of MY/OUR knowledge, information, and belief.

Dated: \_\_\_\_\_

\_\_\_\_\_  
*Debtor 1 Signature*

\_\_\_\_\_  
*Debtor 2 Signature*

---

## CHAPTER 13 MONTHLY CASH RECEIPTS AND DISBURSEMENTS

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<u>Date this form is due:</u>	Monthly, on the 20 <sup>th</sup> day (of the month following) the current month being prepared
<u>Form must be sent to:</u>	Trustee's to Office
<u>Attachments to form:</u>	Copies of bank statements and deposit slips used to generate the report
<u>Who uses this form:</u>	All Debtors that are self employed

Pursuant to the Trustee Guidelines and General Order \_\_\_\_\_ all Debtors who are self employed and have ongoing business activity must file monthly cash receipts and disbursement reports with the Trustee. The following are some points to remember when preparing this report:

- Make extra copies of the report before you begin to use the report so that you will have blank copies to use for upcoming months.
- Be sure that the ending balance on the report matches the ending balances of all bank statements used.
- Avoid cash transactions and use checking accounts as much as possible.
- Be sure each bank statement has been reconciled before it is attached to the report.
- Be sure to keep a copy of the entire report for you records.
- The Trustee will have no choice but to file a motion to dismiss if the reports are not timely sent.
- Be sure the report sent to the Trustee includes an original signature and is dated.
- Be sure copies attached to the report are clear and legible.
- The first report may only be for a partial month due to the fact that the case may have been filed sometime after the first day of the month and the report would end the last day of that same month.

# PROFIT & LOSS STATEMENT

Month \_\_\_\_\_ Year \_\_\_\_\_

(Do not include Personal Household Expenses. Include Only Business Expenses.)

**INCOME**

1. Gross Receipts or Sales .....	\$	
2. Cost of Goods Sold:		
2(a) Purchases .....	\$	
2(b) Cost of Labor .....	\$	
(do not include employee salaries)		
2(c) Materials and Supplies .....	\$	
3. Gross Profit (subtract line 2 from line 1) .....	\$	
4. Other Income .....	\$	
5. Gross Income (add lines 3 and 4) .....	\$	

**EXPENSES (do not list chapter 13 plan payment)**

6. Business Property Rent/Lease .....	\$	
7. Salaries and Wages of Employees .....	\$	
8. Employee Benefits .....	\$	
9. Equipment Lease Payments .....	\$	
10. Secured Debt Payments .....	\$	
11. Supplies (not included in 2(c)) .....	\$	
12. Utilities .....	\$	
13. Telephone .....	\$	
14. Repairs & Maintenance .....	\$	
15. Miscellaneous Office Expense .....	\$	
16. Advertising .....	\$	
17. Travel & Entertainment .....	\$	
18. Professional Fees .....	\$	
Name _____ Purpose _____	\$	
19. Insurance:		
19(a) Liability	\$	
19(b) Property	\$	
19(c) Vehicle	\$	
19(d) Worker's Compensation	\$	
19(e) Other _____	\$	
.....	\$	
20. Taxes:		
20(a) Payroll	\$	
20(b) Sales	\$	
20(c) Other	\$	
.....	\$	
21. Total Expenses (add lines 6 through 20) .....	\$	
<b>TOTAL PROFIT OR (LOSS) FOR MONTH (subtract line 21 from line 5) .....</b>	<b>\$</b>	

I/WE declare under penalty of perjury that the information provided is true and correct to the best of my/our knowledge, information and belief.

Dated: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
(Debtors)





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## CASH FLOW FORM

---

<u>Date this form is due:</u>	15 Days after the petition is filed with the Bankruptcy Clerk
<u>Form must be sent to:</u>	Trustee's Office
<u>Attachments to form:</u>	None
<u>Who uses this form:</u>	All Debtors that are self employed

Pursuant to the Trustee Guidelines the Trustee requires all Chapter 13 cases with ongoing business activity to prepare and file a cash flow form. It is only required to be prepared correctly one time. The purpose of the form is to reflect estimated income and expenses throughout a 12 month period of time beginning with the date the case was filed. Seasonal income and expenses should be reviewed closely to determine if plan payments may have to vary also. All income and expense items must be broken down as much as possible. The following instructions should help in completing the form correctly:

- Step 1: Complete top of page 1; Case Number, Debtor Name, Date Prepared, and Business Name(s).
- Step 2: Enter the month and year which coincides with the month and year in which the Bankruptcy Petition was filed in the "1st Month" column.
- Step 3: Enter the beginning cash in the "1st Month" column. This should be equal to the same amount of cash on hand shown on Schedule B of your petition.
- Step 4: Enter all revenues from the business on lines 1-26 of the "1st Month" column. Be sure to itemize each type of income to be received. Break down these revenues as much as possible.
- Step 5: Enter all revenues from other sources on lines 1-6 of the "1st Month" column. Be sure to include all other sources. This does include revenue sources outside of the business.
- Step 6: to Total cash available/month for the "1st Month" column of page 1. This should include beginning balance on hand plus business and other revenues.
- Step 7: Enter all business expenses on lines 1-21 of the "1st Month" column. Be sure itemize each type of business expense. Break down these expenses as much as possible.
- Step 8: Enter all other expenses on lines 1-of the "1st Month" column. Be sure to include all other expenses. does include expenses outside of the business.
- Step 9: Enter all direct payments to creditors in the "1st Month" column which are shown in the preliminary plan to be paid direct per the original terms of their contract. If more than one creditor is paid direct, show monthly total.
- Step 10: Enter the monthly plan payment amount in the "1st Month" column. This amount should coincide with your most recent preliminary plan or amendment thereto.
- Step 11: Total cash expenditures/month for the "1st Month" column of page 2.
- Step 12: Calculate Ending Cash. To figure ending cash subtract total cash expenditures (page 2) from total cash available (page 1).
- Step 13: Enter the ending cash figure from the "1st Month" column in the beginning cash section of the next column to the right. Beginning cash is always equal to ending cash of the previous month. Continue steps 2-13 until all twelve columns are complete.

**PLEASE NOTE: THE FIGURES INCLUDED IN THE CASH FLOW SHOULD REFLECT THE FUTURE INCOME AND EXPENSES OF THE BANKRUPTCY ESTATE AS MUCH AS THEY POSSIBLY CAN!!!!!!**

CASH FLOW PROJECTION  
Case No. \_\_\_\_\_

Debtor Name: \_\_\_\_\_  
Business Name (if any): \_\_\_\_\_

Date Prepared: \_\_\_\_\_

Month ->	1st Month	2nd Month	3rd Month	4th Month	5th Month	6th Month	7th Month	8th Month	9th Month	10 Month	11th Month	12th Month
Beginning Cash												
Revenues from Business												
1												
2												
3												
4												
5												
6												
7												
8												
9												
10												
11												
12												
13												
14												
15												
16												
17												
18												
19												
20												
21												
22												
23												
24												
25												
26												
All other Revenue												
1												
2												
3												
4												
5												
6												
Total Cash Available/Month												

CASH FLOW PROJECTION  
 Case No. \_\_\_\_\_

Debtor Name: \_\_\_\_\_  
 Business Name (if any): \_\_\_\_\_

	1st Month	2nd Month	3rd Month	4th Month	5th Month	6th Month	7th Month	8th Month	9th Month	10th Month	11th Month	12th Month
Month - >												
Business Expenses												
1												
2												
3												
4												
5												
6												
7												
8												
9												
10												
11												
12												
13												
14												
15												
16												
17												
18												
19												
20												
21												
All other Expenses												
1												
2												
3												
4												
5												
6												
7												
8												
Direct Payments												
Monthly Plan Payment												
Total Cash Expenditure/Month												
ENDING CASH												

**APPENDIX E BUSINESS EXAMINATION CHECK LISTS: SAMPLE #2**

Debtor's Name \_\_\_\_\_  
\_\_\_\_\_  
Case Number \_\_\_\_\_  
Date of Review \_\_\_\_\_  
Date of Petition \_\_\_\_\_  
Person Interviewed \_\_\_\_\_  
Office Reviewer \_\_\_\_\_

**General Information**

1. Who maintains the accounting records for the business? \_\_\_\_\_  
Manual or Computer? \_\_\_\_\_ Type of software \_\_\_\_\_
2. Who prepares payroll, payroll tax deposits, and payroll tax returns? \_\_\_\_\_
3. Are payroll tax deposits made at time payroll is paid? Yes \_\_\_ No \_\_\_
4. Who prepares bank deposits? \_\_\_\_\_
5. Who reconciles the bank accounts? \_\_\_\_\_  
Is this done monthly? Yes \_\_\_\_\_ No \_\_\_\_\_
6. Where are bank accounts maintained? \_\_\_\_\_
7. Who is responsible for collecting accounts receivable? \_\_\_\_\_
8. Who is responsible for control over and ordering inventory? \_\_\_\_\_
9. Who is responsible for maintaining and paying accounts payable? \_\_\_\_\_
10. Who is the attorney for the business? \_\_\_\_\_
11. Do you have an outside accountant? Yes \_\_\_ No \_\_\_ Name \_\_\_\_\_
12. Who is the insurance agent for the business? \_\_\_\_\_

13. What insurance is in force and amount of coverage (through what dates) for the business?

	<u>Amount</u>	<u>Through (date)</u>
a). Fire, building	_____	_____
b). Fire, contents	_____	_____
c). Liability	_____	_____
d). Auto	_____	_____
e). Workmen's comp.	_____	_____
f). Other - Inventory	_____	_____

14. How frequently and to what states does the business file sales tax returns?

<u>State</u>	<u>Due Date</u>
_____	_____
_____	_____
_____	_____
_____	_____

15. Are sales tax collections segregated from other funds of the business? Yes \_\_\_ No \_\_\_

16. What is the average amount of payroll tax liability each month? \_\_\_\_\_

17. What is the average amount of sales tax liability each month? \_\_\_\_\_

18. Are any immediate family members on payroll? Yes \_\_\_ No \_\_\_

If so, relationship and amount paid to each last month.

<u>Name</u>	<u>Relationship</u>	<u>Amount</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Assets/Liabilities

1. What is the current cash balance? \_\_\_\_\_

Are the accounts reconciled? Yes \_\_\_ No \_\_\_

List all accounts with month-end balances (include savings, CDs, etc.)

<u>Bank</u>	<u>Account</u>	<u>Amount</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

2. What is the total of accounts receivable? \_\_\_\_\_

What is the aging?

Current \_\_\_\_\_  
Over 30 \_\_\_\_\_  
Over 60 \_\_\_\_\_  
Over 90 \_\_\_\_\_

Are there problem accounts? Yes \_\_\_ No \_\_\_

If so, identify. \_\_\_\_\_

3. What is the value of inventory? \_\_\_\_\_

Are there any slow-moving or obsolete items in inventory? Yes \_\_\_ No \_\_\_

If so, identify. \_\_\_\_\_

4. Are there any prepaid expenses and/or deposits made by the business? Yes \_\_\_ No \_\_\_

If so, identify. \_\_\_\_\_

5. Is there a listing of fixed assets? Yes \_\_\_ No \_\_\_

If no, why? \_\_\_\_\_

What is owed on fixed assets?

<u>Creditor</u>	<u>Total Amount</u>	<u>Monthly Payment</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

6. Are any fixed assets leased? Yes \_\_\_ No \_\_\_

Type of assets \_\_\_\_\_  
Total owed \_\_\_\_\_  
Monthly payments \_\_\_\_\_  
Lessor \_\_\_\_\_

7. What is the amount of current accounts payable? \_\_\_\_\_

8. What is the amount of sales tax owed? \_\_\_\_\_

9. What is the amount of current payroll taxes due? \_\_\_\_\_

10. What is the amount of principal paid on long-term debt each month? \_\_\_\_\_

11. Is depreciation computed monthly on fixed assets? Yes \_\_\_ No \_\_\_

12. Are state and federal payroll tax returns filed through current date? Yes \_\_\_ No \_\_\_

If no, identify. \_\_\_\_\_

13. Have prior-year state and federal tax returns been filed? Yes \_\_\_\_\_ No \_\_\_\_\_

If no, identify. \_\_\_\_\_

Income Statement Information

1. Who prepares the income statements for the business? \_\_\_\_\_

2. Are income statements prepared monthly? Yes \_\_\_\_\_ No \_\_\_\_\_

3. Is depreciation expense considered in the income statement? Yes \_\_\_\_\_ No \_\_\_\_\_

4. Is interest expense on debt considered in the income statement? Yes \_\_\_\_\_ No \_\_\_\_\_

5. Are owners' salaries/draws considered in the income statement? Yes \_\_\_\_\_ No \_\_\_\_\_

For whom and how much? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. How is the cost of inventory sold determined for the income statement?

Actual cost

Standard cost

Estimated cost

7. Is a physical inventory taken each month? Yes \_\_\_\_\_ No \_\_\_\_\_

8. Does the owner believe the business will make a profit each month for the next three years?

Yes \_\_\_\_\_ No \_\_\_\_\_

Does the owner have a budget? Yes \_\_\_\_\_ No \_\_\_\_\_

9. Does the owner believe the business will generate enough cash flow to pay current operating costs on a timely basis and also make the payments required under the plan for the next three years?

Yes \_\_\_\_\_ No \_\_\_\_\_

Does the owner have a cash flow budget? Yes \_\_\_\_\_ No \_\_\_\_\_

General Observation

1. What is the appearance of the building, office, work area, etc.?
2. What is the appearance/condition of fixed assets? (i.e., equipment, autos, etc.)
3. Does the owner have any particular concerns about future operating issues? (i.e., loss of customers, rising costs, labor problems, etc.)
4. Does the owner have any particular expectations about future operating issues? (i.e., new contracts, better products, new sales areas/personnel, etc.)
5. Is the business subject to seasonal fluctuations or other things that will potentially impact earnings and/or cash flow?
6. Are there any prospects of selling the business?
7. Are there other factors that may impact future expectations? (i.e., competition, loss of lease, location, owners' health, etc.)
8. Any life insurance on owners? Yes \_\_\_ No \_\_\_\_

Who is the beneficiary? \_\_\_\_\_

Amount of policies? \_\_\_\_\_

Any cash surrender value? \_\_\_\_\_

Any loans against policies? \_\_\_\_\_

9. General comments:

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## BUSINESS CHAPTER 13 MONTHLY REPORTING

Prepared by Debtor, Due 10th of Month

Debtor's Name \_\_\_\_\_  
 Case Number \_\_\_\_\_  
 Month Ending \_\_\_\_\_  
 Date Prepared \_\_\_\_\_  
 Date Submitted \_\_\_\_\_

**ASSETS**

1. List ending cash balances for each account.

<u>Bank</u>	<u>Account Number</u>	<u>Prior Month</u>	<u>Current Month</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

2. Provide the total of accounts receivable at month-end.

	<u>Prior Month</u>	<u>Current Month</u>
Current	_____	_____
Over 30	_____	_____
Over 60	_____	_____
Over 90	_____	_____
 	_____	_____
Total	=====	=====

3. List amount of inventory.

	<u>Prior Month</u>	<u>Current Month</u>
_____	_____	_____

4. List dates and amounts of payroll paid and amounts and dates of payroll tax deposits.  
 (Attach photocopies of validated bank deposits.)

<u>Payroll for the Period Ended</u>	<u>Amount of Payroll</u>	<u>Date Paid</u>	<u>Amount of Payroll Taxes</u>	<u>Date Deposited</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

5. List the amount and due date of any unpaid payroll taxes for state and/or federal unemployment taxes.

<u>State/Federal</u>	<u>Due Date</u>	<u>Amount</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

6. List the amount and due date of any unpaid sales taxes for each state.

<u>State</u>	<u>Due Date</u>	<u>Amount</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

7. Provide the total accounts payable for month-end:

	<u>Prior Month</u>	<u>Current Month</u>
Current	_____	_____
Over 30	_____	_____
Over 60	_____	_____
Over 90	_____	_____
Total	_____	_____

8. List amounts paid to owners and family members this month.

<u>Name</u>	<u>Amount</u>
_____	_____
_____	_____
_____	_____

9. Did the business make a profit this month? Yes \_\_\_\_ No \_\_\_\_

How much? \_\_\_\_\_

- Attach a copy of income statement
- Attach listing of all checks issued during the month (date, check number, payee, amount).

10. Did the business make all lease/rent payments this month? Yes \_\_\_\_ No \_\_\_\_  
If not, why not?

11. Did the business make all loan payments this month? Yes \_\_\_\_ No \_\_\_\_  
If not, why not?

12. Did the business make all plan payments this month? Yes \_\_\_\_ No \_\_\_\_  
If not, why not?

CERTIFICATE OF SERVICE

I hereby certify that the information in this report is accurate and that a true copy of the report was sent by U.S. mail properly addressed and with correct postage to the persons or offices listed below.

Done this \_\_\_\_\_ day of \_\_\_\_\_, 1997.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed name)

\_\_\_\_\_  
(Street address)

\_\_\_\_\_  
(City, state, zip)

\_\_\_\_\_  
(Telephone)

ORIGINAL FILED WITH:

U.S. Bankruptcy Court  
Address  
City, State, Zip Code

COPIES MAILED TO:

1. U.S. Trustee  
Address  
City, State, Zip Code  
(if requested)
2. Chapter 13 Trustee  
Address  
City, State, Zip Code
3. Members of Creditors Committee  
(if requested)  
(If applicable, list names and addresses on  
separate sheet)
4. Debtor's Attorney

## CASH

Who is bank officer for each account?

Bank Accounts - get all statements, checks & reconciliations.

Examine checks for payees and endorsements - note unusual or unexpected items (nsf checks, non-business payments, unexpected payees, unusual endorsements, etc.).

## ACCOUNTS RECEIVABLE

What is nature of A/R? Corporate accounts, individuals, etc.

Are A/R factored or pledged?

## INVENTORY

Is inventory in good condition?

Is inventory pledged?

Is inventory insured?

## FIXED ASSETS

Are fixed assets in good condition?

Do fixed assets (equipment) need to be replaced?

Are fixed assets pledged?

Are fixed assets owned by related parties?

## ACCOUNTS PAYABLE

Is there a detail of A/P which agrees to the g/l control?

What is nature of A/P, is A/P for business purposes?

Is payment of trade A/P current?

Who are major trade creditors? Have they been in contact with you prior to bankruptcy filing requesting their payments?

## TAXES PAYABLE

### PAYROLL - IRS, State

Tax officials who have contacted you on your case.

Are liabilities paid timely, will they continue timely during bankruptcy?

Are reports filed timely and accurately?

### SALES - LOCAL / COUNTY

Tax officials who have contacted you on your case.

Are liabilities paid timely, will they continue timely during bankruptcy?

Are reports filed timely and accurately?

Have there been any recent audits?

### SALES - STATE

Tax officials who have contacted you on your case.

Are liabilities paid timely, will they continue timely during bankruptcy?

Are reports filed timely and accurately?

Have there been any recent audits?

## DEBT - CURRENT & LONG TERM

Who is bank representative / loan officer?

What is the nature of the debt?

Are debt covenants being violated?

Is the current debt being paid?

## RELATED PARTY DEBT

What is the nature of the related party debt?

## OWNERS EQUITY

What is the nature of the owners equity?

Are there operating deficits?

What are the paid-in capital and Retained Earnings?

Has there been a cash-out of equity?

ALES

What type of sales?

Cash, Credit

What is sold?

Trace daily sales totals per tapes to bank deposit and g/l entry.

Are sales trends decreasing or increasing?

SALARIES & WAGES

Payroll frequency

Are salaries & wages paid timely?

Are salaries & wages reasonable for duties?

RELATED PARTIES

Are relatives or other related parties on the payroll?

Are purchases or other credit obtained from related parties?

INSURANCE EXPENSE

Insurance company & agent

When is policy renewal?

Any claims?

Adequate coverage for disaster, business continuation?

Are policies paid up?

UNEMPLOYMENT INSURANCE

Are payments being made timely at the proper rate?

Any pending lawsuits from employees for discrimination? Other?

WORKERS COMP

Is workers comp policy paid up?

Any pending lawsuits for workers comp?

INTERNAL CONTROL

Segregation of Duties?

Management oversight?

Management qualifications & attitude? How long in business, what did debtor do before operating this business?

Any financial audits - who are auditors, are bills paid?

Accountant consultants - firm, are bills paid?

Legal counsel, are bills paid?

Are workers checked for work eligibility (illegal aliens)?

Is quality of premises conducive to type of business?

Are financial statements required to be submitted?

Are general ledgers kept up to date?

