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FILING CHAPTER 11 BANKRUPTCY

The filing of your Petition under Chapter 11 of the Bankruptcy Code creates some new responsibilities for you. The purpose of this letter is to explain to you some of the changes that will take place once the Petition is filed and what new responsibilities you have as a "Debtor in Possession."

1. Pre-Petition

You will start the process by filling out our online documents including the Schedules and a Statement of Financial Affairs (SOFA). These documents will list your assets, liabilities, income, expenses and answers to about 30 questions concerning your business operations, payment of debts, transfers of property and other information about your recent financial transactions.

We will try to file your plan as quickly as possible, so long as that is in your best interests. Sometimes it is necessary to see if future events, such as seasonal income or anticipated revenues, actually occur. We will ask you to provide us with some narrative information about the history of your business and the circumstances that led up to the filing of the bankruptcy. We will also ask you to provide some projections of future income and expenses so we can provide creditors with valuable information to access and evaluate your proposed plan. You will sign your bankruptcy documents under penalty of perjury so please take the time needed to answer everything fully and truthfully. If you have any questions, please contact the office. No question is "too dumb." Everyone in the Bankruptcy process takes these documents very seriously, so please be as accurate as possible. Once completed, these documents are filed with the Court and you are assigned a case number.

2. Post-Petition

The "Stay": Once the Bankruptcy Petition is filed, you and your property are protected by something called the Automatic Stay, which is an injunction that stops creditors from taking any action against you or your property and stops any action (like lawsuits and foreclosures) that were pending when the case was filed. If a creditor wants to go forward with a foreclosure, it has to ask permission from the Court. We have the opportunity to oppose it and the judge will make the decision. If you are able to make the adequate protection payments described later it is not likely that the Court will let the lender take away the property, especially if we can show that the property is necessary for you in your efforts to reorganize.

The "Debtor-In-Possession": The filing of the Chapter 11 Petition creates a Bankruptcy Estate and, unless the Court finds there is a reason to appoint a Trustee, you will remain in control of estate assets and will be given the powers of a Trustee. You are then known as the "Debtor-In-Possession". In exchange for those powers, you are a fiduciary (which means that you have special obligations to look out for the interests of your creditors) and have to report to the Court on a monthly basis. A fiduciary is someone who has a special duty of care to put the interest of the creditors ahead of their own interests. It is very

serious responsibility. Your case will also be monitored by the Office of the United States Trustee which reviews your monthly reports.

Once the case is filed, all pre-Petition bank accounts listed in your name have to be closed and all the funds moved into a new account called a "Debtor in Possession" account. There is a list of banks that are authorized to have "DIP" (Debtor in Possession) accounts. Please check with the office for that list as the DIP account must be opened at one of these banks. If you use a major bank, it is likely that the bank can provide the DIP accounts. If you have questions or concerns, please call the office. You should show the bank a copy of the Notice of Bankruptcy Filing sent to you after your case is filed, it shows the case number and should take care of any questions or concerns the bank has.

All moneys in all account you close need to be deposited into the DIP account. If you have outstanding debits from an account, let all items clear before closing it, but do not use that account otherwise. Depending on the nature of the business, you may have to set up separate sub-accounts such as payroll and tax accounts.

In the case of an Individual Chapter 11, you may be able to set up a small, non-DIP account for household expenses but all money/income needs to be deposited into the DIP account and reported to the Court in your monthly report. A small amount may be able to then be transferred into a household account, which will not have to be a DIP account. I have found that some individuals have difficulty with stores accepting DIP checks.

The "UST": The Office of the United States Trustee ("UST"), which supervises Chapter 11 cases, will send you (through us) a packet of instructions, questionnaires and request for documents about your assets, income and expenses. The completed questionnaires and copies of the documents requested must be mailed to their office by the deadline stated in the paperwork. Please make a copy for our office of all documents you will be sending to them.

The Initial Debtor Interview: You will join us at a meeting with someone from the UST's office about three weeks to a month after the case is filed. This meeting is called the Initial Debtor Interview or "IDI". The UST person will discuss the information on the case, your assets, your income and expenses and will want to make sure that you understand the monthly reporting requirements of being a Debtor in Possession. They will also stress that all estate assets have to be insured and the US Trustee, including their address, must be added as a "certificate holder" to insurance policies, so they get notice of cancellation.

At the IDI, you will learn about the Monthly Operating Reports you will be required to file, these monthly operating reports show money in and money out of the Chapter 11 estate. In effect, you will create new financial books starting with the filing of the Petition. These reports have to be filled out monthly and should be submitted to our office a few days before the due date. We will review them and file them with the Court. This is a monthly requirement and the case can be dismissed if you do not comply. In addition, you will pay a quarterly fee based upon the money that is disbursed from the DIP account. You will receive a statement each quarter and need to make the payment to the U.S. Trustee's Office. Failure to pay is another ground for dismissal of the case. The monthly reports continue until your Plan of Reorganization is confirmed and then you will file quarterly reports until we can close the case (after you have started making payments under the Plan).

