

OFFICE OF UNITED STATES TRUSTEE

MEMORANDUM

DATE: October 1, 2003

TO: Persons Interested in Informal Creditor Meetings in Chapter 11 Cases

FROM: Ira Bodenstein, United States Trustee

SUBJECT: Information for Persons Attending Informal Creditor Meetings

Under Title 11, Section 1102(a) of the United States Code, the United States Trustee is charged with forming a creditors' committee as soon as practicable after the order for relief in a Chapter 11 case. Because committee service is voluntary and creditor interest often is lacking, the United States Trustee frequently does not attempt to form a committee until the conclusion of the formal meeting of creditors held pursuant to Title 11, Section 341(a) of the United States Code, a date typically 30 or more days after the order for relief. Where, however, the United States Trustee finds that the likelihood and necessity of committee formation exists at the beginning of the case, the United States Trustee will convene an informal meeting of the largest creditors for that purpose.

Although the principal purpose of the meeting is the formation of the creditors' committee, the United States Trustee requests the Debtor, through its representatives and attorneys, to attend the meeting and make a presentation about the background and prospects of the case. Because there is no statutory requirement for the Debtor to appear, the presentation is informal, meaning that the Debtor's representative are not examined under oath (as they will be at the formal meeting of creditors held under Section 341(a)) and the presentation is not recorded or transcribed.

The United States Trustee encourages the Debtor to respond to questions after its presentation, but the Debtor need not do so, because its appearance at the meeting is voluntary. In the event the Debtor does take questions, they should be framed in a civil and non-adversarial manner consistent with the purpose of the meeting. Given the principal purpose of the meeting, generally the United States Trustee only allows creditors through their representatives to participate in the questioning. The Press and professionals in attendance solely for the purpose of seeking to represent the committee are not allowed to ask questions. Also, at no point during the meeting is anyone permitted to use stenographers, cameras, tape recorders or any other type of recording device.

After the Debtor's presentation and follow up questions are concluded the United States Trustee excuses the Debtor, its representatives and anyone else who is not either a creditor or creditor's representative (i.e., the Press and professionals in attendance solely for the purpose of seeking to

represent the committee) and begins the process of forming the committee. At this time creditors are encouraged to express their views on how the committee should be formed, including who should or should not be on the committee, and whether the United States Trustee should consider appointing additional committees. Creditors will have already received the "Creditor Information Form" wherein anyone who wishes to serve on the committee is required to disclose basic information about the nature of the creditor's claim. These disclosures allow the United States Trustee to select a committee that is representative of the creditor body as a whole and to exclude anyone who would not be able to faithfully discharge the role of a committee member. A committee is not formed if there are less than three creditors willing serve.

Upon announcing the members of the committee(s) formed, the United States Trustee generally asks one of the creditors to serve as interim chairperson for the purpose of conducting the committee's first meeting. At this point the United States Trustee's role at the meeting is concluded.

After the formation of the committee the United States Trustee meeting room is available for the members of the committee to meet if they so desire. The committee may begin the process of interviewing or selecting professionals to represent their interests in the case or may defer that decision to a later time.