For the past

3 months

6 months

9 months

12 months

Bank statements

Canceled checks

Bank Reconciliations

Tax deposit coupons

General ledger

Accounts receivable aging analysis

Accounts payable detail list and unpaid invoices

Inventory list

Fixed Asset list

Debt instruments

Sales tapes for selected days



**APPENDIX E BUSINESS EXAMINATION CHECKLIST: SAMPLE #3**

**OFFICE OF THE CHAPTER 13 TRUSTEE  
ADDRESS  
CITY, STATE, ZIP CODE**

Telephone  
Fax  
E-Mail

DATE

Debtor Name  
Debtor Address  
Debtor City, State Zip Code

Dear \_\_\_\_\_:

Please be advised the Chapter 13 Trustee is mandated by law to perform a business examination in all Chapter 13 business cases unless otherwise ordered by the court. According to information provided in your petition, the Trustee has identified your Chapter 13 case as a business case. Your case may not be confirmed until this business examination is completed or your attorney has provided the Trustee with an order of the court waiving the business examination. Failure to cooperate in the examination of your business may result in a motion by the Trustee, or other interested party, seeking dismissal or conversion of your case.

The creditor meeting in your case is presently scheduled for Thursday, DATE at TIME. **Your business examination is scheduled one week prior to this creditor meeting on Thursday, \_\_\_\_\_ in the Chapter 13 Trustee's office located at the address printed above.** This business examination will be with \_\_\_\_\_, accountant for the Chapter 13 Trustee. You will need to have completed and bring the following questionnaire, together with the requested information, to this meeting. If for any reason you will not be able to keep this appointment, you will need to have your attorney contact the Chapter 13 trustee in advance of this meeting to reschedule the business examination.

The law requires your initial Chapter 13 plan payment to be made within 30 days after filing your Chapter 13 plan. If your first plan payment has not been received in the Trustee's office by the time of the scheduled examination, you will need to bring this payment to the business examination. Failure to make the initial payment will result in

the Trustee filing a motion to dismiss your case.

The purpose of this business examination is to allow the Chapter 13 Trustee the opportunity to review your financial circumstances in detail in advance of your creditor meeting. Therefore, failure to attend this meeting or provide the requested information also will result in the Chapter 13 Trustee seeking to dismiss your case.

If you have any questions about this meeting, please contact your attorney who is being advised of this business examination by copy of this letter.

Sincerely,

NAME \_\_\_\_\_, Trustee

cc: \_\_\_\_\_, Attorney for debtor(s)

## Business Case Questionnaire

Debtor's Name \_\_\_\_\_  
Chapter 13 Case # \_\_\_\_\_  
Name of Business \_\_\_\_\_  
Description of Business Activities \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Type of Business Organization \_\_\_\_\_  
Has business ever been incorporated? \_\_\_\_\_ Yes \_\_\_\_\_ No  
If yes, list dates incorporated \_\_\_\_\_  
Date business began \_\_\_\_\_  
Federal ID number (if applicable) \_\_\_\_\_  
List business bank accounts: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### Checklist:

- A. Provide copies of prior six (6) months operating statements.
- B. Provide copy of current and prior years' income tax returns (all schedules).
- C. Complete copy of the attached monthly business budget (income & expenses).
- D. Provide copies of prior six (6) month bank statements.

### Questionnaire:

1. Does the business have employees? \_\_\_\_\_ Yes \_\_\_\_\_ No  
If so, how many? \_\_\_\_\_  
Does business withhold on these employees? \_\_\_\_\_ Yes \_\_\_\_\_ No  
If so, attach copy of prior quarterly payroll tax return (form 941).  
If not, how are employees compensated? \_\_\_\_\_  
Are 1099's issued? \_\_\_\_\_ Yes \_\_\_\_\_ No
  
2. Does the business keep inventory on hand? \_\_\_\_\_ Yes \_\_\_\_\_ No  
If so, provide information on insurance.  
Sales tax ID# \_\_\_\_\_ Attach copies of prior six month reports.  
What is average monthly value of inventory? \_\_\_\_\_  
Do vendors allow business to purchase inventory on credit? \_\_\_\_\_  
List all supplier and vendors who allow a revolving credit account.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. What is the balance of the business accounts receivable (A/R)? \_\_\_\_\_  
 How many accounts make up the A/R? \_\_\_\_\_(approximate)  
 Does the business factor the A/R? \_\_\_\_ (Attach factoring agreement)  
 How old are the receivables? \_\_\_\_\_(Supply aged list if numerous.)  
 What amount is reasonably collectible? \_\_\_\_\_

4. Is the business cyclical? \_\_\_\_\_ Yes \_\_\_\_\_ No  
 If so, list the busy season \_\_\_\_\_  
 list the slow season \_\_\_\_\_

5. Does the company own or lease office space or other real property?  
 \_\_\_\_\_ Yes \_\_\_\_\_ No  
 Address of Property \_\_\_\_\_  
 Monthly payment \_\_\_\_\_  
 Term of payments or lease \_\_\_\_\_  
 Date purchased or leased \_\_\_\_\_

6. Does the company lease business equipment or autos?  
 \_\_\_\_\_ Yes \_\_\_\_\_ No  
 Description of leased/rented items \_\_\_\_\_  
 Monthly payment \_\_\_\_\_  
 Term of Lease \_\_\_\_\_  
 If more than one item, attach separate information for each lease.

7. Does the business carry the following insurance policies? Policy #

a. Commercial Liability?	Yes _____	No _____	_____
b. Workmans Compensation?	Yes _____	No _____	_____
c. Commercial Property?	Yes _____	No _____	_____
d. Automobile Coverage?	Yes _____	No _____	_____
e. Other (list) _____			

Are all policies current? Yes \_\_\_\_\_ No \_\_\_\_\_  
 List insurance agency (ies) \_\_\_\_\_

8. Is the business required to have any business licenses?  
 Yes \_\_\_\_\_ No \_\_\_\_\_  
 If yes, please list: \_\_\_\_\_  
 Are licenses current? Yes \_\_\_\_\_ No \_\_\_\_\_

Attach a list of business assets, including the fair market value of each asset.  
 Exclude items valued below \$250.00.

## Your Responsibility as a Business Debtor

If you have borrowed money from any creditor and as security or collateral for the loan you have pledged accounts receivables, rents, or other cash, you may not use the accounts receivables, rents or cash without express written consent from the creditor, or an order from the court allowing the use. Failure to obtain creditor consent or an order from the court before using these assets may likely result in severe penalties.

During the course of your Chapter 13 it is your responsibility to pay any state and federal taxes on time. Failure to do so may result in severe penalties.

In order to continue the operation of your business, it is your responsibility to obtain and maintain comprehensive liability insurance for the operation of your business.

**APPENDIX E BUSINESS EXAMINATION CHECKLIST: SAMPLE #4**  
**OFFICE OF THE CHAPTER 13 TRUSTEE**  
**BUSINESS ADDENDUM**

Debtor Name: \_\_\_\_\_

Case No. \_\_\_\_\_

**1. ARE YOU PRESENTLY SELF-EMPLOYED OR OPERATING A BUSINESS? Y N**

a. IF NO, WHEN WERE OPERATIONS TERMINATED? \_\_\_\_\_

b. IF YES, FOR HOW LONG? \_\_\_\_\_

c. BUSINESS ENTITY

i. SOLE PROPRIETORSHIP: \_\_\_\_\_

ii. PARTNERSHIP: \_\_\_\_\_

(1) IF PARTNERSHIP,

(a) WITH WHOM \_\_\_\_\_

(b) PERCENTAGE OF YOUR OWNERSHIP \_\_\_\_\_ %

(c) IS THERE A WRITTEN PARTNERSHIP AGREEMENT? Y N

(i) IF YES, PLEASE PROVIDE COPY WITHIN \_\_\_\_\_ DAYS

(2) ARE THERE PARTNERSHIP ASSETS LISTED IN YOUR SCHEDULES A OR B? Y N

(a) IF SO, WHAT? \_\_\_\_\_

(3) ARE THERE PARTNERSHIP LIABILITIES IN YOUR SCHEDULES D, E, F OR G? Y N

(a) IF SO, WHAT? \_\_\_\_\_

iii. CORPORATION \_\_\_\_\_

(1) IF CORPORATION

(a) WHO ARE THE CORPORATE SHAREHOLDERS? \_\_\_\_\_

(b) WHAT IS YOUR PERCENTAGE OF OWNERSHIP? \_\_\_\_\_

(c) STATE OF INCORPORATION \_\_\_\_\_

(i) IS THE CORPORATION IN GOOD STANDING WITH THE SECRETARY OF STATE? Y N

(ii) IF NO, WHY NOT? \_\_\_\_\_

(2) FMV OF CORPORATE ASSETS \_\_\_\_\_  
\_\_\_\_\_

(a) BASIS OF VALUE \_\_\_\_\_  
\_\_\_\_\_

(3) \$ AMOUNT OF CORPORATE DEBTS \_\_\_\_\_

(4) FMV OF YOUR OWNERSHIP INTEREST & HOW DETERMINED  
\_\_\_\_\_  
\_\_\_\_\_

(5) ARE THERE CORPORATE ASSETS LISTED IN YOUR SCHEDULES  
A OR B? Y N

(a) IF SO, WHAT? \_\_\_\_\_  
\_\_\_\_\_

(6) ARE THERE CORPORATE LIABILITIES LISTED IN YOUR  
SCHEDULES D, E, F OR G? Y N

(a) IF SO, WHAT? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**2. LOCAL RULE \_\_\_\_\_ STATEMENT OF DEBTORS-IN-POSSESSION**

a. HAVE YOU FILED THE LR \_\_\_\_\_ STATEMENT AND PROVIDED A  
COPY TO THE STANDING CHAPTER 13 TRUSTEE? Y N

i. IF NO, WHY NOT? \_\_\_\_\_  
\_\_\_\_\_

ii. WHEN WILL IT BE FILED AND PROVIDED TO THE STANDING  
CHAPTER 13 TRUSTEE? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**3. ARE ALL TAX RETURNS WHICH SHOULD HAVE BEEN FILED TO  
THIS POINT IN TIME, FILED? Y N**

a. IF NO, WHAT YEARS ARE DELINQUENT AND TO WHICH ENTITIES?

i. 19 \_\_\_\_\_

ii. 19 \_\_\_\_\_

iii. 19 \_\_\_\_\_

iv. 19 \_\_\_\_\_

v. 19 \_\_\_\_\_

b. DO YOU UNDERSTAND THAT WHILE YOU ARE IN THE CHAPTER 13 YOU  
MUST KEEP CURRENT WITH ALL OF YOUR BUSINESS AS WELL AS PERSONAL  
TAX OBLIGATIONS? Y N

**4. AUTHORIZED DEPOSITORIES – LOCAL RULE \_\_\_\_\_**

**a. TAX ACCOUNTS**

(1) ALL FUNDS RECEIVED OR COLLECTED FOR THE UNITED STATES, ANY STATE OR POLITICAL SUBDIVISION FOR SALES, WITHHOLDING, SOCIAL SECURITY, OR TAXES OR EMPLOYER CONTRIBUTIONS                    Y        N

(a) IF YES, WHERE? \_\_\_\_\_

(b) IF NO, WHY NOT? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**b. GENERAL DEBTOR IN POSSESSION ACCOUNT**

(1) DO YOU HAVE A GENERAL DEBTOR-IN-POSSESSION ACCOUNT?    Y        N

(a) IF NO, WHY NOT? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**5. DO YOU HAVE ANY EMPLOYEES?    Y        N**

a. IF SO, HOW MANY? \_\_\_\_\_

b. DO YOU WITHHOLD FROM THEIR WAGES?                    Y        N

c. WHERE DO YOU DEPOSIT THE WITHHOLDINGS?

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

d. HOW OFTEN DO YOU DEPOSIT THE WITHHOLDINGS? \_\_\_\_\_

e. DO YOU UNDERSTAND THAT YOU MUST KEEP THE WITHHOLDING FUNDS SEPARATE FROM YOUR GENERAL OPERATING FUNDS?                    Y        N

**6. INSURANCE**

a. DO YOU HAVE FULL INSURANCE COVERAGE ON ALL ASSETS OF THE ESTATE?                    Y        N

i. IF YES,

(1) WITH WHOM? \_\_\_\_\_

(2) POLICY NO. \_\_\_\_\_ EXP. \_\_\_\_\_

(3) POLICY NO. \_\_\_\_\_ EXP. \_\_\_\_\_

(4) POLICY NO. \_\_\_\_\_ EXP. \_\_\_\_\_

(5) POLICY NO. \_\_\_\_\_ EXP. \_\_\_\_\_

ii. IF NO, WHY NOT? \_\_\_\_\_

b. DO YOU HAVE LIABILITY COVERAGE?                    Y        N

i. IF YES,

(1) WITH WHOM? \_\_\_\_\_

(a) POLICY NO. \_\_\_\_\_ EXP. \_\_\_\_\_



**7. ACCOUNTANCY**

- a. DO YOU HAVE AN ACCOUNTANT/BOOKKEEPER?      Y      N
  - i. IF YES,
    - (1) WHOM? \_\_\_\_\_
    - (2) ADDRESS \_\_\_\_\_
    - (3) TELEPHONE NO. (      ) \_\_\_\_\_
  
- b. PLEASE PROVIDE THE TRUSTEE WITH THE FOLLOWING DOCUMENTS WITHIN \_\_\_\_\_ DAYS.
  - i. BALANCE SHEET – AS OF \_\_\_\_\_
  - ii. INCOME STATEMENT – FOR \_\_\_\_\_
  
  - iii. CASH FLOW STATEMENT FOR \_\_\_\_\_
  
  - iv. FEDERAL AND STATE TAX RETURNS – FOR
    - (1) 19 \_\_\_\_\_
    - (2) 19 \_\_\_\_\_
    - (3) 19 \_\_\_\_\_

**8. EXECUTORY CONTRACTS/UNEXPIRED LEASES**

- a. ARE YOU A PARTY TO ANY EXECUTORY CONTRACTS/UNEXPIRED LEASES? Y N
  - i. IF YES,
    - (1) WITH WHOM \_\_\_\_\_
      - (a) ADDRESS \_\_\_\_\_
  
    - (2) WITH WHOM \_\_\_\_\_
      - (a) ADDRESS \_\_\_\_\_
  
    - (3) WITH WHOM \_\_\_\_\_
      - (a) ADDRESS \_\_\_\_\_
  
    - (4) WITH WHOM \_\_\_\_\_
      - (a) ADDRESS \_\_\_\_\_
  
    - (5) DO YOU UNDERSTAND THAT IT IS YOUR RESPONSIBILITY, NOT THE TRUSTEE, TO ASSUME OR REJECT THESE?      Y      N  
(LR \_\_\_\_\_ 11 U.S.C. §§ 363,365,1303, and 1304)
      - (a) HAVE YOU FORMALLY DONE SO? Y      N
        - (i) IF YES, CAN YOU PROVE TIMELY SERVICE ON THE OTHER PARTY?      Y      N  
\_\_\_\_\_  
\_\_\_\_\_
        - (ii) IF NO, WHY NOT? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
- (1) DO YOU UNDERSTAND THAT THERE ARE TIME LIMITATIONS WHICH MAY APPLY?      Y      N

**APPENDIX F STATEMENT OF BUSINESS INVESTIGATION: SAMPLE #1**

**OFFICE OF THE CHAPTER 13 TRUSTEE**

ADDRESS  
CITY, STATE ZIP CODE  
TELEPHONE NUMBER

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF STATE**

In re:

Debtor(s) | Case No.  
                  | CHAPTER 13

---

**TRUSTEE'S STATEMENT PURSUANT TO 11 U.S.C. SECTION 1302 (c)**

---

The Standing Chapter 13 Trustee hereby submits this Statement of Investigation of the financial affairs of the Debtor(s) pursuant to 11 U.S.C. 1302(c):

1. The business examination consisted of the review of the following documentation after to the 341 meeting of creditors:

- a. Statement of Affairs and Schedules \_\_\_\_\_
- b. Tax returns for the years \_\_\_\_\_
- c. Evidence of insurance:
  - liability \_\_\_\_\_
  - property \_\_\_\_\_
  - worker's compensation \_\_\_\_\_
  - other \_\_\_\_\_
- d. Bank statements dated \_\_\_\_\_
- e. Business licenses, permits \_\_\_\_\_
- f. Other \_\_\_\_\_

2. The 341 meeting of creditors was held on \_\_\_\_\_

3. The 341 meeting was/was not on the business docket.

4. Nature of Debtor's business:
- a. Retail \_\_\_\_\_
  - b. Service (specify) \_\_\_\_\_
  - c. Other \_\_\_\_\_
5. Debtor's business is:
- sole proprietorship \_\_\_\_\_
  - corporation \_\_\_\_\_
  - partnership \_\_\_\_\_
  - other (specify) \_\_\_\_\_
6. Debtor is
- Officer \_\_\_\_\_
  - Director \_\_\_\_\_
  - Shareholder \_\_\_\_\_
7. Years of operation of Debtor's business \_\_\_\_\_
8. Number of employees (excluding Debtors) \_\_\_\_\_
9. Statement of Financial Affairs Questions 1 - 15 were/were not complete. Additional information was requested on Questions \_\_\_\_\_.
10. Statement of Financial Affairs, Questions 16-21 were/were not answered completely. Additional information was requested on Questions \_\_\_\_\_.
11. The following Schedules are/are not complete.
- |            | <u>Complete</u> | <u>Incomplete</u> |
|------------|-----------------|-------------------|
| Schedule A | _____           | _____             |
| Schedule B | _____           | _____             |
| Schedule C | _____           | _____             |
| Schedule D | _____           | _____             |
| Schedule E | _____           | _____             |
| Schedule F | _____           | _____             |
| Schedule G | _____           | _____             |
| Schedule H | _____           | _____             |
| Schedule I | _____           | _____             |
| Schedule J | _____           | _____             |
12. All required State, Local, Federal tax returns have/have not been filed.  
Missing returns \_\_\_\_\_

13. All information requested by the Trustee was/was not provided.

Missing documents are \_\_\_\_\_

and will be provided by \_\_\_\_\_.

14. Additional documents requested at the 341 meeting \_\_\_\_\_.

15. Debtor's primary business assets consist of \_\_\_\_\_.

16. The total fair market value of the business as an ongoing concern is approximately \$ \_\_\_\_\_.

17. The Debtor's average monthly gross receipts is \$ \_\_\_\_\_.

**DATED** this \_\_\_\_\_ day of \_\_\_\_\_, 1998.

\_\_\_\_\_  
TRUSTEE NAME  
Chapter 13 Standing Trustee

**APPENDIX F STATEMENT OF BUSINESS**  
**INVESTIGATION: SAMPLE #2**

Case Number:  
Debtors:

In accordance with 11 USCS 1106(a)(3) and 1106(a)(4) an investigation was conducted of the business of \_\_\_\_\_ and \_\_\_\_\_, debtors engaged in business, d/b/a \_\_\_\_\_ d/b/a \_\_\_\_\_ and this statement of investigation was prepared and submitted. This investigation was performed to comply with 11 USCS 1106(a)(3) and 1106(a)(4) and was not an audit conducted in accordance with generally accepted auditing standards.

The results of the investigation are documented below and in the attached business review checklist.

**Acts and Conduct of the Debtors**

The debtors have been in financial difficulty for the \_\_\_\_\_ years of operating the business. The main event causing the debtors to seek bankruptcy relief was the debtor's failure to pay various federal, state, and local taxes and the imminent closing of the business by the Internal Revenue Service. Significant amounts are owed for federal payroll taxes, state sales taxes, and local property taxes. The tax deposit checks are currently held for twelve payrolls in November, December, and January.

In the month preceding the bankruptcy filing the debtors wrote checks to themselves or to cash for \$ \_\_\_\_\_.

The bank accounts were frequently overdrawn. Non-sufficient checks accounted for \$ \_\_\_\_\_ in overdraft charges on the general ledger. Credit card debt in listed in the petition consists mainly of cash advances.

The debtors utilize services of a CPA who is preparing to issue a compilation report with a going concern qualification for 1996.

**Assets, Liabilities, and Financial Condition of the Debtors**

This business is not a proprietorship, but is a \_\_\_\_\_ Partnership with the debtors as the partners. The business was bought \_\_\_\_\_ years ago from a cousin. Based on the 1996 changes in partner's equity including draws and salary, the debtors received approximately \$ \_\_\_\_\_ in distributions.

Cash is overdrawn on the books by approximately \$ \_\_\_\_\_. The cash in the bank is approximately \$ \_\_\_\_\_. The partner's equity is a \$ \_\_\_\_\_ deficit.

