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Office of the United States Trustee
District of Delaware

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**NOTICE REGARDING CHAPTER 7 CASE
ADMINISTRATION OF LARGE AND CONVERTED CASES**

During the past two years, the Office of the U.S. Trustee has met with members of the Delaware chapter 7 trustee panel as well as representatives of the Delaware bankruptcy bar to address concerns about the administration of chapter 7 cases. Two types of concerns were identified in those discussions, and are addressed by this notice: (i) the filing of status reports in large chapter 7 cases and (ii) the transmittal of significant information and documents to chapter 7 trustees upon conversion of a case from chapter 11.

Chapter 7 Status Reports in Large Cases

Effective April 1, 2015, all chapter 7 trustees serving in bankruptcy cases in the District of Delaware will be required to report, on at least a six month basis, the status of all corporate cases that have total assets of at least \$10,000,000 (including assets of jointly administered cases). This requirement is without prejudice to the right of any party in interest, pursuant to 11U.S.C. § 704(a)(7) or other applicable authority, to obtain information from the trustee concerning the estate and the estate's administration or the trustee's ability to seek an order of the Court limiting disclosures.

In a case filed under chapter 7, the total assets of a debtor shall initially be determined from the debtor's schedule of assets pursuant to 11 U.S.C. § 521(a)(1)(B)(i) and Federal Rule of Bankruptcy Procedure 1015(b)(1)(A), subject to the trustee determining that the asset values are actually lower than the \$10,000,000 threshold as of the first reporting date. In the latter circumstance, this reporting requirement will not apply and case status reporting would not need to be posted for that time period, but the trustee shall post a statement as to why reporting is not required.

In a case that has been converted from a chapter 11 or reconverted to a chapter 7 case and a final report required by Federal Rule of Bankruptcy Procedure 1019(5)(A)(ii) has been filed, the trustee

shall first look to the final report to determine the total assets and liabilities of the debtor's estate. If the trustee determines that the asset values are actually lower than the \$10,000,000 threshold as of the reporting date, then the reporting requirement will not apply, but the trustee shall post a statement as to why reporting is not required. In addition to the debtor's final report, and particularly if the debtor's final report is not available to the trustee, then the trustee shall make a good faith estimate of the current amounts of the debtor's assets from the information then available, including, but not limited to testimony at the 341 hearing, as well as the debtor's original schedules adjusted for assets that have been sold or otherwise administered and disposed of during the chapter 11, to determine whether this requirement applies.

Should the trustee initially determine that the total value of the assets is at least \$10,000,000 but later determine that the amounts fall under the threshold, the trustee will still need to post subsequent case status reports. Even if reporting has not been required for earlier reporting periods, if the trustee determines that asset values are above the threshold on any reporting date, then the case status reporting will need to be done for the case for that time period and all subsequent time periods.

For each debtor as to which this requirement applies, at least every six months, the trustee shall prepare a case status report, to be posted on a website/link which should provide the following information:

- A statement of the cash receipts and disbursements for the period of time of the trustee's appointment. This statement will include the amounts paid for professional fees and trustee commission.
- A status report that lists the remaining assets, the current status of the administration of the remaining assets, the results achieved for those assets that were fully administered during the most recent six month period and the remaining administrative requirements including tax filings, ERISA compliance, claims objections, etc. The trustee will be required to report on the cash balance and the gross amounts of claims and receivables, if available.
- A summary of unpaid chapter 7 professional fees that have been approved by the Court.

Information To Be Provided To Chapter 7 Trustees Upon Conversion

The following is a list of documents/information that chapter 11 counsel should have debtors in possession accumulate and provide to the interim chapter 7 trustee at the time a case is converted. This list is not intended to be all inclusive, but includes the information identified by panel members as important for the administration of cases converting from chapter 11.

- Identify critical issues that require immediate attention (e.g. – the running of a statute of limitations);
- Current contact information – names, addresses, telephone numbers and email addresses – for all officers, as well as for debtors’ management team members responsible for accounting, technology, IP, regulatory and HR functions;
- Identification of any 401(k) plans and the termination status. Also, the contact information for the plan administrator, auditor and investment firm;
- Copies of WARN Act preparation activities, notices and legal opinions, if any;
- Description of any need for security precautions and steps taken regarding same;
- Preservation status of servers, hard drives, backup tapes and list of assigned user IDs and passwords; or if the assets were sold, the agreement memorializing the document and data information sharing arrangement
- List of all bank accounts, including bank contact information;
- Schedule of all licenses and/or contracts assumed and assigned or otherwise disposed of during chapter 11 case, together with any cure amounts paid;
- Inventory of all environmental or hazardous material licenses. Also, any pending administrative or criminal actions pending;
- Schedule listing critical vendors paid and any stipulations with said vendors settling claim balances and potential preferences.

The following additional documentation is also requested to assist in the transition of converted cases:

- Copies of all recent insurance policies/binders;
- Status of W-2 preparation for former employees, including contact information (with account numbers) for debtor’s payroll service;
- Copy of the last two federal income tax returns;
- Identification and contact information for debtor’s ordinary course professionals, as well as for debtor’s pre-petition accountants, auditors, IP counsel, and/or regulatory counsel;

- Steps taken to secure personnel records and other personally identifiable employee or customer information;
- Most recent inventory (electronic format preferred);
- Copies of all loan documents under which debtor is a lender or borrower;
- Copies of all Chapter 11 sale documents, including purchase agreements with exhibits and schedules, as well as all closing binder documents;
- Inventory of complete IP portfolio, including identification of all patents, trademarks and copyrighted materials held, and any such applications pending;
- Copies of any special industry regulations applicable to asset disposition, along with current contact information for former employees who could serve as an estate consultant, if required, due to specialized or regulated industry;
- Any other information that Chapter 11 counsel would consider helpful to the Chapter 7 trustee upon conversion.