



U.S. Department of Justice

*United States Trustee, Region 10 Central &
Southern Districts of Illinois
Northern & Southern Districts of Indiana*

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MEMORANDUM

TO: All Chapter 7 Trustees in the Southern District of Indiana

FROM: Ronald J. Moore,
Assistant United States Trustee,
Indianapolis

CC: Nancy J. Gargula, United States Trustee, Region 10
All Indianapolis Field Office Staff

RE: Handling Disbursed Funds Returned by Creditors

DATE: February 13, 2014

Chapter 7 trustees frequently receive back funds which they previously disbursed to creditors. The purpose of this memorandum is to provide guidance as to how to treat those funds. It is important to note that this memorandum only covers funds intentionally returned by creditors and not: (1) funds which were undeliverable; (2) not negotiated by creditors; and (3) funds received after distribution that represent a new asset of the estate. The existing procedures for the handling of unclaimed funds remain in effect and should continue to be followed in appropriate cases.

Funds Intentionally Returned and Received Prior to Filing a TDR

In situations where, prior to filing a TDR, a trustee receives disbursed funds back from a creditor which intentionally returns them, the trustee may re-disburse the returned funds to other creditors in accord with the allowed claims in the TFR (with an appropriate adjustment to prevent redistribution to the creditor who returned the funds.)

Prior to making the supplemental distribution a trustee must file with the Court a "Report of Distribution" ("ROD"). The ROD is simply an amended Exhibit D to the TFR which indicates the new distribution. In the Southern District of Indiana it is

required that the ROD be electronically signed by the trustee. Because Exhibit D cannot be altered, the trustee's electronic signature must be placed on a cover Notice to which the ROD is attached. A sample form Notice is attached to this memo. Per the Clerk of the Bankruptcy Court, the Notice with attached ROD is filed in ECF as a "Notice of Submission."

When filing the TDR, the TDR should reflect the actual disbursements made, as amended by the ROD. A copy of the ROD should be submitted as a separate file in the email with the TDR. The ROD file name must follow the standard naming convention used for TFR and TDR attachments [Example: 5611499999 Jones ROD Smith].

Funds Intentionally Returned and Received After TDR

The procedure above applies equally to disbursed funds that are intentionally returned by a creditor after a TDR has been filed but before the case has been closed. However, an amended TDR which details the actual distribution, post redistribution, should be submitted to this office for review and filing with the Court. A copy of the ROD must be submitted as a separate file when the TDR is submitted. The ROD file name must follow the standard naming convention used for TFR and TDR attachments [Example: 5611499999 Jones ROD Smith].

Funds Intentionally Returned and Received After Case Closure

Unfortunately, the process for redistributing returned funds remains cumbersome for funds that are intentionally returned by a creditor and received after the case closes. In order for a trustee to have legal authority to act, the case must be reopened and the trustee reassigned to the case. See § 350(b) and Rule 5010. This is accomplished through a Motion to Reopen which requests both the reopening of the case and the reappointment of the trustee in order to administer returned assets. The Court has indicated a willingness to waive the reopening fee when a small amount of assets are being administered and trustees should use their discretion as to when to request a waiver of the reopening fee. Any request seeking a waiver of the reopening fee should be filed by separate motion concurrently with the Motion to Reopen.

Once the Court enters an order reopening the case, the trustee can file an ROD, redistribute the returned funds, and submit an amended TDR (along with a separate copy of the ROD) to this office for filing. It is important that trustees notify our office when filing a motion to reopen a case to assure reappointment occurs before the trustee takes any actions to resume administration of the estate.

Effect of Seeking Additional Expenses

No matter when a redistribution of returned funds occurs, if a trustee seeks additional expenses due to the costs associated with a second distribution, those expenses must be approved by the Court. Also, if additional expenses are sought, a supplemental TFR is still required.

Disclaimer

This memorandum is issued for guidance only in the Southern District of Indiana. It may be superseded at any time by policy issued by United States Trustee for Region 10 or the Executive Office for the United States Trustees, in their discretion.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
<<DIVISION>> DIVISION

IN RE:)	
)	
<<DEBTOR1>>)	CASE NO. <<CASE NO>>
<<DEBTOR2>>,)	
)	
Debtor(s).)	

NOTICE OF AMENDED TRUSTEE'S PROPOSED DISTRIBUTION

<<TRUSTEE NAME>>, the assigned chapter 7 trustee for the above captioned case ("Trustee"), now submits this Notice of Amended Trustee's Proposed Distribution. The original Trustee's Proposed Distribution was previously filed with the Court as Exhibit "D" to the Trustee's Final Report ("TFR"). Distribution of the bankruptcy estate was made in accordance with the TFR. <<CREDITOR>> ("Creditor") received funds from the distribution of the estate. After payment, the Creditor returned funds to the Trustee in the amount of <<FUNDS RETURNED>> indicating that the Creditor was no longer entitled to those funds from the bankruptcy estate. The attached Amended Trustee's Proposed Distribution redistributes the returned funds to the remaining creditor(s) or the debtor(s) in accordance with 11 U.S.C. § 726.

Respectfully submitted,

<<TRUSTEE SIGNATURE BLOCK>>

CERTIFICATE OF SERVICE

I hereby certify that on <<DATE>>, a copy of the foregoing NOTICE OF AMENDED TRUSTEE'S PROPOSED DISTRIBUTION was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

I further certify that on <<DATE>>, a copy of the foregoing NOTICE OF AMENDED TRUSTEE'S PROPOSED DISTRIBUTION was mailed by first-class U.S. Mail, postage prepaid, and properly addressed to the following:

/s/ <<TRUSTEE NAME>>

<<TRUSTEE NAME>>
Chapter 7 Trustee