Since filing bankruptcy with their main food supplier listed as an unsecured creditor, the debtors have been making all food inventory purchases on a cash basis.

The assets of the business appear to be in good shape and are adequately insured. The facilities are clean and have received a good health inspection rating.

The debtors feel that they paid too much for the business. They received a \$ \_\_\_\_\_ - SBA loan through \_\_\_\_\_ and made a \$ \_\_\_\_\_ note to the previous owner, a cousin. The debtors are behind in paying these debts.

The business records and the personal financial records of the debtors are segregated. A CPA performs monthly write-up work for the business and prepares compiled financial statements.

**Desirability of the Continuance of the Business**

The debtors wish to continue the business. There has been some interest shown by parties to purchase the business but the debtors have been unwilling to accept the offers. The offers, termed as "fair value" by the debtors, were insufficient to cover the accumulated debts.

The debtors have improved the sales performance of the business from \$ \_\_\_\_\_ to \$ \_\_\_\_\_ in \_\_\_\_\_ years.

**Other Matters**

The debtors two teenage children work part-time at the business. They are paid a reasonable wage for their work.

The debtors did not have restaurant operating experience prior to buying the franchise, but they took a 3 month training program. An efficiency manager from the franchisor said the debtors were operating the restaurant according to the franchise guidelines.

Respectfully submitted,

\_\_\_\_\_, TRUSTEE  
DATE

**APPENDIX G**  
**SAMPLE GENERAL LEDGER**

GENERAL LEDGER														
DATE	CASH IN BANK DEPOSITS (CHECKS)	CONFIR. PLAN RECEIPTS	UNCON. PLAN RECEIPTS	INT. EARNED	CRED. REF. (S)	CRED. REP (U)	CRED. REF. (P)	SECURED	UN- SECURED	(P)	DEBTOR REFUNDS	TRUSTEE FEES	INVEST. MADE (LIQ.)	ADMIN EXP.
SUBTOTAL	\$2,266.84	\$71,335.45	\$100.00	\$180.00	\$0.00	\$0.00	\$0.00	\$49,170.20	\$10,164.90	\$0.00	\$1,580.00	\$5,933.51	\$2,500.00	\$0.00
JAN 1998	\$4,334.93 (\$3,314.22)	\$3,643.25	\$550.00	\$90.00		\$51.68		\$2,119.99	\$552.00	\$0.00	\$375.00	\$267.20		\$0.00
SUBTOTAL	\$3,287.55	\$74,978.70	\$650.00	\$270.00	\$0.00	\$51.68	\$0.00	\$51,290.19	\$10,716.93	\$0.00	\$1,955.00	\$6,200.71	\$2,500.00	\$0.00
FEB 1998														
SUBTOTAL														
MAR 1998														
SUBTOTAL														
APR 1998														
SUBTOTAL														
MAY 1998														
SUBTOTAL														
JUN 1998														
SUBTOTAL														
JUL 1998														
SUBTOTAL														
AUG 1998														
SUBTOTAL														
SEP 1998														
SUBTOTAL														
ADJUSTMENTS FOR FY 98														
TOTAL FY														

**APPENDIX H SAMPLE CASH RECEIPTS AND DISBURSEMENTS JOURNAL**

BANK ACCOUNT NUMBER:

BANK NAME:

DATE	SOURCE OR PAYEE	CHECK NO.	AMOUNT DISBURSED	CLASSIFICATION	AMOUNT RECEIVED	DEBTOR NUMBER	NAME	BALANCE
JAN 01, 1998	CASH BALANCE FORWARD							\$2,266.84
JAN 06, 1998	JAMES HARDY				\$150.00	B-96-0099	HARDY	\$2,416.84
JAN 06, 1998	AMERICAN CHEMICAL	1001	\$325.00	UNSECURED		B-94-1298	JENKINS	\$2,091.84
JAN 07, 1998	GMAC	1002	\$75.00	SECURED		B-95-2209	JENSON	\$2,016.84
JAN 07, 1998	KELLEY BENSON				\$990.00	B-96-0098	BENSON	\$3,006.84
JAN 07, 1998	KIM BENTLEY				\$550.00	B-93-8907	BENTLEY	\$3,556.84
JAN 09, 1998	MARVIN MYLES			UNCONFIRMED PLAN	\$125.00	B-97-9987	MYLES	\$3,681.84
JAN 10, 1998	HOUSEHOLD FINANCE	1003	\$1,234.99	SECURED		B-96-0098	BENSON	\$2,446.85
JAN 10, 1998	NAK CREDIT UNION	1004	\$500.00	SECURED		B-96-7184	JOHNSON	\$1,946.85
JAN 10, 1998	FIRST CITY BANK	1005	\$43.78	UNSECURED		B-96-7184	JOHNSON	\$1,903.07
JAN 15, 1998	VISA	1006	\$59.78	UNSECURED		B-95-2113	BANTON	\$1,843.29
JAN 15, 1998	VOID	1007	\$0.00	UNSECURED		B-95-2113	BANTON	\$1,843.29
JAN 15, 1998	HECHINGERS	1008	\$123.47	UNSECURED		B-95-2113	BANTON	\$1,719.82
JAN 23, 1998	MARVIN MYLES			UNCONFIRMED PLAN	\$125.00	B-97-9987	MYLES	\$1,844.82
JAN 26, 1998	JAMES HARDY				\$150.00	B-94-1298	HARDY	\$1,994.82
JAN 26, 1998	AMERICAN CHEMICAL				\$325.00	B-94-1298	JENKINS	\$2,319.82
JAN 26, 1998	NATALIE BANTON				\$432.00	B-94-2113	BANTON	\$2,751.82
JAN 31, 1998	HARRY PARKS				\$21.25	B-96-9987	PARKS	\$2,773.07
JAN 31, 1998	SEARS, ROEBUCK & CO.				\$525.00	B-95-1199	CHAMBE	\$3,298.07
JAN 31, 1998	GMAC	1009	\$310.00	SECURED		B-93-0289	O'CONN	\$2,988.07
JAN 31, 1998	KELLEY BENSON	1110	\$25.00	REFUND-DEBTOR		B-96-0098	BENSON	\$2,963.07
JAN 31, 1998	GENERAL MOTORS				\$500.00	B-94-0012	BECK	\$3,463.07
JAN 31, 1998	SUSAN BECK	1111	\$350.00	REFUND-DEBTOR		B-94-0012	BECK	\$3,113.07
JAN 31, 1998	SAM TRUSTEE	1112	\$267.20	TRUSTEE FEE				\$2,845.87
JAN 31, 1998	UNION TRUST BANK-CD4367			INTEREST	\$90.00			\$2,935.87
JAN 31, 1998	JOHN JONES			UNCONFIRMED PLAN	\$300.00	B-95-0100	JONES	\$3,235.87
JAN 31, 1998	SEARS, ROEBUCK & CO.			REFUND-CREDITOR-UNSECURED	51.68	B-95-1169	DAVIS	\$3,287.55
			\$3,314.22		\$4,334.93			



**CASH RECEIPTS AND DISBURSEMENTS JOURNAL FOR MONTHLY POSTING TO GENERAL LEDGER**

<u>DISBURSEMENTS</u>		<u>RECEIPTS</u>	
<u>CLASSIFICATION</u>	<u>AMOUNT DISBURSED</u>	<u>CLASSIFICATION</u>	<u>RECEIVED</u>
UNSECURED	\$ 552.03	INTEREST	\$ 90.00
SECURED	\$2,119.99	PAYMENTS RECEIVED	\$3,643.25
REFUNDS TO DEBTOR	\$ 375.00	UNCONFIRMED PLAN PAYMENTS	\$ 550.00
TRUSTEE FEE	<u>\$ 267.20</u>	REFUNDS OF CREDITORS	<u>\$ 51.68</u>
TOTAL CASH DISBURSED	<u>\$3,314.22</u>	TOTAL CASH RECEIVED	<u>\$4,334.93</u>

**APPENDIX I PERIODIC DEBTOR REPORT: SAMPLE #1**

FROM: NAME OF STANDING TRUSTEE  
STREET  
ADDRESS

DATE:

TO: MR. AND MRS. DEBTOR  
STREET  
ADDRESS

BKNO: XX-00399

In response to your recent inquiry about your case, our records indicate the following:

You have paid the Trustee a total of \$6,980.42.

Your case is expected to close February 8, 1999.

Over the past twelve months, we have received the following payments:

[06/30/97 -> 200.00]	[07/17/97 -> 200.00]	[07/28/97 -> 200.00]
[08/11/97 -> 200.00]	[08/28/97 -> 200.00]	[09/14/97 -> 200.00]
[09/28/97 -> 200.00]	[10/16/97 -> 200.00]	[10/27/97 -> 200.00]
[11/13/97 -> 200.00]	[12/04/97 -> 200.00]	[12/15/97 -> 200.00]
[12/29/97 -> 200.00]	[01/11/98 -> 200.00]	[01/26/98 -> 200.00]
[02/14/98 -> 200.00]	[03/01/98 -> 200.00]	[03/14/98 -> 200.00]
[03/28/98 -> 200.00]	[04/12/98 -> 200.00]	[04/26/98 -> 200.00]
[05/14/98 -> 200.00]	[05/29/98 -> 200.00]	[06/14/98 -> 200.00]

Your balances are as follows:

Creditor Name	Claim Amt	Prin Paid	Int Paid	Bal Owed
Filing Fee	90.00	90.00	0.00	0.00
Attorney's Fee	750.00	720.72	0.00	29.28
Oil Company	1,415.69	0.00	0.00	283.14
B F Furniture	Not Filed	0.00	0.00	0.00
Knott Company	Not Filed	0.00	0.00	0.00
City Stero/MWave	Not Filed	0.00	0.00	0.00
Dr. Smith	88.50	0.00	0.00	17.70
E.L. Jones	82.50	0.00	0.00	16.50
First Bank	Not Filed	0.00	0.00	0.00
Furniture Center	500.00	375.44	75.25	124.56
Furniture Center	195.34	0.00	0.00	39.07
Electric Service	438.65	0.00	0.00	87.73

Employees CR Union	979.02	0.00	0.00	195.80
Meadows Apartments	731.75	0.00	0.00	146.35
SO Bank	9,647.89	3,753.59	1,489.40	5,894.39
TENN Medical CE	68.05	0.00	0.00	13.61
TENN Medical CE	96.70	0.00	0.00	19.34
TENN Medical CE	103.50	0.00	0.00	20.70
Nat'l Bank-Loan Rec	3,450.06	0.00	0.00	690.01
National Bank	367.39	0.00	0.00	73.48
10% to be paid to Trustee				844.26

If the plan were to be paid off this month, the amount needed would be \$8,314.38. The balances due above are calculated on a dividend of 20% to unsecured creditors.

Your plan obligates you to pay a minimum amount called a base. This base amount is established at \$24,000.00. You have paid a total of \$6,980.42. Thus, the balance on your 'BASE' is \$17,019.58. Your plan obligates you to pay the greater of this balance or the approximate balance indicated above.

You must keep in mind that the balance is approximate. Interest, late claims, or other variables may affect the total amount you must pay. If you have questions discuss the matter with your attorney: (name)

Please retain this letter and subtract future payments in order to know what your approximate balance is. These letters will only be mailed out annually, but will be furnished more frequently upon request.

Sincerely,

Chapter 13 Trustee's Office

**APPENDIX I PERIODIC DEBTOR REPORT: SAMPLE #2**

TO: MR. AND MRS. DEBTOR  
STREET ADDRESS  
CITY, STATE, ZIP CODE

CASE NO. 97-XXXXXX

In accordance with Federal Rules, our records indicate the following:

Over the past six months we have received the following payments:

Apr 6, 1998 —> 350.00    May 6, 1998 —> 350.00  
Jun 8, 1998 —> 350.00    Jul 8, 1998 —> 350.00    Aug 10, 1998 —> 350.00  
Sep 9, 1998 —> 350.00

The Trustee has received a total of \$ 5600.00 to date.

Creditor Name	Claim Amt	Prin Paid	Int Paid	Bal Owed
Attorney Fee	.00	.00		.00
Furniture Store	1000.00	316.99	96.73	683.01
CV Per Plan				
First Bank	9220.09	2342.44	916.42	6877.65
Mortgage Inc.	2271.33	602.48	224.66	1668.85
Department Store	1600.00	403.28	159.16	1196.72
Amd 6/97 CV Per Plan				
Acceptance Corporat	SURR COLL	.00	.00	.00
SURR 97 Ford Ranger				
Second Bank	SURR COLL	.00	.00	.00
Stay Lift 10/97				
Mobile Telephone	132.40	.00	.00	6.62
Third Bank	7366.99	.00	.00	368.35
Fourth Bank	4025.18	.00	.00	201.26
Trust Co.	3896.89	.00	.00	194.84
Credit Card	9286.90	.00	.00	464.35
Credit Corp	9430.30	.00	.00	471.52
Credit Financial	706.57	.00	.00	35.33
Credit Financial	NOT FILED	.00	.00	.00
Paper Supply Co.	NOT FILED	.00	.00	.00
City Tax Coll	NOT FILED	.00	.00	.00
County Tax Coll	254.72	.00	.00	254.72
Employment Sec Com	NOT FILED	.00	.00	.00

CASE NO.97-XXXXXX PAGE 1 - CONTINUED ON NEXT PAGE

Dept of Rev & Taxatio	NOT FILED	.00	.00	.00
Fifth Bank	NOT FILED	.00	.00	.00
Credit Corp	NOT FILED	.00	.00	.00
Second Bank	3621.12	.00	.00	181.06
Amd Dfcy Clm				
Furniture Store	250.43	.00	.00	12.52
Split Claim				
Department Store	1222.17	.00	.00	61.11
Split Claim				

---

Currently, 3.70% TO BE PAID TO TRUSTEE  
Funds on hand to be disbursed to creditors are \$ 355.00

Your plan obligates you to pay a minimum amount called a BASE. This base amount is \$ 20300.00. The balance on your 'base' is \$14700.00. Your plan obligates you to PAY THIS BALANCE OR THE APPROXIMATE AMOUNT INDICATED BELOW, WHICHEVER IS HIGHEST. However, if the dividend to unsecured creditors has been changed to 100%, you will pay the lesser.

If the plan were to be paid off this month, the approximate amount needed would be \$12,810.02 or the figure above, whichever is highest. Currently, your unsecured creditors are to be paid 5.00%.

Your case is expected to close on June 1, 2002. You should not assume that this is an official date. You must contact this office IN WRITING to verify your closing date.

You must keep in mind that all balances are approximate. Interest, late claims, mortgages, or other changes may affect the total amount you must pay. Continue sending your monthly payments until you receive further notice from this office. This report is updated and sent to you every six months.

If you have any questions regarding your case, contact your attorney.

Chapter 13 Trustee's Office

cc: DEBTOR'S ATTY  
STREET ADDRESS  
CITY, STATE, ZIP CODE

**APPENDIX I PERIODIC DEBTOR REPORT: SAMPLE #3**

**TRUSTEE NAME**  
**STREET ADDRESS**  
**CITY, STATE, ZIP CODE**

**TRUSTEE'S REPORT OF RECEIPTS AND DISBURSEMENTS**  
**For the period from September 29, 1997 through October 28, 1998**

**In Re:** Case Number: 97-XXXXX

**DEBTOR NAME**  
**STREET ADDRESS**  
**CITY, STATE, ZIP CODE**

**ATTORNEY NAME**  
**STREET ADDRESS**  
**CITY, STATE, ZIP CODE**

**RECEIPTS**

Date	Source	Net Rec	Date	Source	Net Rec	Date	Source	Net Rec
Calendar 1997			Calendar 1998			Jun 19	PERS CK #	250.00
Oct 10	PERS OK #	250.00	Jan 21	PERS CK #	250.00	Jul 17	PERS CK #	250.00
Nov 21	PERS CK #	250.00	Feb 20	PERS CK #	250.00	Aug 19	PERS CK #	250.00
Dec 22	PERS CK #	250.00	Mar 18	PERS CK #	250.00	Sep 17	PERS CK #	250.00
			Apr 20	PERS CK #	250.00	Oct 20	PERS CK #	250.00
			May 19	PERS CK #	250.00			

**CLAIMS AND DISTRIBUTIONS**

Claim	Name of Claimant	Class	Scheduled or Allowed	Percent Forgiven	Prior Balance	Paid this Period	Balance Due
Atty 009 000000	Attorney Attorney Finance Company	Admin. Admin. Secured	600.00 150.00 500.00		600.00 150.00 500.00	220.00 150.00 149.66	380.00 350.34
				interest @	11.000%	30.41	
1.1 003 005	Finance Company 1st Bank Automobile Credit	Unsecured Direct Pay Secured	1900.00 .00 3500.00			556.92	2943.08
				interest @	11.000%	356.43	
005 004 4.1 000000	Automobile Credit 2nd Bank 2nd Bank 1st Depart. Store	Unsecured Secured Unsecured Secured	4242.06 0.00 2500.00 500.00	75%	1060.52	376.52	684.00 4.08
				interest @	11.000%	142.36 37.71	357.64
5.1 006 001 002 008 007 11	1st Depart. Store 1st Credit Card 2nd Credit Card Third Credit Card Finance Company 2nd Depart. Store Joe Smith	Unsecured Unsecured Unsecured Unsecured Unsecured Unsecured Unsecured	2000.00 6156.44 2574.72 915.65 1304.03 710.43	75% 75% 75% 75%	500.00 1539.11 663.68 228.91 326.01 177.61	142.36 547.11 228.68 80.91 53.61	357.64 992.00 415.00 168.00 326.01 124.00
						238.96	513.90
Trustee Compensation and Expenses: .....					\$238.96		513.90
Totals: (to complete payment of claims.)			\$27,553.33		\$9,225.84	\$3,169.28	\$7,238.05
Minimum (Base): \$15,000			Payments made to date:	\$3,250.00	Remaining minimum due:	\$11,750.00	

Summary of all receipts and disbursements from the date the case was filed, to and including, October 28, 1998.  
 Receipts: \$3250.00    Paid Claimants: \$2930.32    Paid Costs: \$238.96    Undistributed: \$80.72

**APPENDIX J - SAMPLE MONTHLY REPORT: PART 1**  
**COMPENSATION AND EXPENSE REPORT**

TRUSTEE \_\_\_\_\_ MONTH ENDING \_\_\_\_\_

DESCRIPTION	<u>CURRENT</u> <u>MONTH</u>	<u>YEAR TO</u> <u>DATE</u> <u>TOTAL</u>	<u>FISCAL</u> <u>YEAR</u> <u>BUDGET</u>	<u>ACTUAL YTD</u> <u>UNDER(OVER)</u> <u>BUDGET</u>
<b>I. <u>RECEIPTS</u></b>				
From Trust Funds:	_____	_____	_____	_____
Percentage Fees	_____	_____	_____	_____
503(b) Awards	_____	_____	_____	_____
Interest	_____	_____	_____	_____
Other Receipts (list):	_____	_____	_____	_____
<u>\$110</u>	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
<b>TOTAL RECEIPTS</b>	_____	_____	_____	_____
<b>II. <u>EXPENSES</u></b>				
Employee Expenses	_____	_____	_____	_____
Office Rent	_____	_____	_____	_____
Utilities (if not included in rent)	_____	_____	_____	_____
Bookkeeping and Accounting Services	_____	_____	_____	_____
Computer Services	_____	_____	_____	_____
Audit Services	_____	_____	_____	_____
Consulting Services	_____	_____	_____	_____

**SAMPLE MONTHLY REPORT**  
**COMPENSATION AND EXPENSE REPORT**

	<b><u>CURRENT</u></b> <b><u>MONTH</u></b>	<b><u>YEAR TO</u></b> <b><u>DATE</u></b> <b><u>TOTAL</u></b>	<b><u>FISCAL</u></b> <b><u>YEAR</u></b> <b><u>BUDGET</u></b>	<b><u>ACTUAL YTD</u></b> <b><u>UNDER(OVER)</u></b> <b><u>BUDGET</u></b>
<b>Noticing</b>	_____	_____	_____	_____
<b>Telephone</b>	_____	_____	_____	_____
<b>Postage (non-noticing)</b>	_____	_____	_____	_____
<b>Office Supplies (non-noticing)</b>	_____	_____	_____	_____
<b>Bond Premiums</b>	_____	_____	_____	_____
<b>Clerk Fees (not under plans)</b>	_____	_____	_____	_____
<b>Publications and On-Line Services</b>	_____	_____	_____	_____
<b>Insurance, other than Employment Related</b>	_____	_____	_____	_____
<b>Training (non-UST)</b>	_____	_____	_____	_____
<b>Training (UST)</b>	_____	_____	_____	_____
<b>Debtor Education</b>	_____	_____	_____	_____
<b>Maintenance and Service Agreements</b>	_____	_____	_____	_____
<b>Photocopy Services or Transcripts</b>	_____	_____	_____	_____
<b>Travel</b>	_____	_____	_____	_____
<b>Equipment/Furniture Rental</b>	_____	_____	_____	_____



**SAMPLE MONTHLY REPORT**  
**COMPENSATION AND EXPENSE REPORT**

	<b><u>CURRENT</u></b> <b><u>MONTH</u></b>	<b><u>YEAR TO</u></b> <b><u>DATE</u></b> <b><u>TOTAL</u></b>	<b><u>FISCAL</u></b> <b><u>YEAR</u></b> <b><u>BUDGET</u></b>	<b><u>ACTUAL YTD</u></b> <b><u>UNDER(OVER)</u></b> <b><u>BUDGET</u></b>
<b>Equipment/Furniture Purchases</b>	_____	_____	_____	_____
<b>Leasehold Improvements</b>	_____	_____	_____	_____
<b>Other Expenses (list):</b>	_____	_____	_____	_____
_____	_____	_____	_____	_____
<b>TOTAL EXPENSES</b>	_____	_____	_____	_____
 <b>III. TRUSTEE COMPENSATION PAID</b>	_____	_____	_____	_____
 <b>IV. RECEIPTS OVER (UNDER) EXPENSES AND COMPENSATION PAID (I - II - III)</b>	_____	_____	_____	_____
 <b>V. EXPENSE FUND BALANCE BEGINNING OF PERIOD</b>	_____	_____	_____	_____
 <b>VI. EXPENSE FUND BALANCE END OF PERIOD (V + IV)</b>	_____	*	_____	_____

\* NOTE: Must agree to attached copies of reconciled bank statements.