The 341 Meeting: Once the Meeting with the US Trustee is completed, there will be a hearing called a Meeting of Creditors, also called a "341" meeting. Creditors generally do not attend. We will be

there to represent you and assist you if needed. Either our office or the United States Trustee attorney will ask you questions about the Petition and Schedules, assets, debts, insurance, plans for reorganization and post-Petition business activities. Creditors can attend and ask questions about their debts or about your business activities.

Interim Issues: We will work together to move the case forward towards confirmation. If you have investment real estate assets or business assets such as receivables or inventory which are pledged as collateral to a bank or mortgage company, we will need to get their consent or court permission to use the cash generated by rent or by sale of inventory or collection of receivables. This is called Cash Collateral and we will ask you to provide us an operating budget for the business or for the real estate activities. It is very important that you not spend any of the Cash Collateral until we have obtained court approval to do so. In addition, if you have houses, vehicles, boats, planes or other assets which are subject to liens, we will have to make payments of adequate protection (generally interest only) to protect a secured creditor (like a mortgage company or a car lender) from the diminution of value of its collateral. We will discuss specifics with you at the time that we move forward with these activities. They are part of the process of completing your case.

The Disclosure Statement and Plan: We will file a Disclosure Statement and Plan of Reorganization, with your participation. The Disclosure Statement contains information about you and your business activities-specifically, the circumstances that led up to the filing of the Bankruptcy and what steps are being taken to solve the problems that led to the filing of the case. We will work with you in the preparation of those documents. The Plan itself is the operating document for your reorganization – who gets paid, how and when. The specifics of each plan will be tailored to the specific facts and circumstances of each case.

As a general rule, we try to file the disclosure statement and plan within four months of the filing of the Petition, sooner if possible and practicable. Once all of that is filed, the Court holds a hearing on the Disclosure Statement (about 4-6 weeks after it has been filed) and once it is approved, it is sent out to creditors with the Plan and a hearing on the Plan is set (about 4-6 weeks after the approval of the Disclosure Statement).

In the case of an individual Chapter 11, it is required that a Debtor use "projected disposable income" for 60 months to fund the plan. This means the excess income once living expenses and business operating expenses are paid. Plans can provide for the payment of back taxes, setting aside certain real estate liens, modifying rights of secured creditors and reducing payments to unsecured creditors. We will discuss your specific situation when it is time to draft the plan.

Once the Disclosure Statement and Plan are filed, we go to Court to get the Judge to approve the Disclosure Statement. You will not usually have to attend this Court hearing. This is general not an adversarial process, even if we have creditors who are hostile to the reorganization process. It is simply a vehicle for getting creditors information. If a creditor feels that we have not provided adequate information, the judge will decide and, if necessary, we will provide additional information or the creditor will simply attach a supplement, stating its version of the disputed facts.

Voting: Once the Disclosure Statement is approved, we will work with you to have photocopies made of it and the plan so they can be mailed to all the creditors, who then have an opportunity to vote on the plan. Sometimes we can ask the Court to allow us to send out a CD or a "thumb drive" with the documents rather than a large mailing with thousands of pages of copies. It is much more economical for

you if we can do that. We need to ask for permission from the Judge. We will need to have at least one creditor whose rights are "impaired" vote in favor of the plan. Once we have that vote, we can modify certain other creditors' rights. This is called "cram down" and is a little complicated. We can discuss that if and when it comes up in your case.

Once voting is complete, a hearing to confirm the plan will be held, at which you usually do not need to appear. If we have sufficient votes to approve your plan before the first hearing, you will be asked to sign a "declaration" in support of confirmation and the judge will confirm the plan. If we don't have adequate votes, we will either have a trial on the confirmation of the plan or try to get the objecting creditors to agree. There is a lot of give and take in the process.

Confirmation of the Plan: Once the plan is confirmed, you are no longer a Debtor in Possession, but are a Reorganized Debtor and you can close the DIP account and go forward under the terms of the Plan and Confirmation Order, which will provide the new terms and conditions of your debts and their payment. After the plan confirmation, you will have to file a post-confirmation report showing what money has been paid out to creditors. Once you have started the process of making payments, we can close the case and once unsecured creditors have been paid what they are to be paid, we can get the Discharge entered. The case is not done until the discharge is entered even if the case is closed (closing the case simply means that you don't have to file reports or pay fees to the US Trustee anymore-it is not the end of the case).

I realize that this is a lot to digest in one sitting. You may want to look back on this as we move forward with your case if you have questions which arise during the process of confirming your Chapter 11. If anything is not clear, we are always available to answer your questions by email or telephone, please do not hesitate to contact me or my legal assistant.

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