I declare under penalty of perjury that this report is true and correct to the best of my knowledge and belief. This \_\_\_\_ day of \_\_\_\_\_, 19 \_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

**APPENDIX J - SAMPLE MONTHLY REPORT: PART 2**  
**TRUST FUND REPORT**  
**(PRE AND POST CONFIRMATION ACCOUNTS)**

**TRUSTEE** \_\_\_\_\_ **MONTH ENDING** \_\_\_\_\_

DESCRIPTION	MONTH ENDING (_____)	YEAR TO DATE <u>TOTALS</u>
<b>I. BALANCE AT BEGINNING OF PERIOD</b>	_____	_____
<b>II. GROSS PAYMENTS FROM DEBTORS:</b>		
(a) With Confirmed Plan	_____	_____
(b) With No Confirmed Plan	_____	_____
<b>III. INTEREST RECEIVED FROM TRUST FUNDS</b>	_____	_____
<b>IV. OTHER RECEIPTS (Itemize):</b>		
_____	_____	_____
_____	_____	_____
<b>V. TOTAL FUNDS AVAILABLE FOR DISBURSEMENT</b> [ I + II(a) + II(b) + III + IV ]	_____	_____
<b>VI. DISBURSEMENTS:</b>		
(a) Refunds to Debtor(s) After Confirmation	_____	_____
(b) Refunds on Cases with no Confirmed Plan	_____	_____
(c) Secured Creditors	_____	_____
(d) Priority Creditors	_____	_____
(e) Unsecured Creditors	_____	_____
(f) Debtors' Attorneys	_____	_____
(g) Clerk's Fees	_____	_____
(h) Other Administrative Expenses (excluding 503(b) awards to trustee)	_____	_____

**SAMPLE MONTHLY REPORT**  
**TRUST FUND REPORT**  
**(PRE AND POST CONFIRMATION ACCOUNTS)**

(i) Percentage Fees Transferred to Expense Fund	_____	_____
(j) Administrative Expense Allowances Transferred to Expense Fund	_____	_____
(k) Interest Transferred to Expense Fund	_____	_____
(l) Other (attach explanation)	_____	_____
(m) Total Disbursements [sum of VI(a) through VI(l)]	_____	_____
<b>VII. BALANCE IN TRUST ACCOUNTS [V - VI(m)]</b>	_____*	_____

**\*NOTE: Must agree to attached copies of reconciled bank statements.**

**VIII. BONDING REQUIREMENT**

(a) Average monthly bank balance for the prior three months (balances per banks, not per books for all trust and expense accounts)	_____	_____
(b) Bond Amount	_____	_____
(c) Required Bond [150% of VIII (a)]	_____	_____
(d) Bond over (under) required amount [VIII(b) - VIII(c)]	_____	_____

**SAMPLE MONTHLY REPORT**  
**TRUST FUND REPORT**  
**(PRE AND POST CONFIRMATION ACCOUNTS)**

**IX. CASES HANDLED**

<b>(a) Cases active, start of period</b>	_____	_____
<b>(b) New cases filed during fiscal year(+)</b>	_____	_____
<b>(c) Adjustments during fiscal year:</b>		
<b>i) Cases transferred in(+)</b>	_____	_____
<b>ii) Cases converted from another chapter(+)</b>	_____	_____
<b>iii) Cases transferred out(-)</b>	_____	_____
<b>iv) Cases converted to another chapter(-)</b>	_____	_____
<b>v) Dismissals(-)</b>	_____	_____
<b>Total adjustments (+) or (-)</b>	_____	_____
<b>(d) Cases closed by the Court on completion of the plan(-)</b>	_____	_____
<b>(e) Cases closed by the Court as hardship discharge</b>	_____	_____
<b>(f) Cases active, end of period (a+b+c-d-e)</b>	_____	_____

I declare under penalty of perjury that this report is true and correct to the best of my knowledge and belief. This \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

<b>Signature</b>	<b>Title</b>
------------------	--------------

**APPENDIX K CHAPTER 13 STANDING TRUSTEE  
ANNUAL REPORT FORM AND INSTRUCTIONS**

Schedule I                      TRUST FUNDS RECEIVED

The purpose of this Schedule is to determine (a) the total amount of gross payments received from or on behalf of debtors, (b) interest received on trust funds, (c) deposits into the trust account of fees received by the trustee on payments made directly to creditors by debtors (direct payments), and (d) other receipts received during the fiscal year, including noticing revenues.

Item I(a) includes all receipts from or on behalf of debtors, whether before confirmation or after. Pre-confirmation receipts, if applicable, are not to be shown as receipts a second time, upon confirmation.

Schedule II                      TRUST FUNDS REFUNDED

Refunds in Item II(a) include refunds of monies after plan confirmation, and Item II(b) includes monies refunded on cases with no confirmed plan.

Where the trustee receives debtor's entire wages, and returns some portion to the debtor for living expenses, the returned funds should be included in this schedule.

Schedule III                      TRUST FUND DISBURSEMENTS

This Schedule requires the recording of data concerning trust disbursements.

Item III(h)(ii) should include any fees received from debtors on payments made directly to creditors by debtors deposited into the trust account and shown at I(c). The amount recorded in III(h)(i), percentage fees on actual disbursements transferred to expense fund, is reconciled to plan disbursements at Schedule VIII(f). This reconciliation demonstrates actual disbursement amounts on which percentage fees were transferred. If a difference occurs between percentage fees actually transferred on actual disbursements during the year (III(h)(i)), and the properly calculated amount at (VIII(f)(ii)(b)), the difference will be shown and fully explained at VIII(f)(iii). The sum total of III(h)(i) and III(h)(ii) will be carried forward to IX(a). Administrative expenses in Item III(i) should be broken out between 503(b) awards and other administrative expenses.

Schedule IV                      TRUST FUND SUMMARY PER BOOKS FOR END OF YEAR

This Schedule represents a summary of amounts previously

reported on Schedules I through III.

The balance of IV(g) is the actual total trust funds per books at the end of the fiscal year. This amount must agree with the final year-end General Ledger total and with the aggregate of all year-end individual debtor ledger totals.

The amount recorded in IV(g) will be the same amount shown in Schedule V(e) and VI(e). If different, an error in posting has occurred and should be identified and reported separately on Schedule V(d) and VI(d).

Schedule V                    NATURE AND LOCATION OF TRUST FUNDS PER BOOKS  
END OF YEAR

This Schedule represents the total trust funds per books at the end of the fiscal year, including the breakdown of trust funds into pre-confirmed and confirmed, the location of these funds, and whether or not the accounts are interest bearing.

Schedule VI                    RECONCILIATION BETWEEN TRUST FUNDS PER BOOKS  
AND PER BANKS END OF THE YEAR

This Schedule represents a reconciliation of total trust funds per books and per banks at end of fiscal year. Balances should agree to IV(g) and V(e).

Schedule VII                    CASH TO RECEIPTS RATIO

This Schedule calculates a ratio of the ending book cash balance to total debtor receipts. This information identifies disbursement delays which may have occurred.

Schedule VIII                    RECONCILIATION BETWEEN TRUST DISBURSEMENTS  
UNDER PLANS AND PERCENTAGE FEES

This Schedule shows the calculation of trust disbursements subject to percentage fees and the actual percentage fees taken. United States Trustee policy requires that percentage fees be transferred at the time of trust disbursements.

Schedule IXEXPENSE FUNDS RECEIVED

The purpose of this Schedule is to reflect (a) the total amount of percentage fees transferred from trust funds, (b) administrative expense allowances transferred from trust funds, including 503(b) awards to trustees, (c) (i) fees received directly from debtors on payments under plans not made through the trustee, (d) interest transferred from trust funds, (e) interest earned on expense funds, and (f) other receipts.

Examples of the items which can be recorded and included in IX(f) are: (1) returned check charges and (2) receipts for outside services provided, such as automated data processing.

Schedule XOPERATING EXPENSES PAID DURING YEAR

Expenses are shown in the "Third Party" column if paid to anyone other than the trustee, the trustee's outside business office, or a party related to the trustee. Expenses are shown in the "Allocated or Related Party" column if paid or shared in conjunction with the trustee's outside business interest, or paid to the trustee or a party related to the trustee. Expenses shown in the "Final Approved Budget" column are those amounts approved by the United States Trustee in the initial budget or through an amended budget. Operating expenses in this Schedule should be shown in the same categories in the Annual Budget.

Supporting detail for training expenses at (x) (g) must be provided in Exhibit 1: Training Expenses attached to this report.

Schedule XIEXPENSE FUND SUMMARY PER BOOKS FOR YEAR

The purpose of this Schedule is to summarize expense fund activity for the year. As a subgroup under Line XI(d), break out insurance deductible amounts. Misdisbursements included in Section X(y) should also be broken out under XI(d). Those items are included in the total amount listed at XI(d). Misdisbursements not included in Section X(y) should be shown at XI(h). Additionally, individual misdisbursements must be itemized at Exhibit 2. Amount at XI(i) is the expense fund balance at fiscal year end and is broken out by bank account location at XI(j). The amount shown on XI(i) and (j) will also be recorded on XII(e).

Schedule XII RECONCILIATION BETWEEN EXPENSE FUNDS PER BOOKS AND PER BANKS END OF YEAR

This Schedule represents a reconciliation of total expense funds per books and per banks at end of year.

Schedule XIII FUNDS AVAILABLE FOR COMPENSATION

This Schedule identifies funds available for compensation after payment of expenses. Section XIII(a) identifies payments from the expense fund. Section XIII(b) identifies funds that may be used to pay expenses. Section XIII(d) identifies funds that may be used to pay expenses and compensation. The funds available for compensation or (operating loss), XIII(e), will also be recorded in Schedule XIV(d). The excess funds policy of May 1993 allows standing trustees to end the fiscal year with a different operating reserve than they began the year with; the reserve may be used to pay operating expenses.

Schedule XIV COMPENSATION

Self explanatory.

Schedule XV EXCESS EXPENSE FUNDS

Self explanatory.

Schedule XVI SUMMARY OF FUNDS PAYABLE

This Schedule represents excess compensation and/or excess expense funds payable.

Schedule XVII UNREIMBURSED OPERATING DEFICITS CARRYFORWARD

Self explanatory.

Schedule XVIII BONDING REQUIREMENT

Self explanatory. The auditors will categorize employees by risk type.

Schedule XIX CASES HANDLED

Self explanatory.

Schedule XX PAYOUT TO NONPRIORITY UNSECURED CREDITORS IN CASES WHERE THE PLAN HAS BEEN COMPLETED

This schedule provides information on percentage of the allowed claims that are actually paid out.



STANDING TRUSTEE'S CERTIFICATION TO REPORT AND ACCOUNT

As a last reminder, prior to submitting the Annual Report to the United States Trustee, ensure that your signature and the current date have been affixed on page 15. If a subsequent amended report is filed, as often is done upon completion of the audit, the amended report must be signed and dated as well.

EXECUTIVE OFFICE FOR UNITED STATES TRUSTEES

Submission Date: \_\_\_\_\_  
 Indicate if:  
 \_\_\_\_\_ Original \_\_\_\_\_ Revised

ANNUAL REPORT OF CHAPTER 13 STANDING TRUSTEE

For the Fiscal Year October 1, 1997 through  
 September 30, 1998

Trustee Name \_\_\_\_\_ Address \_\_\_\_\_  
 District \_\_\_\_\_  
 Phone (\_\_\_\_) \_\_\_\_\_

STATEMENT OF "TRUST" TRANSACTIONS AND BALANCES

	<u>1998</u>	<u>1997</u>
I. TRUST FUNDS RECEIVED		
(a) Gross payments from or on behalf of debtors, including total amount of paychecks received by Trustee [exclude fees received from debtors on direct payments - show and identify separately at I(c) or IX(c)]	_____	_____
(b) Interest received on trust funds (incl. CDs, U.S. securities, etc.)	_____	_____

1998                      1997

(c) Deposits into trust account for fees received from debtors on direct payments (**attach a schedule itemizing those cases detailing the case number, case name, confirmation date, amount of direct payment by debtor, date confirmation of payment was obtained from the creditor and amount of fee received**)

\_\_\_\_\_

(d) Other receipts (include noticing revenues) (**itemize - attach schedule if more space is needed**):

EXPLAIN: \_\_\_\_\_

(e) Total trust fund receipts  
[a + b + c + d]

=====

II. TRUST FUNDS REFUNDED

(a) Refunds on cases after confirmation

\_\_\_\_\_

(b) Refunds on cases with no confirmed plan

\_\_\_\_\_

(c) Total trust fund refunds [a + b]

=====

III. TRUST FUND DISBURSEMENTS

(a) Secured creditors

\_\_\_\_\_

(b) Priority creditors

\_\_\_\_\_

(c) Unsecured creditors

\_\_\_\_\_

(d) Debtor attorneys

\_\_\_\_\_

(e) Clerk's fees

\_\_\_\_\_

	<u>1998</u>	<u>1997</u>
(f) Other Administrative expenses (excluding 503(b) awards to trustee)	_____	_____
(g) Subtotal of above payments (total - other than to Trustee) [a + b + c + d + e + f]	_____	_____
(h) Percentage fees transferred to expense fund		
(i) Percentage fees on actual disbursements (same as VIII(f) (iv))	_____	_____
(ii) Percentage fees received from debtors on direct payments	_____	_____
(i) Administrative expense allowances transferred to expense fund		
(i) 503(b) awards	_____	_____
(ii) other (itemize-add schedule if more space is needed):		
Explain: _____		
_____	_____	_____
(j) Total disbursements [g + h(i + ii) + i(i + ii)]	=====	=====

IV. TRUST FUND SUMMARY PER BOOKS FOR END OF YEAR

(a) Beginning year balance	_____	_____
(b) Receipts [same as I(e)]	_____	_____
(c) Refunds [same as II(c)]	(        )	(        )
(d) Disbursements [same as III(j)]	(        )	(        )
(e) Interest and other receipts transferred to expense funds:		
(i) Received by trust fund in current year [cannot exceed I(b)]	(        )	(        )
(ii) Received by trust fund in prior year(s)	(        )	(        )

	<u>1998</u>	<u>1997</u>
(f) Other (itemize - add schedule if more space is needed):		
EXPLAIN: _____		
_____	_____	_____
(g) Total trust funds per books end of year (a + b - c - d - e ± f) [same as V(e) and VI(e)]	=====	=====

V. NATURE AND LOCATION OF TRUST FUNDS PER BOOKS END OF YEAR

Bank/ Account No./ Interest Bearing ( y / n )

(a) Pre-Confirmation		
_____	_____	_____
_____	_____	_____
_____	_____	_____
(b) Confirmed Cases		
_____	_____	_____
_____	_____	_____
_____	_____	_____
(c) Interest not transferred to expense fund		
_____	_____	_____
(d) Other (itemize - add schedule if more space is needed):		
_____	_____	_____
(e) Ending year balance [a + b + c + d] [same as IV(g) and VI(e)]	=====	=====

	<u>1998</u>	<u>1997</u>
VI. RECONCILIATION BETWEEN TRUST FUNDS PER BOOKS AND PER BANKS END OF YEAR		
(a) Balance per banks	_____	_____
(b) Deposits in transit	_____	_____
(c) Outstanding checks	( _____ )	( _____ )
(d) Other reconciling items (itemize - add schedule if more space is needed):		
_____	_____	_____
(e) Balance per books [a + b - c ± d] [same as IV(g) and V(e)]	=====	=====

VII. CASH TO RECEIPTS RATIO

End of year cash balance per books to  
debtor receipts [VI(e) + I(a)]

\_\_\_\_\_

VIII. RECONCILIATION BETWEEN TRUST DISBURSEMENTS UNDER PLANS AND PERCENTAGE FEES

Percentage fees are transferred only at the time of plan disbursements. [Lines (a) through (e) calculate the disbursements under plans to which each year's percentage fees apply. Lines (f)(i) through (f)(iv) apply the allowed percentage fee rates to the amount on line (e) to calculate actual percentage fees transferred on disbursements. Constructive disbursements upon which a direct fee was received are not reflected in Schedule VIII.]

	<u>1998</u>	<u>1997</u>
(a) Trust disbursements [same as III(j)]	_____	_____
(b) <u>Less</u> item III(h) (ii) and III(i) [Percentage fees do <u>not</u> apply to Section 503(b) awards to trustee or other administrative expense allowances, nor to fees received from debtors on direct payments]	( _____ )	( _____ )

	<u>1998</u>	<u>1997</u>
(c) Applicable trust disbursements [(a) - (b)]	_____	_____
(d) Other reconciling items not subject to fee, such as mortgage payments or child support payments if applicable (itemize - add schedule if more space is needed):		
_____	_____	_____
_____	_____	_____
_____	_____	_____
(e) Trust disbursements on which percentage fees were transferred [c - d]	=====	=====

(f) Percentage fee calculation:

(i) Percentage(s) applied during year (percentages are those actually used -- provide footnote explanation if different than those authorized by Attorney General) and trust disbursements to which percentage fees apply.

<u>DATES</u> <u>FROM</u>	<u>TO</u>	<u>PERCENTAGE</u>	<u>TRUST</u> <u>DISBURSEMENTS</u>	<u>CALCULATED</u> <u>PERCENTAGE FEE</u>
_____	_____	_____ %	x \$ _____	= \$ _____
_____	_____	_____ %	x \$ _____	= \$ _____
_____	_____	_____ %	x \$ _____	= \$ _____

(ii) Totals (a) \$===== (b) \$\_\_\_\_\_

(iii) Other reconciling items [ itemize - add schedule if more space is needed]:

_____	_____
_____	_____
_____	_____

(iv) Actual percentage fees on actual disbursements by trustee transferred to expense fund [(f) (ii) (b) ± (f) (iii)] [same as III(h) (i)]

=====

STATEMENT OF "EXPENSE" TRANSACTIONS AND BALANCES

	<u>1998</u>	<u>1997</u>
IX. EXPENSE FUNDS RECEIVED		
(a) Percentage fees transferred from trust funds [sum of III(h)(i) and (ii)]	_____	_____
(b) Administrative expense allowances transferred from trust funds [same as III(i), including 503(b) awards to trustee]	_____	_____
(c) (i) Fees received directly from debtors on payments under plans not made through the trustee and deposited directly into trustee expense account. <b>(NOTE: When <u>expense account receipts</u> include fees received from debtors on direct payments, attach a schedule itemizing the case number, case name, confirmation date, amount of direct payment by debtor, date confirmation of payment was obtained from the creditor and fee received.)</b>	_____	_____
(ii) Total amount of <u>direct payments</u> by debtor to creditors for which direct fees reported at I(c) or IX(c)(i) were received:		
[The entry for the total amount of direct payments from debtors to creditors should be carried forward for the calculation of the 5% compensation limitation at XIV(b)]		
(d) Interest transferred from trust funds:		
(i) Received by trust fund in current year [same as IV(e)(i)]:	_____	_____
(ii) Received by trust fund in prior year(s) [same as IV(e)(ii)]	_____	_____
(e) Interest earned on expense funds	_____	_____



	<u>1998</u>	<u>1997</u>
(f) Other receipts (itemize - add schedule if more space is needed):		
_____	_____	_____
_____	_____	_____
(g) Total expense fund receipts [a + b + c + d + e + f]	=====	=====

X. OPERATING EXPENSES PAID DURING YEAR  
(All as defined and approved by U. S. Trustee)

	<u>Third Party</u>	<u>Allocated or Related Party</u>	<u>FY98 Total</u>	<u>FY98 Final Approved Budget</u>
(a) Salaries, excluding Trustee compensation shown at XI(e)	_____	_____	_____	_____
(b) Employer's Contribution:	_____	_____	_____	_____
(c) Employee benefits:	_____	_____	_____	_____
(d) Office rent	_____	_____	_____	_____
(e) Utilities	_____	_____	_____	_____
(f) Bookkeeping & accounting services	_____	_____	_____	_____
(g) Computer services	_____	_____	_____	_____
(h) Audit services	_____	_____	_____	_____
(i) Consulting services	_____	_____	_____	_____
(j) Telephone	_____	_____	_____	_____
(k) Postage	_____	_____	_____	_____
(l) Office supplies	_____	_____	_____	_____
(m) Bond premiums	_____	_____	_____	_____
(n) Clerk fees (not under plans)	_____	_____	_____	_____
(o) Publications & on-line services	_____	_____	_____	_____
(p) Insurance, other than employment related	_____	_____	_____	_____
(q) Training (See Exhibit 1)	_____	_____	_____	_____
(r) Maintenance and service agreements	_____	_____	_____	_____
(s) Photocopy services or transcripts	_____	_____	_____	_____
(t) Travel	_____	_____	_____	_____
(u) Equipment/furniture rental	_____	_____	_____	_____
(v) Equipment/furniture purchases	_____	_____	_____	_____
(w) Leasehold improvements	_____	_____	_____	_____

(Schedule X continued on following page)

	<u>Third</u> <u>Party</u>	<u>or Related</u> <u>Party</u>	<u>Allocated</u> <u>FY98</u> <u>Total</u>	<u>Final</u> <u>Approved</u> <u>Budget</u>
(x) Other expenses paid (specify third party or related party; add schedule if more space is needed):	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
(y) Total operating expenses paid [add (a) through (x)]	=====	=====	=====	=====

1998                      1997

XI. EXPENSE FUND SUMMARY PER BOOKS FOR YEAR

(a) Beginning year balance	_____	_____
(b) Receipts [same as IX(g)]	_____	_____
(c) Receipt from Standing Trustee personal funds reimbursing current or prior year(s) operating deficit(s), excess compensation, etc. (itemize - add schedule if more space is needed):	_____	_____
(d) Expenses paid [same as X(y)]	(_____)	(_____)
(i) misdisbursements if included in Section X (itemize on Exhibit 2)	_____	_____
(ii) insurance deductibles	_____	_____
(e) Compensation paid to Trustee (inclusive of 20% in benefits)	(_____)	(_____)
(f) Payment of prior year(s) excess expense funds to U.S. Trustee System Fund for payment to U.S. Treasury	(_____)	(_____)
(g) Payments to Standing Trustee to reimburse/reduce operating deficit(s) for year(s)	(_____)	(_____)

1998                      1997

(h) Other, including payments to trust fund not included elsewhere in Section XI, such as misdisbursements not included in XI(d) (itemize - add schedule if more space is needed):


(i) Subtotal [a + b + c - d - e - f - g ± h]

--	--	--

(j) Expense funds per books end of year

Bank/Account No./Interest Bearing ( y / n )


Total of expense fund accounts  
(same as XI(i) above)

--	--	--

XII. RECONCILIATION BETWEEN EXPENSE FUNDS PER BOOKS AND PER BANKS END OF YEAR

(a) Balance per banks

--	--	--

(b) Deposits in transit

--	--	--

(c) Outstanding checks

	(        )	(        )
--	------------	------------

(d) Other reconciling items (itemize - add schedule if more space is needed):


(e) Balance per books [a + b - c ± d]  
[same as XI(j)]

--	--	--

XIII. FUNDS AVAILABLE FOR COMPENSATION

(a) Payments Made From Expense Fund:

(1) Expenses paid [same as XI(d)]

--	--	--

(2) Other payments from expense fund authorized by U.S. Trustee [XI(f) + (h)]

--	--	--

(3) Total payments made from expense fund [a(1) + a(2)]

--	--	--

	<u>1998</u>	<u>1997</u>
(b) Non-Percentage Fee Funds in Expense Fund:		
(1) Administrative expense allowances [same as IX(b)]	_____	_____
(2) Interest transferred from trust funds in current year [IX(d) (i) + (ii)]	_____	_____
(3) Interest earned on expense funds [same as IX(e)]	_____	_____
(4) Repayment of excess compensation paid out in prior year [same as XI(c)]	_____	_____
(5) Other receipts [same as IX(f) - itemize below]	_____	_____
_____	_____	_____
_____	_____	_____
(6) Book Balance in expense fund account at beginning of year [same as XI(a)]	_____	_____
(7) Total non-percentage fee receipts [b(1)+b(2)+b(3)+b(4)+b(5)+b(6)]	=====	=====
(c) Net expenses remaining [a(3) - b(7)], but not less than 0	_____	_____
(d) Percentage Fee Receipts to Expense Fund:		
(1) Percentage fees transferred from trust funds [same as IX(a)]	_____	_____
(2) Fees received directly from debtors on payments under plans not made through the trustee [same as IX(c) (i)]	_____	_____
(3) Total percentage fees available [d(1)+d(2)]	=====	=====
(e) Funds available for compensation or (operating loss) [XIII(d) (3) - XIII(c)]	_____	_____

19981997

## XIV. COMPENSATION

Maximum compensation pursuant to 28 U.S.C.  
§ 586 (e) (1) (a), as shown below:

(a)	5% of net receipts under plans [I(a)] - [II(c)] x 5%	_____	_____
(b)	5% of constructive receipts under plans [IX(c) (ii)] x 5%	_____	_____
(c)	Sum of (a) and (b)	=====	=====
(d)	Funds available for compensation (inclusive of 20% in benefits) [same as XIII(e), but not less than zero]	_____	_____
(e)	Maximum compensation fixed by Attorney General	_____	_____
(f)	Compensation paid trustee [same as XI(e)]	_____	_____
(g)	Allowable compensation [lesser of (c), (d) or (e)]	(_____)	(_____)
(h)	Excess compensation paid [(f) - (g), but not less than zero]	=====	=====

## XV. EXCESS EXPENSE FUNDS

(a)	Ending year balance [same as XI(j)]	_____	_____
(b)	Less 17% of operating expenses [17% of X]	(_____)	(_____)
(c)	Other (add schedule if more space is needed):  _____	_____	_____
(d)	Expense fund balance in excess of 17% of operating expenses [a - b ± c, but not less than zero]	=====	=====

## XVI. SUMMARY OF FUNDS PAYABLE

(a)	Payable to Expense Fund from standing trustee for excess compensation paid [same as XIV(h)], but not to exceed (XV(b) - XV(a))	=====	=====
(b)	Payable to U.S. Trustee System Fund:		
	(i) Expense fund balance in excess of 17% of operating expenses [same as XV(d)]	_____	_____
	(ii) Excess compensation [XIV(h) - XVI(a)]	_____	_____

	<u>1998</u>	<u>1997</u>
(c) Total payable to U.S. Trustee System Fund [XVI(b)(i) + XVI(b)(ii)]	=====	=====
<b>XVII. UNREIMBURSED OPERATING DEFICITS CARRYFORWARD</b>		
(a) Unreimbursed operating deficit carryforward at beginning of year, approved by U.S. Trustee (by year generated)		
199_	_____	_____
199_	_____	_____
199_	_____	_____
(b) Total beginning year balance [sum of (a)]	=====	=====
(c) Reimbursed to trustee [same as XI(g)]	_____	_____
(d) Current year deficit [same as XIII(e), if any]	_____	_____
(e) Disallowed by U.S. Trustee (explain)	( _____ )	( _____ )
(f) Ending year balance [b - c + d - e]	=====	=====
<b>XVIII. BONDING REQUIREMENT</b>		
(a) Average of the average monthly bank balance (not book balance) for the prior three months (balances per banks, excluding investments subject to the United States Trustee's counter- signature for withdrawal)	=====	=====
(b) Bond amount as of year end	_____	_____
(c) Required trustee bond: Enter 150% of (a)	_____	_____
(d) Bond over (under) required amount [b - c]	=====	=====
(e) Are employees who have access to receipts or disbursements of cash or negotiable instruments, or to the financial records of the office bonded? _____ YES _____ NO		
Are they covered under the standing trustee bond or by a separate employees fidelity or honesty bond? [Indicate which type of bond and the amount]		
TYPE _____	AMOUNT \$ _____	

	<u>1998</u>	<u>1997</u>
<b>XIX. CASES HANDLED</b>		
(a) Cases active, start of period	_____	_____
(b) New cases filed during fiscal year (+)	_____	_____
(c) Adjustments during fiscal year:		
i) Cases transferred in (+)	_____	_____
ii) Cases converted from another chapter (+)	_____	_____
iii) Cases transferred out (-)	_____	_____
iv) Conversions to another chapter (-)	_____	_____
v) Dismissals (-)	_____	_____
Total adjustment (+) or (-)	_____	_____
(d) Cases closed by the Court on completion of the plan (-)	_____	_____
(e) Cases closed by the Court as hardship discharge (-)	_____	_____
(f) Cases active, end of period (a+b+c-d-e)	=====	=====
(g) Number of cases more than sixty months past confirmation	=====	=====

Note: The entry for "Cases active, end of period" should be carried forward as the number of "Cases active, start of period" in the next fiscal year.

**XX. PAYOUT TO NONPRIORITY UNSECURED CREDITORS IN CASES WHERE THE PLAN HAS BEEN COMPLETED:**

(If this information is available for fiscal year 1997, please provide.)

	<u>1998</u>	<u>1997</u>
(a) Number of cases paying 70% or more on unsecured claims:	_____	_____
(b) Number of cases paying 40%-69% on unsecured claims:	_____	_____
(c) Number of cases paying 1-39% on unsecured claims:	_____	_____
(d) Number of cases paying 0% on unsecured claims	_____	_____

STANDING TRUSTEE'S CERTIFICATION TO REPORT AND ACCOUNT

I hereby certify under penalty of perjury that the information contained herein is a complete disclosure of the trustee operation's financial affairs and that it is true and correct. Furthermore, I request that this report be reviewed by the United States Trustee and the Attorney General of the United States or her delegate.

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CHAPTER 13 STANDING TRUSTEE'S SIGNATURE

DATED: \_\_\_\_\_

REVIEWED BY:

---

UNITED STATES TRUSTEE OFFICE

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UNITED STATES TRUSTEE







## **APPENDIX K-1 SAMPLE RULES OF BEHAVIOR GOVERNING COMPUTER USE**

Trustees must have rules governing the use of the trustee's computer system by the trustee's employees. These rules should explain the employee's responsibilities as a user and the penalties for noncompliance. The section on user responsibilities should at a minimum include the following:

### General:

1. Use trustee information systems for lawful, official use and authorized purposes in accordance with current guidelines.
2. Do not generate or send offensive or inappropriate e-mail messages, images, or sound files. Limit distribution of email to only those who need to receive it.
3. Do not open emails from suspicious sources and do not visit untrusted web sites.
4. Protect and safeguard all trustee information, including personally identifiable information (PII), per the sensitivity and value of the data at risk, from unauthorized access, unauthorized or inadvertent modification, disclosure, destruction, denial of service, improper sanitization or use, in accordance with applicable policy, practices, and procedures.
5. Report known or suspected security incidents (including loss of PII) upon discovery of the incident to the trustee.
6. Encrypt all trustee data on transportable/mobile computers (including laptops) and removable media which contains sensitive information.
7. Use only authorized media storage devices. Download files only from known and reliable sources and use virus-checking procedures prior to use.
8. Screen-lock or log off your computer when leaving the work area and log off when departing for the day.

### Passwords:

9. Change passwords at least every 90 days or more often if compromised or if directed by your supervisor; choose a password at least 8 characters in length; and use at least 3 of the following 4 characters: upper case letters, lower case letters, numbers, and/or special characters.
10. Do not share passwords with anyone.

### Hardware:

11. Do not add, modify, or remove hardware accessories or networks to a computer.

Software:

12. Comply with terms of software licenses and only use licensed and authorized software.
13. Do not install any software.
14. Do not change any configurations and/or settings of the operating system and security-related software without advance approval.
15. Do not attempt to access any electronic audit trails that may exist on the computer unless specifically authorized to do so.

I acknowledge receipt of these Rules of Behavior and understand my responsibilities as identified above. This includes my responsibility to ensure protection of PII that I may handle.

---

Signature

---

Date

---

Printed Name

## **APPENDIX L EMPLOYEE FRAUD INDICATORS**

It is very common to learn that an employee who has embezzled funds is having personal problems:

1. spouse lost job;
2. substance abuse;
3. divorce and/or custody battle;
4. a failing business;
5. a serious health problem for the employee or family member; or
6. a gambling addiction.

Accordingly, standing trustees should note and monitor more closely an employee whose personality, lifestyle or appearance changes significantly.

Employees will often fabricate justifications for the illegal disbursements by, for example, attempting to claim they were reimbursement for expenses or payment of expenses to third parties. Be alert to those excuses.

The following list presents a sampling of fraud indicators observed by United States Trustees when an employee of a trust operation has embezzled funds:

◆ The employee:

- ⇒ Showed a marked change in personality, appearance, or lifestyle;
- ⇒ Appeared to be living beyond his or her means;
- ⇒ Exhibited low morale or job dissatisfaction;
- ⇒ Showed no concern over meeting fiduciary standards;
- ⇒ Had an outside business interest or felt financial pressure from a business or personal loss.

- ⇒ Had access to the trustee's facsimile signature stamp;
- ⇒ Received and opened bank statements, reconciled bank accounts and maintained custody of the statements and cancelled checks, with little or no trustee review;
- ⇒ Received, deposited and otherwise maintained full control over incoming receipts (checks), as well as NSF checks and checks returned because of insufficient address, with little or no trustee review; or
- ⇒ Forged the trustee's signature and then hid the cancelled checks from the trustee.

◆ The trustee was busy in court, etc., and:

- ⇒ Vested too much control with one employee or relied too much on the integrity of a single employee;
- ⇒ Inadequately supervised employees;
- ⇒ Ignored key financial information (e.g., bank reconciliations, deposits, cancelled checks); or
- ⇒ Allowed employees to often work late or refuse to take vacations.

Standing trustees should guard against excessive delegation of duties and investigate an employee whenever there are an unusual number of complaints, an unusual number of outstanding refund checks, or frequent visits to the bank.

**APPENDIX M INSTRUCTIONS FOR THE PREPARATION OF**  
**CHAPTER 13**  
**STANDING TRUSTEES' ANNUAL SUMMARY BUDGET REQUEST**

I. Introduction

These instructions relate to the preparation of standing trustees' upcoming budgets. The various policies with budgetary impact are covered, as is guidance on the classification of expenditures from trustee office expense accounts.

II. Responsibilities and Timetables

A. Standing Trustees. The standing trustee will prepare all budget estimates in final form for submission to the United States Trustee by July 1 of each year.

B. United States Trustee. The United States Trustee will review the standing trustee's budget, provide comments, and indicate review by signing the budget request along with any necessary modifications for submission of the data to the Assistant Director for Review and Oversight by August 15 of each year. The standing trustee's yearly budget (including job descriptions and a statement describing any changes or corrections to the questionnaire for sensitive positions (SF-86)) must be accompanied by a memorandum from the United States Trustee recommending the upcoming annual percentage fee and compensation level. If applicable, an executive summary describing the trustee's debtor education program is requested. That description should include a breakout of associated costs including office space, supplies, consultants, etc. Evaluations may be sent to the Assistant Director any time between August 1 and September 1.

C. Executive Office for U.S. Trustees. The Executive Office will issue approved standing trustee compensation levels and percentage fees by September 30 of each year. Requests for annual Orders Fixing Compensation and Percentage Fee will not be processed until the budgets are reviewed by the United States Trustee and all materials are received.

III. Standards to be Used in Preparing Estimates

The standing trustee should use the most recent annual report for the actual-year data requested in the budget forms. Accounting classifications may need to be modified to capture data in the requested level of detail and in the categories of expense used throughout the submission.

You may find that the amount of detail required for an expense in the Supporting Estimates (Exhibit II), Detail of Personnel Expense (Exhibit III), and the Allocated Expenses (Exhibit IV) is greater than the space available on the form. For those expenses, expand the space.

Current-year data should be projected from the latest available monthly report of expenditures. All amounts should be rounded to the nearest dollar.

#### Exhibit I. Summary of Necessary Expenses.

This exhibit provides a breakdown of expense categories which are explained further below. Because most of the categories are used to prepare annual reports, the requested data should be available from standing trustee financial records. Where the classification of an expense could reasonably fall in more than one category, consistency in classification from year to year is more important than the category selected.

Expense Classifications for Exhibits I and II. The following guidance is provided for preparing cost figures for the trustee's actual and necessary expenses.

Item 1. Employee Expenses: Charges for regular salaries and wages, employer's contributions (social security, unemployment, etc.), overtime, bonuses, and cost of benefits provided to employees.

Item 2. Rent: Charges for rental of office space, conference rooms, garage space, and storage space. Off-site storage cost should be broken out separately. If operation moved or is moving in mid-year, show both rates and both square footage amounts. If utilities are included in rental cost and a break-out is available, please provide.

Item 3. Utilities: Self-explanatory.

Item 4. Bookkeeping and Accounting Services: Charges incurred for all outside bookkeeping and accounting necessary for the operation of standing trustee office, including charges for the preparation of payroll, payroll taxes, annual reports, and reconciliation of bank accounts. Pursuant to the new Handbook provisions, effective October 1, 1998, personal service contracts involving related parties are not allowed.

Item 5. Computer Services: Charges for services for the development and modification of software systems, data preparation and conversion, consulting, research and development, and use of proprietary programs, including initial processing fees charged by a computer firm. Includes software maintenance charges. This item does not include training or supplies.



- Item 6.        Audit Services: Charges incurred for services of any independent audit firms.
- Item 7.        Consulting Services: Charges incurred under contract with individuals for services as attorneys, appraisers, and other professionals. Includes performance of compensation studies. (This does not authorize payment of expenses incurred for the defense or settlement of claims made or actions brought against the trustee personally.) Pursuant to the new Handbook provisions, effective October 1, 1998, personal service contracts involving related parties are not allowed.
- Item 8.        Noticing: Charges incurred in providing noticing to interested parties, including postage, supplies, and processing costs. If these can be broken out and included under this line item, they should not be included again elsewhere.
- Item 9.        Telephone: Charges for local phone service and/or long distance service.
- Item 10.       Postage: All postal charges, including parcel post, express mail, and rental of post office boxes. If the standing trustee sends out notices, include the cost of that postage under Noticing, line item 8.
- Item 11.       Office Supplies: Charges incurred for pencils, paper, standard forms, printed forms, envelopes, photocopying paper and supplies, computer-related supplies, other office supplies, and property of little monetary value such as desk trays and pen sets. Includes rentals of safety deposit boxes. If the standing trustee sends out notices, include the cost of associated supplies under Noticing, line item 8.
- Item 12.       Bond Premiums: Fees for premiums on surety bonds, including any premiums paid to bond an employee.
- Item 13.       Clerks Fees: Do not include any fees that are provided to be paid under the plan.
- Item 14.       Publications and On-Line Services: Charges for subscriptions to and copies of bankruptcy-related journals and periodicals, books and directories in the standing trustee's library, and on-line services. Includes PACER and Internet services. Does not include the cost of textbooks for training. Standing trustees should justify any duplication between on-line services and publications.
- Item 15.       Insurance (other than employee benefits): Charges for insurance to protect assets of the office of the standing trustee or employees. Includes errors and omissions, fire, theft, and accidental injury to property or third persons, workers compensation insurance, and employment practices liability insurance.

Item 16. Training Expenses (Non-UST): Charges for tuition, registration, textbooks, supplies, air fare, mileage, meals, and other costs incurred as related to training activities directly associated with the duties of the standing trustee or employee. Includes NACTT educational fees. If training expenses are no more than 1% of the fiscal year operating expense fund or \$5,000, whichever is greater, supporting detail is not required until the trustee submits the annual report. Within the above limits, pre-approval of training expenses is no longer required which affords the standing trustee more management flexibility. Documentation of expenses and identification of classes will be required in the annual report.

Item 17. Training Expenses (UST): Charges associated with UST-sponsored regional training, USTP/NACTT Liaison Committee meetings, and other joint UST-trustee training as specifically approved by the UST. These charges do not count against the 1%/\$5,000 cap.

Item 18. Debtor Education: Programs designed to advise and assist the debtor in the performance of the plan and in development of financial management skills. Includes all costs associated with the program, except employee expenses. Costs associated with credit reestablishment should be listed under All Other Expenses.

Item 19. Maintenance and Service Agreements: Charges incurred for the repair and maintenance, or service agreements covering such repair and maintenance, of the office suite and office equipment, including all office machines and furnishings, and including charges for custodial services when not included in the basic lease agreement.

Item 20. Photocopy Services or Transcripts: Self-explanatory.

Item 21. Travel: All travel charges except for travel related to training, which should be included in Items 16 or 17.

Item 22. Equipment/Furniture Rental: Charges for the use of equipment owned by another, including copying machines, audio and visual aid equipment, rental of computer systems and software, printers, desks, tables, chairs, typewriters, calculators/bookkeeping machines, mailing machines, postage meters, and file cabinets. Total rent payments may not exceed the cost of purchase. Pursuant to 28 CFR § 58.4, personal property contracts involving related parties are not allowed.

Item 23. Equipment/Furniture Purchases: Charges for purchase of movable furniture, fittings, and fixtures, including desks, tables, chairs, typewriters, calculators and adding/bookkeeping machines, computers, printers, telephone equipment, and file cabinets, and including charges for services in connection with shipping and installation when performed under contract. Computer equipment purchases related to the paperless office technology are currently not being approved pending further progress by the pilot projects. All equipment/furniture

purchased from Chapter 13 funds remain the possession of the office of the standing trustee, and are to be used for the administration of all Chapter 13 cases by the trustee and any successor trustee.

Item 24. Leasehold Improvements: Charges incurred for space adjustments (including partitioning), alterations, and improvements to building or office suite as approved by the United States Trustee.

Item 25. All Other Expenses: All expenses not otherwise classified. If several expenses are included, provide a breakdown of the miscellaneous expenses.

### Exhibit II. Yearly Supporting Estimates.

Several categories of expense on Exhibit I are asterisked to indicate that supporting detail is needed to substantiate the total expense. The supporting details are to be provided in Exhibit II, according to the following guidelines:

The expenses itemized in the Yearly Supporting Estimates should agree with the total figures entered in the same categories of the Summary of Necessary Expenses Exhibit (Exhibit I).

All expense items should be listed within the categories requested in the Yearly Supporting Estimates Exhibit. If the number of entries exceeds the number of lines provided, then additional lines should be inserted before proceeding to the next category.

### Exhibit III. Detail of Personnel Expense.

The Detail of Personnel Expense (Exhibit III) is the supporting material needed for Item 1 of Exhibit I. To assist in the United States Trustee's review of this exhibit, the list of standing trustee employees should be prepared in descending order (with highest-paid employees listed first).

For each employee, provide individual data on salary, overtime pay, bonuses, benefits, average number of hours worked per week, date(s) of salary increase(s), and hourly wage (both the wage at the beginning of the fiscal year and the one at the end of the fiscal year). Bonus amounts for the upcoming year are probably not as yet apportioned to individuals. List total dollars for "bonus funds" on the summary page at the end of the Exhibit. Position descriptions itemizing all of the duties performed for any positions that have changed or have been added must accompany Exhibit III. Four sample blocks are provided in the Exhibit. If more are needed, they should be repeated in the same format on supplemental pages. Note that the trustee is not an

employee and, under the UST system, payroll taxes and benefits for the trustee are personal expenses of the trustee; therefore, no line item is provided for the trustee. Identify each employee who is related (by blood or marriage) to the trustee or to another trustee employee and describe the relationship. Attach any waivers.

Exhibit IV. Allocated Expense Exhibit.

List all costs allocated between the standing trustee and another business entity, e.g., law practice or Chapter 12 operation. Identify the expense item, total cost, cost to the trustee operation, other business entity, allocation percentage, and justification for allocation. Attach letters from the UST allowing a waiver or extension of time to comply with the new standards. The justification for allocation may be square footage, hours worked, number of employees, etc. However, for each separate allocation, approval must be obtained in advance from the United States Trustee. In the actual, full-year, and budget year columns, the total cost and the cost allocated to the standing trustee operation are entered. An example appears below if time spent is 50% on law practice and 50% on the standing trustee operation:

<u>Item and Justification for Allocation:</u>	<u>FY xx</u> <u>Actual</u>	<u>FY xx</u> <u>Full-Year</u>	<u>FY xx</u> <u>Budget</u>
1. Expense Item: Personnel Expenses.....			
Total Cost .....	\$50,000	\$58,000	\$64,000
Cost Allocated to Ch. 13 Operations...	\$25,000	\$29,000	\$32,000
Allocation Percentage (identify other party):			
50% law practice; 50% Ch. 13 operation			
Justification for Allocation:			
Actual time spent on law practice and Chapter 13 operation			

In this example, the justification for allocation is actual time spent by staff on trust operation activities. The percentage of time is 50%. The total budgeted cost of personnel is \$64,000, and \$32,000 of the cost is allocated to the standing trustee's expenses. The full-year and budget year columns are prepared with estimates for those years in the same manner that actual previous expenses are shown.

If all allocations are made on the same basis, then only one justification for allocation should be shown. If more than one allocation basis is used, each should be described.

For other exhibits in the budget submission, only the amount allocated to the standing trustee office will be shown.

Exhibit V. Workload Exhibit.

The Workload Exhibit is divided into two parts. The first part covers receipts and percentage fees. Receipts reported in Item 1(a) should be net receipts, *i.e.*, after refunds to debtors. Disbursements reported in Item (1)(b) should be only those subject to percentage fee. Item 2(a) is the percentage fee needed to cover all expenses itemized in the Summary of Necessary Expenses (Exhibit I), and the trustee's compensation in the upcoming year. (For prior and current year, give average percentage fee.) In Item 2(b), indicate the percentage fee revenues from 2(a) in each year.

Fees may not be received on payments made directly by debtors to creditors under plans confirmed on or after November 26, 1986, in original United States Trustee districts. This restriction applies in other districts as to plans confirmed after Section 586(e) of Title 28 (as amended) becomes effective in the district.

The second part of the Workload Exhibit examines the Chapter 13 cases assigned to the standing trustee. Instructions below will assist you in completing the caseload portion. (Items 3-8) of the exhibit.

3. Cases active, start of period - Enter the number of active cases as of the year indicated.
4. New cases assigned during the year - Enter the number of new cases received. Petitions should be recorded when received, as of the date they are received from the Bankruptcy Court.
5. Adjustments during the year - This section is used to adjust the caseload for changes in the status of active cases:
  - a. Cases transferred in (+) - Cases transferred from other trustee offices are added.
  - b. Cases converted to Chapter 13 (+) - Cases converted from another chapter are added.
  - c. Cases transferred out (-) - Cases transferred from your office to another office are subtracted.
  - d. Conversions to another chapter (-) - Cases converted from Chapter 13 to any other chapter are subtracted.
  - e. Dismissals (-) - Cases dismissed are subtracted.
6. Cases closed by the Court on completion of the plan (-) - Enter the number of cases that the Bankruptcy Court has closed on completion of the repayment plan. Cases closed are subtracted.

7. Cases closed by the Court as hardship discharge (-) - Enter the number of cases that the Bankruptcy Court has closed upon entering a hardship discharge. Cases closed are subtracted.

8. Cases active, end of period - This figure represents the total of active cases at the end of the period arrived at by adding the figures in line items 3 and 4 together, and then adjusting that total for the figures in items 5, 6, and 7. The entry for "Cases active, end of period" should be carried forward as the number of "Cases active, start of period" for the next year.

Exhibit VI. Computation of Amount Available for Compensation and Operating Reserve.

Item 1. The amount to be inserted should be the operating reserve estimated to be on hand at the end of the current year, limited to no more than 17% of current year expenses. This figure should equal the estimated expense account balance at the end of the current year.

**CHAPTER 13 ANNUAL BUDGET**  
 October 1, 1998 - September 30, 1999

NAME: \_\_\_\_\_  
 DATE: \_\_\_\_\_

I. SUMMARY OF NECESSARY EXPENSES

	<u>FY 97</u>	<u>FY 98</u>	<u>FY 99</u>	<u>FY 99-FY 98</u>
	<u>Actual</u>	<u>Full-year</u>	<u>Budget</u>	<u>Percentage</u>
				<u>Change</u>
A. <u>OPERATING EXPENSES:</u>				
*1. Employee Expenses.....	_____	_____	_____	_____
*2. Office Rent.....	_____	_____	_____	_____
*3. Utilities (if not included in rent).....	_____	_____	_____	_____
*4. Bookkeeping and Accounting Services.....	_____	_____	_____	_____
*5. Computer Services.....	_____	_____	_____	_____
6. Audit Services.....	_____	_____	_____	_____
*7. Consulting Services.....	_____	_____	_____	_____
*8. Noticing (See Instructions).....	_____	_____	_____	_____
9. Telephone.....	_____	_____	_____	_____
10. Postage (non-noticing).....	_____	_____	_____	_____
11. Office Supplies (non-noticing).....	_____	_____	_____	_____
*12. Bond Premiums.....	_____	_____	_____	_____
13. Clerk Fees (not under plans).....	_____	_____	_____	_____
*14. Publications and On-Line Services.....	_____	_____	_____	_____
*15. Insurance, other than Employment Related.....	_____	_____	_____	_____
*16. Training (Non-UST) (See Instructions).....	_____	_____	_____	_____
17. Training (UST) (See Instructions).....	_____	_____	_____	_____
18. Debtor Education (See Instructions).....	_____	_____	_____	_____
*19. Maintenance and Service Agreements.....	_____	_____	_____	_____
20. Photocopy Services or Transcripts.....	_____	_____	_____	_____
*21. Travel.....	_____	_____	_____	_____
*22. Equipment/Furniture Rental.....	_____	_____	_____	_____

I. SUMMARY OF NECESSARY EXPENSES

	<u>FY 97</u> <u>Actual</u>	<u>FY 98</u> <u>Full-year</u>	<u>FY 99</u> <u>Budget</u>	<u>FY 99-FY 98</u> <u>Percentage</u> <u>Change</u>
*23. Equipment/Furniture Purchases.....	_____	_____	_____	_____
24. Leasehold Improvements.....	_____	_____	_____	_____
*25. Other Expenses (list):	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
<u>Total Operating Expenses.....</u>	_____	_____	_____	_____
B. <u>OPERATING RESERVE</u>				
(not to exceed 17% of Total Operating Expenses)...	_____	_____	_____	_____
C. <u>TOTAL NECESSARY EXPENSES [A + B].....</u>	=====	=====	=====	=====

\*These entries require additional detail on the "Yearly Supporting Estimates" and "Detail of Personnel Expense" exhibits. The line item totals from these exhibits should tie to the "Summary of Necessary Expenses".



II. YEARLY SUPPORTING ESTIMATES

	FY 97 <u>Actual</u>	FY 98 <u>Full-year</u>	FY 99 <u>Budget</u>	FY 99-FY 98 <u>Percentage Change</u>
1. Employee expenses: <sup>1</sup>				
A. Salaries (including amounts withheld).....	_____	_____	_____	_____
B. Overtime.....	_____	_____	_____	_____
C. Bonuses.....	_____	_____	_____	_____
D. Employer's Contribution .....	_____	_____	_____	_____
E. Employee Benefits				
1. Total Health Insurance.....	_____	_____	_____	_____
2. Total Life Insurance.....	_____	_____	_____	_____
3. Total Other Insurance.....	_____	_____	_____	_____
4. Total Retirement.....	_____	_____	_____	_____
5. Total Parking.....	_____	_____	_____	_____
6. Total Other Benefits.....	_____	_____	_____	_____
TOTAL Benefits.....	_____	_____	_____	_____
TOTAL Employee Expenses.....	_____	_____	_____	_____
Has a compensation & benefits study been completed? (Yes/No) _____				
If yes, when will it be fully implemented? _____				
2. Rent:				
A. Total Square Footage Leased (Office Space).....	_____	_____	_____	_____
B. Sq Ft Apportioned to Ch. 13 Opr (Office Space).....	_____	_____	_____	_____
C. \$ Amount Paid Per Square Foot (Office Space)...	_____	_____	_____	_____
D. \$ Amount Office Space.....	_____	_____	_____	_____
E. \$ Amount Off-Site Storage.....	_____	_____	_____	_____
TOTAL Rent.....	_____	_____	_____	_____
Is Chapter 13 operation renting from a related party? (YES/NO) _____				
If yes, identify party _____				

<sup>1</sup> Payment of payroll taxes and benefits for trustee are not allowable expense items.

II. YEARLY SUPPORTING ESTIMATES

	<u>FY 97</u> <u>Actual</u>	<u>FY 98</u> <u>Full-year</u>	<u>FY 99</u> <u>Budget</u>	<u>FY 99-FY 98</u> <u>Percentage</u> <u>Change</u>
3. Utilities (if not included in rent):				
A. Electricity.....	_____	_____	_____	_____
B. Gas.....	_____	_____	_____	_____
C. Water.....	_____	_____	_____	_____
TOTAL Utilities.....	_____	_____	_____	_____
4. Bookkeeping and Accounting Services:				
1) vendor name and type of service.....	_____	_____	_____	_____
2) _____	_____	_____	_____	_____
TOTAL Bookkeeping and Accounting Services.....	_____	_____	_____	_____
5. Computer Services:				
A. Vendor Name:				
B. _____	_____	_____	_____	_____
TOTAL Computer Services.....	_____	_____	_____	_____
7. Consulting Services:				
(This does not authorize payment of expenses incurred for the defense or settlement of claims made or actions brought against the trustee personally.)				
1) Consultant name and area of expertise.....				
2) _____	_____	_____	_____	_____
TOTAL Consulting Services.....	_____	_____	_____	_____

II. YEARLY SUPPORTING ESTIMATES

	<u>FY 97</u> <u>Actual</u>	<u>FY 98</u> <u>Full-year</u>	<u>FY 99</u> <u>Budget</u>	<u>FY 99-FY 98</u> <u>Percentage</u> <u>Change</u>
8. Noticing:				
A. Postage.....	<u>N/A</u>	<u>N/A</u>	<u>          </u>	<u>N/A</u>
B. Supplies.....	<u>N/A</u>	<u>N/A</u>	<u>          </u>	<u>N/A</u>
C. Processing Costs.....	<u>N/A</u>	<u>N/A</u>	<u>          </u>	<u>N/A</u>
TOTAL Noticing.....	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>
12. Bond Premiums:				
A. For Standing Trustee.....	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>
B. For Staff.....	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>
TOTAL Bond Premiums.....	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>
14. Publications and On-Line Services:				
A. (name).....	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>
B. _____	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>
C. (etc.).....	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>
TOTAL Publications and On-Line Services.....	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>
15. Insurance, other than Employee Benefits:				
A. Errors and Omissions insurance (insurer name) ..	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>
B. <u>Employment Practices Liability (insurer name) ..</u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>
C. <u>Worker's Compensation (insurer name) ..</u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>
D. (etc.).....	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>
TOTAL Insurance.....	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>

II. YEARLY SUPPORTING ESTIMATES

	<u>FY 97</u> <u>Actual</u>	<u>FY 98</u> <u>Full-year</u>	<u>FY 99</u> <u>Budget</u>	<u>FY 99-FY 98</u> <u>Percentage</u> <u>Change</u>
16. Training (Non-UST) (See Instructions):				
A. (training attended).....	_____	_____	_____	_____
B. (training attended).....	_____	_____	_____	_____
C. (etc.).....	_____	_____	_____	_____
TOTAL Training Expenses (Non-UST).....	_____	_____	_____	_____
19. Maintenance and Service Agreements:				
A. (item).....	_____	_____	_____	_____
B. (item).....	_____	_____	_____	_____
C. (etc.).....	_____	_____	_____	_____
TOTAL Maintenance.....	_____	_____	_____	_____
21. Travel:				
A. Transportation.....	_____	_____	_____	_____
B. Lodging.....	_____	_____	_____	_____
C. Meals.....	_____	_____	_____	_____
D. Other (list).....	_____	_____	_____	_____
TOTAL Travel.....	_____	_____	_____	_____
22. Equipment/Furniture Rental:				
1) Business equipment.....	_____	_____	_____	_____
2) Computer equipment.....	_____	_____	_____	_____
3) Furniture.....	_____	_____	_____	_____
4) Other rental (list).....	_____	_____	_____	_____
TOTAL Equipment/Furniture Rentals.....	_____	_____	_____	_____

II. YEARLY SUPPORTING ESTIMATES

	<u>FY 97</u>	<u>FY 98</u>	<u>FY 99</u>	<u>FY 99-FY 98</u>
	<u>Actual</u>	<u>Full-year</u>	<u>Budget</u>	<u>Percentage</u>
				<u>Change</u>
23. Equipment/Furniture Purchases:				
A. Business equipment.....	_____	_____	_____	_____
B. Computer equipment.....	_____	_____	_____	_____
C. Furniture.....	_____	_____	_____	_____
D. Other (specify).....	_____	_____	_____	_____
TOTAL Equipment/Furniture Purchases.....	_____	_____	_____	_____
25. All Other Expenses (specify third or related party):				
A. (item).....	_____	_____	_____	_____
B. (item).....	_____	_____	_____	_____
C. (item).....	_____	_____	_____	_____
D. (etc.).....	_____	_____	_____	_____
TOTAL All Other Expenses.....	_____	_____	_____	_____

III. DETAIL OF PERSONNEL EXPENSE<sup>2</sup>

	<u>FY 97</u>	<u>FY 98</u>	<u>FY 99</u>	<u>FY 99-FY 98</u>
	<u>Actual</u>	<u>Full-year</u>	<u>Budget</u>	<u>Percentage</u>
				<u>Change</u>
#1 Employee Name & Position: _____				
If hired in FY 98 or FY 99,				
give month and year of hire _____				
Salary (including amounts withheld).....	_____	_____	_____	_____
Overtime, if applicable.....	_____	_____	_____	_____
Bonus.....	_____	_____	_____	_____
Employer's Contribution (payroll, social security)	_____	_____	_____	_____
Employee Benefits (list):				
Health Insurance				
(circle: family or indiv.).....	_____	_____	_____	_____
Life Insurance.....	_____	_____	_____	_____
Other Insurance				
(e.g., vision) identify _____	_____	_____	_____	_____
Retirement.....	_____	_____	_____	_____
Parking.....	_____	_____	_____	_____
Other Benefits (identify) _____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
TOTAL Employee Expense.....	_____	_____	_____	_____
Average number of hours/week (not to exceed 40hrs/wk)	_____	_____	_____	_____
Hourly Salary - Beginning of Year.....	_____	_____	_____	_____
Hourly Salary - End of Year.....	_____	_____	_____	_____
Average hourly TOTAL Employee Expense.....	_____	_____	_____	_____
Date(s) of Salary Increase(s) in FY99: _____				

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Identify by marking with an "\*" each employee who is related (by blood or marriage) to the trustee or to another trustee employee and describe the relationship. If related to the trustee and the employee is not a spouse, attach waiver. Also, for any retirement plan(s) in effect, define contribution formula.

III. DETAIL OF PERSONNEL EXPENSE

	<u>FY 97</u>	<u>FY 98</u>	<u>FY 99</u>	<u>FY 99-FY 98</u>
	<u>Actual</u>	<u>Full-year</u>	<u>Budget</u>	<u>Percentage</u>
				<u>Change</u>
#2 Employee Name & Position: _____				
If hired in FY 98 or FY 99,				
give month and year of hire _____				
Salary (including amounts withheld).....	_____	_____	_____	_____
Overtime, if applicable.....	_____	_____	_____	_____
Bonus.....	_____	_____	_____	_____
Employer's Contribution (payroll, social security)	_____	_____	_____	_____
Employee Benefits (list):				
Health Insurance				
(circle: family or indiv.).....	_____	_____	_____	_____
Life Insurance.....	_____	_____	_____	_____
Other Insurance				
(e.g., vision) identify _____	_____	_____	_____	_____
Retirement.....	_____	_____	_____	_____
Parking.....	_____	_____	_____	_____
Other Benefits (identify) _____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
TOTAL Employee Expense.....	_____	_____	_____	_____
Average number of hours/week (not to exceed 40hrs/wk)	_____	_____	_____	_____
Hourly Salary - Beginning of Year.....	_____	_____	_____	_____
Hourly Salary - End of Year.....	_____	_____	_____	_____
Average hourly TOTAL Employee Expense.....	_____	_____	_____	_____
Date(s) of Salary Increase(s) in FY99: _____				

III. DETAIL OF PERSONNEL EXPENSE

	<u>FY 97</u>	<u>FY 98</u>	<u>FY 99</u>	<u>FY 99-FY 98</u>
	<u>Actual</u>	<u>Full-year</u>	<u>Budget</u>	<u>Percentage</u>
				<u>Change</u>
#3 Employee Name & Position: _____				
If hired in FY 98 or FY 99,				
give month and year of hire _____				
Salary (including amounts withheld).....	_____	_____	_____	_____
Overtime, if applicable.....	_____	_____	_____	_____
Bonus.....	_____	_____	_____	_____
Employer's Contribution (payroll, social security)	_____	_____	_____	_____
Employee Benefits (list):				
Health Insurance				
(circle: family or indiv.).....	_____	_____	_____	_____
Life Insurance.....	_____	_____	_____	_____
Other Insurance				
(e.g., vision) identify _____	_____	_____	_____	_____
Retirement.....	_____	_____	_____	_____
Parking.....	_____	_____	_____	_____
Other Benefits (identify) _____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
TOTAL Employee Expense.....	_____	_____	_____	_____
Average number of hours/week (not to exceed 40hrs/wk)	_____	_____	_____	_____
Hourly Salary - Beginning of Year.....	_____	_____	_____	_____
Hourly Salary - End of Year.....	_____	_____	_____	_____
Average hourly TOTAL Employee Expense.....	_____	_____	_____	_____
Date(s) of Salary Increase(s) in FY99: _____				



III. DETAIL OF PERSONNEL EXPENSE

	<u>FY 97</u>	<u>FY 98</u>	<u>FY 99</u>	<u>FY 99-FY 98</u>
	<u>Actual</u>	<u>Full-year</u>	<u>Budget</u>	<u>Percentage</u>
				<u>Change</u>
#4 Employee Name & Position: _____				
If hired in FY 98 or FY 99,				
give month and year of hire _____				
Salary (including amounts withheld).....	_____	_____	_____	_____
Overtime, if applicable.....	_____	_____	_____	_____
Bonus.....	_____	_____	_____	_____
Employer's Contribution (payroll, social security)	_____	_____	_____	_____
Employee Benefits (list):				
Health Insurance				
(circle: family or indiv.).....	_____	_____	_____	_____
Life Insurance.....	_____	_____	_____	_____
Other Insurance				
(e.g., vision) identify _____	_____	_____	_____	_____
Retirement.....	_____	_____	_____	_____
Parking.....	_____	_____	_____	_____
Other Benefits (identify) _____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
TOTAL Employee Expense.....	_____	_____	_____	_____
Average number of hours/week (not to exceed 40hrs/wk)	_____	_____	_____	_____
Hourly Salary - Beginning of Year.....	_____	_____	_____	_____
Hourly Salary - End of Year.....	_____	_____	_____	_____
Average hourly TOTAL Employee Expense.....	_____	_____	_____	_____
Date(s) of salary Increase(s) in FY99: _____				

III. DETAIL OF PERSONNEL EXPENSE

	<u>FY 97</u>	<u>FY 98</u>	<u>FY 99</u>	<u>FY 99-FY 98</u>
	<u>Actual</u>	<u>Full-year</u>	<u>Budget</u>	<u>Percentage</u>
				<u>Change</u>
Total Employee Expense Per Employee:				
Employee #1 (Name & position).....	_____	_____	_____	_____
Employee #2 (Name & position).....	_____	_____	_____	_____
Employee #3 (Name & position).....	_____	_____	_____	_____
Employee #4 (Name & position).....	_____	_____	_____	_____
Employee #5 (Name & position).....	_____	_____	_____	_____
Employee #6 (Name & position).....	_____	_____	_____	_____
Employee #7 (Name & position).....	_____	_____	_____	_____
Employee #8 (Name & position).....	_____	_____	_____	_____
Employee #9 (Name & position).....	_____	_____	_____	_____
Employee #10 (Name & position).....	_____	_____	_____	_____
Employee #11 (Name & position).....	_____	_____	_____	_____
Employee #12 (Name & position).....	_____	_____	_____	_____
Employee #13 (Name & position).....	_____	_____	_____	_____
Employee #14 (Name & position).....	_____	_____	_____	_____
Employee #15 (Name & position).....	_____	_____	_____	_____
Bonus Funds.....	_____	_____	_____	_____
TOTAL All Employees.....	_____	_____	_____	_____

NOTE: Attach written job description for each employee listed above, if changed from the description on file.

IV. YEARLY ALLOCATED EXPENSE EXHIBIT<sup>3</sup>

	<u>FY 97</u> <u>Actual</u>	<u>FY 98</u> <u>Full-year</u>	<u>FY 99</u> <u>Budget</u>	<u>FY 99-FY 98</u> <u>Percentage</u> <u>Change</u>
Item and Justification for Allocation:				
1. Expense Item: _____				
Total Cost .....	_____	_____	_____	_____
Cost Allocated to Ch. 13 Operations .....	_____	_____	_____	_____
Allocation Percentage (identify other party):				
Justification for Allocation: _____				
2. Expense Item: _____				
Total Cost .....	_____	_____	_____	_____
Cost Allocated to Ch. 13 Operations .....	_____	_____	_____	_____
Allocation Percentage (identify other party):				
Justification for Allocation: _____				
3. Expense Item: _____				
Total Cost .....	_____	_____	_____	_____
Cost Allocated to Ch. 13 Operations .....	_____	_____	_____	_____
Allocation Percentage (identify other party):				
Justification for Allocation: _____				
4. Expense Item: _____				
Total Cost .....	_____	_____	_____	_____
Cost Allocated to Ch. 13 Operations .....	_____	_____	_____	_____
Allocation Percentage (identify other party):				
Justification for Allocation: _____				

<sup>3</sup> Examples of "Justification for Allocation" are hours worked, square footage, number of employees.

V. WORKLOAD EXHIBIT

	<u>FY 97</u> <u>Actual</u>	<u>FY 98</u> <u>Full-year</u>	<u>FY 99</u> <u>Budget</u>	<u>FY 99-FY 98</u> <u>Percentage</u> <u>Change</u>
1. a) Receipts, actual or estimate, net of refunds (exclude constructive receipts).....	_____	_____	_____	_____
b) Disbursements subject to percentage fee, actual or estimate (exclude constructive disbursements)	_____	_____	_____	_____
c) Interest earned on trust and expense funds, actual or estimate.....	_____	_____	_____	_____
d) Revenue from awards under Section 503(b).....	_____	_____	_____	_____
e) Revenue from noticing.....	_____	_____	_____	_____
2. a) Average Percentage fee, actual or requested.....	_____ %	_____ %	_____ %	
b) Revenue from perct. fees (Item 1(b)xItem 2(a))	\$ _____	\$ _____	\$ _____	
c) Revenue from fees on direct payments.....	\$ _____	\$ _____	\$ _____	
3. Cases active, start of period.....	_____	_____	_____	_____
4. New cases filed during fiscal year (+).....	_____	_____	_____	_____
5. Adjustments during fiscal year:				
a) Cases transferred in (+).....	_____	_____	_____	
b) Cases converted from another chapter (+).....	_____	_____	_____	
c) Cases transferred out (-).....	_____	_____	_____	
d) Conversions to another chapter (-).....	_____	_____	_____	
e) Dismissals (-).....	_____	_____	_____	
Total adjustment (+) or (-).....	_____	_____	_____	
6. Cases closed by the Court on completion of plan (-)	_____	_____	_____	_____
7. Cases closed by the Court as hardship discharge (-)	_____	_____	_____	_____
8. Cases active, end of period (3+4+5-6-7).....	_____	_____	_____	_____

NOTE: The entry for "Cases active, end of period" should be carried forward as the number of "Cases active, start of period" in the next fiscal year.

VI. COMPUTATION OF AMOUNT AVAILABLE FOR COMPENSATION AND OPERATING RESERVE

- 1. End-of-Year FY 98 Operating Reserve  
(limited to no more than 17% of FY 98 Total Operating Expenses) \_\_\_\_\_
- 2. Interest earned on trust funds [same as V.1(c)] \_\_\_\_\_
- 3. Revenue from awards under Section 503(b) [same as V.1(d)] \_\_\_\_\_
- 4. Revenue from noticing [same as V.1(e)] \_\_\_\_\_
- 5. Revenue from percentage fees [same as V.2(b)] \_\_\_\_\_
- 6. Revenue from fees on direct payments [same as V.2(c)] \_\_\_\_\_
- 7. Total revenue [1+2+3+4+5+6] \_\_\_\_\_
- 8. Less Total Operating Expenses  
[same as total of I. A on Page 2] \_\_\_\_\_
- 9. Balance of funds available for compensation (inclusive of  
20% in benefits) and operating reserve. \_\_\_\_\_

NOTE: Entries for lines 2-9 reflect numbers for FY 99

STANDING TRUSTEES CERTIFICATION TO BUDGET REQUEST

I hereby certify that the information contained herein is correct, and request that this annual budget be examined and reviewed by the United States Trustee.

\_\_\_\_\_  
CHAPTER 13 STANDING TRUSTEE'S SIGNATURE

REVIEWED BY:

\_\_\_\_\_  
United States Trustee

## APPENDIX N INSURANCE

A standing trustee must purchase property insurance (including general liability insurance) to cover the physical assets of the trust operation and a commercial crime or employee fidelity policy. A standing trustee may purchase other insurance after an assessment of risk and prior approval of the United States Trustee. A policy that meets the minimum requirements discussed in this Appendix is considered reasonable. Deviations, such as exceeding the limits of liability or deductibles, must be approved in advance by the United States Trustee. Reasonable premiums for mandatory or approved coverage will be considered an actual and necessary expense of the standing trustee. Premiums and deductibles may be paid from the standing trustee's expense account, barring extraordinary circumstances. One extraordinary circumstance would be where the trustee directly contributed to the loss. The standing trustee must take all contractual steps required by the insurer to reduce risk to reduce amount of the premiums and frequency of claims.

As soon as the standing trustee becomes aware of an incident which may give rise to an insurance claim, the standing trustee must notify the United States Trustee and the insurance carrier. The United States Trustee will assist the standing trustee with procedures to identify the extent of the potential loss and any parties responsible. The standing trustee will provide to the United States Trustee such information as the United States Trustee requires in order to perform this duty. The United States Trustee will monitor the number and type of claims.

An insurance carrier providing coverage to a standing trustee must be listed on Treasury Department Circular 570 or possess an A.M. Best Financial Rating of "A" or greater and be domiciled in the United States. The insurance company or the reinsurer must be licensed to do business in the state in which the standing trustee is appointed. Any reinsurer must provide documentation to show agreement to reinsure at least 75% of the covered activity.

### **A. COMMERCIAL CRIME INSURANCE OR EMPLOYEE FIDELITY BOND**

If the standing trustee has employees, the standing trustee is required to purchase employee fidelity coverage. See Handbook chapter 2, section (D)(1). This coverage is almost always insurance although it may be referred to as an employee fidelity bond. The standing trustee may purchase either an employee fidelity bond or an employee fidelity insurance policy. A fidelity "bond" is a business insurance policy that protects the employer in case of any loss of money or property due to employee dishonesty. Employee fidelity insurance is usually a part of a commercial crime policy which offers broader coverage against loss, including, for example, burglary and computer fraud.

To be approved for purchase, an employee fidelity policy must comply with the following guidelines:

#### **1. Limits of Liability**

The amount of coverage should be based on a risk assessment of each employee as reflected in the classification of each employee to one of three broad categories that describe various levels of potential access to funds and accounting records, and administrative control over computer security features. Examples of the latter include ability to view the passwords of other employees or ability to modify access rights. The standing trustee must make this classification as part of the end-of-year financial audit process. The classifications of risk and required minimum limits of coverage are:

- a. If the standing trustee has one or more employees with significant supervisory responsibilities, access to funds or accounting records, or administrative control over computer security features at a level similar to the standing trustee, then the standing trustee should be insured or bonded under this policy in the amount of the trustee's bond\*;
- b. If the standing trustee has one or more employees with responsibilities in cash receipt or disbursement area, access to funds or accounting records, or administrative control over computer security features, the standing trustee should be insured or bonded under this policy at a minimum of 20% of the standing trustee's bond amount\*; or
- c. If the standing trustee has no employees with responsibility for or access to cash or accounting records, or administrative control over computer security features, then the standing trustee must, nonetheless, be insured under this policy for a minimum of 10% of the standing trustee's bond amount.\*

\* If the standing trustee is covered under a bond with two or more trustees, then "the standing trustee's bond amount" is the amount of an individual bond that the trustee would be required to carry.

Regardless of the level of risk assessment assigned by the standing trustee to his employees, the standing trustee must implement, maintain, consistently monitor, and test a system of internal controls as covered in more detail in Handbook chapter 9, section E, Special Considerations for Computer Systems, and section F, Internal Control Features. These sections are not necessarily comprehensive guidance on internal control procedures; the standing trustee's internal control practices should be enhanced by additional reports developed by the chapter 13 software vendor.

## 2. Deductible

The deductible must be no more than \$10,000 for each claim, commensurate with the level of total coverage. If the standing trustee is unable to obtain a deductible of \$10,000 or less, then the deductible shall be in an amount as agreed with the United States Trustee.

## 3. Coverage

- a. Coverage shall be for the loss of or damage to "money," "securities," and "other property" which results directly from "theft" by an "employee," whether or not identifiable, while acting alone or in collusion with other persons (excluding the standing trustee).
- b. Coverage may, dependent on the specific policy, also extend to insure losses caused by third parties due to theft, forgery, alteration of checks, robbery, disappearance and destruction of money and securities, burglary, computer fraud, and the intentional, unauthorized, or fraudulent creation of data.
- c. The definition of "employee" is to include employees of the standing trustee while acting within the scope of the person's duties as such.
- d. The policy period should be for one year.
- e. Written notice of cancellation by the insurance carrier is required at least 60 days in advance of cancellation.

- f. The insurance company must provide a written statement to the standing trustee that the insurer or reinsurer meets all of the minimum requirements as set forth by the USTP.

#### **4. Insuring Agreements**

In addition to the requirements discussed above, the standing trustee should consider the following additions to the policy:

- a. Include in the definition of "employees" those persons leased from a third party.
- b. Include any software vendor as an additional insured.

### **B. PROPERTY AND GENERAL LIABILITY INSURANCE**

The standing trustee is required to purchase insurance to cover the physical assets of the trust operation. Property and general liability insurance is the most customized and office specific of the USTP approved coverages. No two trust operations will have the same amount of office equipment, furniture and liability exposure. However, to be approved for purchase, a liability policy should comply with the following guidelines:

#### **1. Limits of Liability**

- a. **Property.** For coverage of the physical assets of the trust operation, the amount of coverage is specific to each office based upon replacement cost of the assets.
- b. **General liability.** Coverage under a general liability policy must be a minimum of \$1,000,000 for each occurrence and have a \$1,000,000 annual aggregate.
- c. **Umbrella coverage.** An umbrella policy would provide supplemental liability coverage. The amount of coverage shall be reasonable and determined by the standing trustee after an assessment of the risks to the trust operation.

#### **2. Deductible**

The maximum deductible shall be \$2,500 for property and general liability policies, and \$10,000 for an umbrella policy. An umbrella policy shall have no more than a \$10,000 limit on retention.

#### **3. Within the required insurance, the following coverages are recommended:**

- a. **Property Insurance.**
  - Replacement cost coverage for business personal property rather than actual cash value.
  - Specific policy language for computers and media including not only direct physical loss, but also electromagnetic injury caused by power surges, power failure, brownouts, and computer viruses.
  - Valuable papers and records, manuscripts, and books.



- Money and securities, including money orders, involving loss by disappearance, destruction, theft, forgery, and alteration of instruments.
  - Business income interruption that involves direct physical loss of or damage to the property at the described premises or other location where the trustee does business. Coverage would be for normal operating expenses, including payroll, and provide business income for twelve consecutive months after the date of the loss or damage.
- b. General Liability Insurance.
- Business liability involving bodily injury, property damage and personal injury.
  - A duty to defend imposed on the carrier.
  - Medical expenses for bodily injury.
  - Hired and non-owned auto endorsement that provides liability for automobiles not owned by the insured but used in business (employees' vehicles when used for trust operation business, but only in an amount in excess of the employees' personal automobile insurance).
- c. Umbrella Insurance.
- Umbrella coverage is insurance that will apply in excess of the primary layer of insurance. This excess coverage will apply in the event a liability claim occurs which exhausts the limits of the general liability policy. In some instances, the umbrella coverage may provide broader coverage than the underlying policies resulting in a claim being covered which otherwise would not have been. In this event, a self-insured retention limit applies and acts as a deductible.
  - While umbrella coverage is excess coverage, it is not necessarily an excess liability policy. Excess liability is usually not broader than the underlying coverage and can actually be more restrictive.
  - The insurance company should pay on behalf of the insured and not provide an indemnity provision requiring the individual to first pay for defense and judgment with later reimbursement by the company.
  - The policy should provide for defense costs in addition to its limits, rather than as part of its limits.
  - The umbrella policy should provide that no material change in the underlying policy will automatically affect the umbrella coverage in an adverse manner. This will prevent automatic termination if the underlying coverage is canceled or not renewed.

## C. ERRORS AND OMISSIONS INSURANCE

In order for the E&O insurance policy to be approved for purchase, it must meet the following requirements:

### 1. Limits of Liability

The E&O policy must insure up to \$1,000,000 for each occurrence and up to \$1,000,000 annual aggregate.

### 2. Deductible

The minimum deductible for a claim shall be \$1,000 and the maximum deductible shall be \$10,000.

### 3. Coverage

The contract must contain a severability provision and the insurance carrier must have the duty to defend. Also, the definition of "insured" in the policy must include employees of the standing trustee and third parties to whom the standing trustee would be legally obligated. The insurance company or the reinsurer must provide a written statement to the trustee that the insurer or reinsurer meets all of the minimum requirements as set forth by the United States Trustee Program. An E&O policy must provide coverage for:

- a. Actual or alleged acts, errors, or omissions arising out of professional services rendered for others by the trustee or any person or organization for whom the trustee is legally liable.
- b. Damages and claims expense.
- c. An event or circumstance which occurred prior to the effective date of the policy if it involves a bankruptcy case that was open as of the effective date of the policy, unless the insured had knowledge of the event or circumstance prior to the effective date of the policy.
- d. Failure to discharge fiduciary obligations.
- e. Incorrect, ambiguous or late disbursement of funds.
- f. Failure to investigate acts, operations or conduct of a debtor.
- g. Failure to complete services on time.
- h. Failure to estimate costs correctly.
- i. Failure to maintain insurance where the insured does not have custody or control of assets, other than money.
- j. Damages resulting in bodily injury or property damage claims as a result of failure to maintain insurance in cases where the insured does not have physical control of assets, other than money.
- k. Unintentional violations of statutes, ordinances, or codes.
- l. Failure to pay creditors on a timely basis.

- m. Failure to establish and maintain administrative controls.
- n. Damages resulting from the improper computation of fees.
- o. Wrongful termination (other than resulting from illegal discrimination).

#### **4. Extended Reporting Period**

If the E&O policy is other than an occurrence form – a “claims made” contract– then the policy must provide for an extended reporting period.

### **D. EMPLOYMENT PRACTICES LIABILITY INSURANCE**

#### **1. Limits of Liability**

The maximum of EPL coverage shall be \$1,000,000 for each claim and \$1,000,000 annual aggregate.

#### **2. Deductible**

The minimum deductible shall be \$2,500 and the maximum deductible shall be no more than \$10,000.

#### **3. Coverage**

The EPL policy must provide coverage for:

- a. Legal costs and compensatory damages resulting from claims alleging wrongful employment practices, including wrongful discrimination, sexual harassment, wrongful termination, failure to employ or promote, breach of employment contract, employment-related misrepresentation, wrongful discipline, equal pay violations, wrongful deprivation of career opportunity, negligent evaluation, invasion of privacy, employment-related defamation, retaliation and employment-related wrongful infliction of emotional distress.
- b. Legal costs and compensatory damages resulting from claims alleging acts of discrimination with regard to another person’s employment due to race, religion, creed, age, gender, national origin, disability, handicap, status as an individual with a disability (as defined by the Americans with Disabilities Act and court decisions construing the ADA), sexual orientation or preference, or pregnancy.
- c. A failure to act with respect to public accommodation or accessibility as required by the ADA.
- d. Defense costs for the insured for allegations of intentional acts of discrimination until the point it is proven in a legal proceeding that the insured committed the act intentionally. At that point, all defense and damages protection will cease for the individual but will continue for the trust operation or any other insured named in the suit.

- e. The insurance carrier cannot settle a claim without the consent of the named insured.
- f. The definition of "insured" is to include employees of the standing trustee while acting within the scope of the persons duties as such.
- g. The policy period shall be for one year.
- h. Written notice of cancellation by the insurance carrier is required at least 60 days in advance of cancellation.
- i. If the policy is not renewed by the insurance carrier, the insured has the right, under certain conditions, to purchase a one-year extension period policy.
- j. The insurance carrier has the duty to defend.
- k. The insurance company or reinsurer must provide a written statement to the standing trustee that the insurer or reinsurer meets all of the minimum requirements as set forth by the USTP.
- l. The policy must contain severability provisions.

**E. OTHER INSURANCE**

Other types of insurance may be purchased when the standing trustee and United States Trustee agree a policy covering the risk would be advisable. The terms and conditions of coverage, as with as the cost of the premiums shall be as negotiated by the standing trustee and approved by the United States Trustee.

## APPENDIX O

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**APPENDIX P INFORMAL BUDGET DISPUTE RESOLUTION PROCESS**  
**Effective June 1, 1998**

1. The Informal Budget Dispute Resolution Process ("Process") is intended as the preferred, first, quick, and low cost method to resolve informally individual budget issues and disputes prior to commencement of any legal or formal administrative proceeding.
2. The Process will be optional and non-binding for both the United States Trustee and the Standing Trustee (the "Parties").
3. Upon the request of either Party, initiated as hereinafter provided, a two-member Panel will be named, consisting of one United States Trustee and one Standing Trustee from outside the region (the "Panel"). At their option, the Parties may have a one-member Panel.
4. The Standing Trustee Panel member will be selected by the Assistant Director of the Office for Review and Oversight ("Assistant Director of ORO") from a list of three (3) Standing Trustees named by the disputing Standing Trustee from the roster of qualified Standing Trustees, each of whom has had formal mediation training and agreed to serve.
5. The United States Trustee Panel member will be selected by the NACTT Chair of the Informal Budget Dispute Resolution Process Committee ("NACTT Chair") from a list of three (3) United States Trustees named by the disputing United States Trustee from the roster of qualified United States Trustees, each of whom has had formal mediation training and agreed to serve.
6. The Process will be initiated by either Party completing and serving a "REQUEST FOR INFORMAL BUDGET DISPUTE RESOLUTION" in the form of Exhibit "A" hereto. Service shall be by FAX on each of the following:
  - (1) The other disputing Party;
  - (2) Assistant Director of ORO (EOUST at (202) 307-2185);  
and
  - (3) The NACTT Chair (call the Administrative Assistant to the Board of NACTT at (501) 753-6135 for name, fax number, etc.).
7. Within five (5) working days after receipt of such notice, the other Party will complete and similarly serve a "REQUEST FOR INFORMAL BUDGET DISPUTE RESOLUTION" in the form of Exhibit "A" hereto.

8. Within five (5) working days after receipt of notice of their selection, the Standing Trustee Panel member will call the United States Trustee Panel member and the Parties to schedule a Dispute Resolution Conference (DRC) at the earliest practical mutually convenient time and date, to discuss: (a) How, when and what documents or information are to be exchanged prior to the DRC; (b) the estimated time needed for the DRC; (c) whether the DRC will be telephonic or in person; and (d) any other procedural matter related to the DRC. The Panel shall have thirty (30) days from the date of its appointment to attempt to mediate the dispute. This thirty-day period may be extended only upon the agreement, in writing, of both Parties, prior to the expiration of the thirty (30) day period.
9. The Process shall be conducted in accordance with the decisions and procedures established by the Panel pursuant to paragraph 8, and the "Suggested Procedure For Conducting Informal Budget Dispute Resolution," Exhibit "B" hereto.
10. If the Parties resolve their dispute, the Panel will assist the Parties in reducing to writing a description of that resolution for signatures. That document will become part of the United States Trustee's proposed budget submission to the Director. The submission will conclude the Process. In the event the Parties are unable to arrive at an agreement to resolve the dispute, the Panel may, on unanimous agreement of the Panel, within five (5) working days of conclusion of the attempted mediation, issue a non-binding joint written recommendation to the Parties. The Parties may either accept or reject the recommendation or use it as the basis for further negotiation between themselves. The issuance of the recommendation by the Panel will conclude the Process. At the conclusion of the Process, the Panel will complete and serve on the Assistant Director of ORO and the NACTT Chair a "Report on Result of Informal Budget Dispute Resolution Process," Exhibit "C" hereto.
11. The expenses of the Process approved by the Panel, including telephone, travel, etc., will generally be paid by the Standing Trustee out of his/her expense funds subject to approval of his or her United States Trustee as reasonable and necessary.
12. Pending final resolution of the dispute, the United States Trustee shall submit to the Director, or the Director's designee, for approval the Standing Trustee's budget, excluding any disputed amount(s). The Standing Trustee shall not expend trust funds for any disputed portion of a budget line item. In the event the Parties reach an agreement in the budget dispute, and that agreement is approved by the Director or the Director's designee, the budget will be deemed amended to reflect the agreement.

13. The Parties and the Panel shall sign an agreement that evidence of (1) furnishing or offering or promising to furnish, (2) accepting or offering or promising to accept a valuable consideration in compromising or attempting to compromise a claim which was disputed as to either validity or amount, or (3) any recommendation that may be made to the Parties by the Panel is not admissible in any subsequent administrative or legal proceeding in which the issue is the budget dispute being mediated. Evidence of conduct or statements made in compromise negotiations are likewise not admissible. This provision does not require the exclusion of any evidence otherwise discoverable merely because it is presented in the course of compromise negotiations. This provision also does not require exclusion when the evidence is offered for another purpose, such as proving bias or prejudice of a witness, negating a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution. The agreement will not apply to documents, work papers and other evidentiary materials related to the underlying dispute and prepared by the Parties in the ordinary course of business and not generated in connection with or in anticipation of the Process.



**EXHIBIT "A"**

**REQUEST FOR INFORMAL BUDGET DISPUTE RESOLUTION**

**Standing Trustee:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone: (\_\_\_\_) \_\_\_\_-\_\_\_\_

FAX: (\_\_\_\_) \_\_\_\_-\_\_\_\_

**United States Trustee:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone: (\_\_\_\_) \_\_\_\_-\_\_\_\_

FAX: (\_\_\_\_) \_\_\_\_-\_\_\_\_

**BUDGET ITEM(S) IN  
DISPUTE:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Assistant Director ORO:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone: (\_\_\_\_) \_\_\_\_-\_\_\_\_

FAX: (\_\_\_\_) \_\_\_\_-\_\_\_\_

**NACTT Chair:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone: (\_\_\_\_) \_\_\_\_-\_\_\_\_

FAX: (\_\_\_\_) \_\_\_\_-\_\_\_\_

THREE (3) NAMES OF ACCEPTABLE PANEL MEMBERS: 1. \_\_\_\_\_

\_\_\_\_\_ The Parties have agreed to a one-member Panel. 2. \_\_\_\_\_

\_\_\_\_\_ I DECLINE TO MEDIATE. 3. \_\_\_\_\_

I hereby request informal budget dispute resolution pursuant to the United States Trustees' "Informal Budget Dispute Resolution Process" effective June 1, 1998. I understand that this procedure is non-binding on either party. I hereby agree that all discussions, papers, and other communications made or submitted solely in connection with the

process and any recommendation of the Panel or fact that a recommendation was made cannot be used by either party in any subsequent administrative or legal proceeding, provided however this agreement will not apply to documents, work papers and other evidentiary materials related to the underlying dispute and prepared by the parties in the ordinary course of business and not generated in connection with or in anticipation of the dispute resolution process.

Date: \_\_\_\_\_

\_\_\_\_\_  
(Party's Signature)

**CERTIFICATE OF SERVICE**

I certify that I have served a copy of the above and foregoing Request on each of the three (3) other above named individuals by FAX this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
(Requesting Party's Signature)

EXHIBIT "B"

SUGGESTED PROCEDURE FOR CONDUCTING  
INFORMAL BUDGET DISPUTE RESOLUTION

1. Dispute Resolution Conference(s) (DRC) should be telephonic whenever possible to conserve time and expense.
2. A DRC should normally begin by each Party acknowledging that he/she has recently read and understands the United States Trustees' "Informal Budget Dispute Resolution Process" and the exhibits thereto, including this "Suggested Procedure for Conducting Informal Budget Dispute Resolution."
3. Both Parties should acknowledge to the Panel:
  - a. that they have exclusively reserved the amount of time previously agreed for the DRC that day;
  - b. that they each are willing to attempt in good faith to reach a compromise.
4. Normally, a brief opening statement of the issue, the reasons supporting the position of, and the desired outcome by the Standing Trustee should be stated.
5. Normally, a brief response to the issue, the reasons supporting the position of and the desired outcome by the United States Trustee should be stated.
6. Normally, the Panel will then speak separately and confidentially to each side privately, to explore the strengths and weaknesses of the case, to discuss the time, expense, delay and any other disadvantages of other forms of dispute resolution, and to determine what is needed for acceptable compromise, and to convey with permission, the irreducible needs of the other side.
7. Normally, the Panel will then carry settlement offers and counter offers back and forth until agreement of the parties is reached or the Panel determines the proceedings to be at an impasse.
8. If the Parties resolve their dispute, the Panel will assist the Parties in reducing to writing a description of that resolution for signatures. That document will become part of the United States Trustee's proposed budget submission to the Director. The submission will include the Process. In the event the Parties are unable to arrive at an agreement to resolve the dispute, the Panel may, on unanimous

agreement of the Panel, within five (5) working days of conclusion of the attempted mediation issue a non-binding joint written recommendation to the Parties. The Parties may either accept or reject the recommendation or use it as the basis for further negotiation between themselves. The issuance of the recommendation by the Panel will conclude the Process. At conclusion of the Process, the Panel will complete and serve on the Assistant Director of ORO and the NACTT Chair a "Report On Result Of Informal Budget Dispute Resolution Process," Exhibit "C" hereto.

9. The initial task of the Panel is to facilitate, if possible, the Parties reaching a compromise agreement themselves.
10. These procedures may be varied in the discretion of the Panel.
11. If in the opinion of the Panel an impasse is reached, the Panel may, on unanimous agreement of the Panel, issue a joint written, non-binding recommendation only to the Parties within five (5) working days, which they may accept or reject or use as the basis for further negotiations between themselves. If not "accepted" by both, the Process will be reported by the Panel on Exhibit "C" as "no agreement reached". If the recommendation is "accepted" by both, the Agreement should be reduced to writing and a signed copy retained by each of the disputing parties only and a Report (Exhibit "C") immediately sent to the Assistant Director of ORO and the NACTT Chair by the Panel.
12. The Parties should not have any direct or indirect communication with the Panel on the issue in question prior to the DRC.

EXHIBIT "C"

REPORT ON RESULT OF  
INFORMAL BUDGET DISPUTE RESOLUTION PROCESS

TO: Assistant Director for ORO      and      TO: NACTT Chair  
FAX: (    )    -                                 FAX: (    )    -   

PARTIES:

UST: \_\_\_\_\_

STANDING TRUSTEE: \_\_\_\_\_

PANEL:

UST PANEL MEMBER: \_\_\_\_\_

STANDING TRUSTEE PANEL MEMBER: \_\_\_\_\_

DATES:

DATE PROCESS REQUESTED: \_\_\_\_\_

DATE PROCESS CONCLUDED: \_\_\_\_\_

RESULT OF PROCESS:

\_\_\_\_\_ AGREEMENT REACHED

\_\_\_\_\_ AGREEMENT NOT REACHED

LINE ITEM(S) OF BUDGET IN DISPUTE:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(SEE ATTACHED DESCRIPTIVE MEMO)

DATE: \_\_\_\_\_, 19\_\_

\_\_\_\_\_  
Standing Trustee Panel Member

\_\_\_\_\_  
UST Panel Member

If one-member Panel:

\_\_\_\_\_  
Panel Member

# LIST OF QUALIFIED MEDIATORS UNITED STATES TRUSTEES

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Ira Bodenstein  
Region 11  
Chicago, Illinois

C. David Butler  
Region 21  
Atlanta, Georgia

Edward B. Hopper  
Region 10  
Indianapolis, Indiana

J. Christopher Marshall  
Region 1  
Boston, Massachusetts

W. Clarkson McDow  
Region 4  
Columbia, South Carolina

William T. Neary  
Region 6  
Dallas, Texas

Jan S. Ostrovsky  
Region 18  
Seattle, Washington

Joel Pelofsky  
Region 13  
Kansas City, Missouri

Donald M. Robiner  
Region 9  
Cleveland, Ohio

Carolyn S. Schwartz  
Region 2  
New York, New York

Barbara A. Shangraw  
Region 19 & 20  
Denver, Colorado

Harry A. Sherr  
Region 15  
San Diego, California

Richard W. Simmons  
Region 7  
Houston, Texas

Patricia A. Staiano  
Region 3  
Philadelphia, Pennsylvania

Linda E. Stanley  
Region 17  
San Francisco, California

Barbara G. Stuart  
Region 12  
Minneapolis, Minnesota

Janice C. Taylor  
Region 5  
New Orleans, Louisiana

Maureen Tighe  
Region 16  
Los Angeles, California

Ellen B. Vergos  
Region 8  
Memphis, Tennessee

Brenda M. Whinery  
Region 14  
Phoenix, Arizona

## LIST OF QUALIFIED MEDIATORS STANDING TRUSTEES

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---

S. J. Beaulieu, Jr.  
Metairie, Louisiana

Marion A. Olson, Jr.  
San Antonio, Texas

Thomas H. Billingslea, Jr.  
San Diego, California

Frank Pees  
Worthington, Ohio

James H. Bone  
Atlanta, Georgia

George Reiber  
Rochester, New York

Andrea Celli  
Albany, New York

David Ruskin  
Southfield, Michigan

Devin Derham-Burk  
San Jose, California

C. Kenneth Still  
Chattanooga, Tennessee

Andy Diaz  
Salt Lake City, Utah

Mark W. Swimelar  
Syracuse, New York

Edwina E. Dowell  
Los Angeles, California

M. Regina Thomas  
Atlanta, Georgia

Peter C. Fessenden  
Brunswick, Maine

Tim Truman  
N. Richland Hills, Texas

Richard Fink  
Kansas City, Missouri

Robin Weiner  
Hallandale, Florida

William H. Griffin  
Topeka, Kansas

Rick Yarnall  
Portland, Oregon

Kathleen A. McDonald  
Las Vegas, Nevada

Albert J. Mogavero  
Buffalo, New York

**Appendix Q DECLARATION REGARDING ADMINISTRATION OF OATH AND  
CONFIRMATION OF IDENTITY AND SOCIAL SECURITY NUMBER**

In re: (Debtor's Name) \_\_\_\_\_  
Bankruptcy Case No. \_\_\_\_\_  
Date of telephonic or video conference appearance at § 341(a) meeting of creditors: \_\_\_\_\_

I declare as follows:

- 1) My name is: \_\_\_\_\_  
(Print or type)
  
- 2) My work address is: \_\_\_\_\_
  
- 3) My work telephone number is: (\_\_\_\_) \_\_\_\_\_
  
- 4) The address from where I participated in the § 341(a) meeting of creditors is:  
\_\_\_\_\_
  
- 5) I am a person authorized to administer oaths in the State of \_\_\_\_\_, by virtue of the following fact:  
\_\_\_\_\_ I am a notary  
\_\_\_\_\_ I am a court reporter  
\_\_\_\_\_ I am a judicial officer  
\_\_\_\_\_ I am authorized to give an oath under the Code of Military Justice  
\_\_\_\_\_ Other: \_\_\_\_\_  
(Give title and legal authority for power to administer oath)
  
- 6) I personally verified the identity of the debtor by checking his/her original photo identification:  
\_\_\_\_\_ Driver's License (State & number) \_\_\_\_\_  
\_\_\_\_\_ State Identification (State & number) \_\_\_\_\_  
\_\_\_\_\_ Passport (Country, number, expiration date) \_\_\_\_\_  
\_\_\_\_\_ Military Identification (Branch & ID number) \_\_\_\_\_  
\_\_\_\_\_ Other (Describe) \_\_\_\_\_
  
- 7) I personally inspected the following original document as proof of the debtor's social security number and orally confirmed it with the standing trustee:  
\_\_\_\_\_ Social Security Card  
\_\_\_\_\_ Social Security Administration Statement  
\_\_\_\_\_ W-2 Form  
\_\_\_\_\_ Recent Payroll Stub  
\_\_\_\_\_ Employer's Health Card or Medical Insurance Card  
\_\_\_\_\_ Other (specify) \_\_\_\_\_
  
- 8) On \_\_\_\_\_, I did administer an oath to the debtor, prior to the standing trustee commencing  
(Date)  
the questioning of the debtor for the telephonic or video conference interview of \_\_\_\_\_ the debtor.

In accordance with 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, in \_\_\_\_\_, \_\_\_\_\_.  
(Date) (Month) (Year) (City) (State)

\_\_\_\_\_  
Signature of Person Administering Oath and Verifying Identity and Social Security Number



Appendix R NOTICE OF CORRECTION OF SOCIAL SECURITY NUMBER  
IN BANKRUPTCY FILING

TO: EXPERIAN  
PROFILE MAINTENANCE  
P.O. BOX 9558  
ALLEN, TEXAS 75013

TRANS UNION CORPORATION  
ATTN: PUBLIC RECORDS DEPARTMENT  
555 WEST ADAMS STREET  
CHICAGO, ILLINOIS 60661

EQUIFAX  
P.O. BOX 144717  
ORLANDO, FLORIDA 32814

FROM: \_\_\_\_\_  
(Debtor)

DATE: \_\_\_\_\_

INCORRECT SSN: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_  
CORRECT SSN: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

Enclosed please find an amended bankruptcy petition which lists the correct social security number for the above named debtor.

The Debtor originally filed the bankruptcy petition using an incorrect social security number. This social security number was not assigned to the Debtor and was inadvertently listed on the bankruptcy petition.

Please correct your records to indicate that the individual whose social security number is \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ is not the debtor in Case # \_\_\_\_\_ filed

\_\_\_\_\_  
(Federal Judicial District )

Enclosure  
cc: Office of the United States Trustee

**APPENDIX S    NOTICE TO UNITED STATES TRUSTEE OF DEBTOR**  
**IDENTITY PROBLEM**

Standing Trustee: \_\_\_\_\_ Original § 341(a) date: \_\_\_\_\_  
Continued § 341(a) date: \_\_\_\_\_

Debtor's Name: \_\_\_\_\_  
Case Number: \_\_\_\_\_

- Pros Se / BPP If BPP, \_\_\_\_\_
- Debtor's Counsel \_\_\_\_\_

**PROBLEM:**

- No appearance at continued § 341(a) meeting
- No identification at continued § 341(a) meeting
- Identification does not match debtor's name
- No proof of social security number
- Incorrect social security number on petition: \_\_\_\_\_  
Correct social security number: \_\_\_\_\_

**Social Security Documentation:**

- Social Security Card
- Pay Stub
- W-2 Form
- Other: \_\_\_\_\_

**Identity Documentation:**

- Driver's License
- U.S. Passport
- Other: \_\_\_\_\_
- State Picture ID
- Legal Resident Alien Card

**Explanation for Incorrect Number:**

- Attorney received wrong SSN
- Other: \_\_\_\_\_
- Typographical error

**Action to be Taken by Debtor within 10 Days:**

- Amend petition
- Notify credit reporting agencies
- File Motion to Dismiss Case
- Other: \_\_\_\_\_

**Trustee Comments for UST:**

- Monitor only
  - Additional investigation recommended
  - Other: \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

