CHAPTER 11 ADMINISTRATIVE GUIDELINES

As Revised
December 1, 2017

United States Bankruptcy Administrator's Office
Eastern District of North Carolina
434 Fayetteville Street
Suite 640
Raleigh, NC 27601
Tel: (919) 856-4886
Fax: (919) 856-4692

Greenville Office:
150 Reade Circle
Greenville, NC 27858
Tel: (919) 856-4886

Website: http://www.nceba.uscourts.gov/index.html

Table of Contents:

I. General Information

II. Role of the Bankruptcy Administrator

III. Chapter 11 Timeline

IV. Order Authorizing the Operation of Business

V. Local Bankruptcy Rule No. 4002-1(c) and Other Duties of the Debtor

VI. Intake Conferences and Site Visits by Bankruptcy Administrator

VII. Status Conferences

VIII. Meeting of Unsecured Creditors' Committee and First Meeting of Creditors ("341 Meeting")

IX. Employment of Professionals in the Debtor(s) Case

X. Compensation of Professionals in the Debtor(s) Case

XI. Disclosure Statements

XII. Plan of Reorganization and Requirements for Confirmation

XIII. Confirmation Hearing and Order of Confirmation

XIV. Modification

XV. Post-Confirmation Reports

XVI. Final Report and Motion for Final Decree

XVII. Conclusion

I. General Information

This guide discusses basic aspects of the administration of a Chapter11 case. It is available online at the Bankruptcy Administrator's website as listed below. The purpose of this guide is to familiarize debtors and their counsel with the duties and responsibilities of the debtor in possession. Specifically, these guidelines provide an overview of duties imposed on the debtor. They should not be considered an exhaustive list. The debtor(s) failure to comply with these requirements could result in the dismissal or conversion of the case. Furthermore, this information is not a substitute for counsel becoming familiar with the applicable provisions of the Bankruptcy Code, Federal Rules of Bankruptcy Procedure, and Local Bankruptcy Rules.

II. Role of the Bankruptcy Administrator

A. Role:

Pursuant to §302(d)(3)(I)(ii) of the Bankruptcy Judges, United States Trustees and Family Farmer Bankruptcy Act of 1986, the Bankruptcy Administrator is responsible for supervising the administration of Chapter 11 estates. This responsibility includes monitoring the debtor(s) compliance with the requirements set forth in Local Bankruptcy Rule No. 4002-1(c), and any other requirements ordered by the court or prescribed by the Bankruptcy Administrator.

B. Contact Information:

The Bankruptcy Administrator's primary office is located at 434 Fayetteville Street, Suite 640, Raleigh, North Carolina 27601. The mailing address is: Bankruptcy Administrator's Office, Eastern District of North Carolina, 434 Fayetteville Street, Suite 640, Raleigh, North Carolina 27601. The telephone number is: (919) 856-4886. The fax number is: (919) 856-4692.

The Bankruptcy Administrator's divisional office is located at 150 Reade Circle, Greenville, North Carolina 27858. The mailing address is: Bankruptcy Administrator's Office, Eastern District of North Carolina, 150 Reade Circle, Greenville, North Carolina 27858. The telephone number is: (919)-856-4886. The fax number is: (919)-856-4692.

The Bankruptcy Administrator's website address is:

http://www.nceba.uscourts.gov/index.html.

III. Chapter 11 Timeline

The Chapter 11 process can be complex and time-consuming. As a matter of convenience, the Bankruptcy Administrator's office has compiled a Chapter 11 Timeline outlining the duties and deadlines that must be adhered to by the debtor. (**See Exhibit 1**).

IV. Order Authorizing Operation of Business

Upon the filing of a voluntary petition for relief under Chapter 11, the court will enter an Order Regarding Administration of Estate. The order serves as notice of the Bankruptcy Administrator's supervisory role in the bankruptcy proceeding. The order also serves to call attention to several compliance requirements. Specifically, the order requires the debtor(s)/Chapter 11 trustee to comply with requests of the Bankruptcy Administrator, Local Bankruptcy Rules, and any other requirements ordered by the court. (**See Exhibit 2**).

V. Local Bankruptcy Rule No. 4002-1(c) and Other Duties of the Debtor

A. Duties and Restrictions Under Local Bankruptcy Rule No. 4002-1(c):

1. Duties Under Local Bankruptcy Rule No 4002-1 (c):

Local Bankruptcy Rule No. 4002-1 (c) for the Eastern District of North Carolina lists several duties and obligations that the debtor must perform throughout the bankruptcy proceeding. These duties include, *but are not limited to*, the following:

a) **Initial Debtor Interview ("Intake Conference"):** The debtor(s) or the debtor(s) representative must attend an interview with the Bankruptcy Administrator or a designated staff member of the Bankruptcy Administrator's office. Written notification of this meeting will be sent to the debtor. (**See Exhibit 3**).
b) **Books of Account and Records:** All pre-petition books of account and records should be closed as of the date of filing.
c) **Bank Accounts**: The debtor must provide the Bankruptcy Administrator with a copy of the closing statement for each pre-petition bank account and a notice of initial deposit for each new account. (**See Exhibit 4**).
d) **Collateralization of Accounts:** The debtor should comply with the provisions of 11 USC § 345 regarding the deposit or investment of estate funds.
e) **Tax Accounts and Deposits.** Monies that the debtor(s) withhold for taxes should be segregated from other funds and deposited into a separate bank ("Tax") account. The taxes must be paid directly from this account.
f) **Proof of Insurance:** The debtor(s) must maintain adequate insurance for certain assets. Proof of such coverage should be submitted to the Bankruptcy Administrator within five days of filing the petition.
g) **Projected Operating Statement:** The debtor(s) must provide the Bankruptcy Administrator with a projected operating statement within ten days of filing the petition.
h) **Inventory:** If applicable, the debtor(s) must submit information regarding its inventory to the Bankruptcy Administrator.
i) **Monthly Operating Reports:** The debtor(s) must file monthly operating reports with the Clerk of the U.S. Bankruptcy Court and serve a copy thereof on the Bankruptcy Administrator. There are specific forms for corporations, individuals, individuals engaged in business, and small business debtors. (**See Exhibits 5-7**).

The due date for the first monthly report depends on whether or not the debtor has been designated as a "small business."

j) **Payment of Quarterly Fees:** The debtor(s) must pay quarterly Fees to the Clerk of the United States Bankruptcy Court. The fees are calculated on the dollar value of all disbursements made during the calendar quarter. (**See Exhibit 8**). A table showing how to calculate the quarterly fee is attached as **Exhibit 9**.

2. Restrictions Under Local Bankruptcy Rule 4002-1(c):

Local Bankruptcy Rule No. 4002-1 (c) for the Eastern District of North Carolina lists several restrictions that the debtor(s) must adhere to throughout the bankruptcy proceeding. These restrictions include, *but are not limited to*, the following:

a) **Payment to Principals:** Prior to plan confirmation, the debtor(s) must not compensate itself or any partners, officers, directors, or shareholders in any matter without prior approval from the court.

b) **Payment of Pre-petition Debt:** The debtor may not pay any unsecured, pre-petition debt without the court's approval.

3. Bankruptcy Administrator's Memorandum:

The Bankruptcy Administrator's office has prepared a comprehensive memorandum explaining the duties and restrictions set forth by Local Bankruptcy Rule No. 4002-1(c). The memorandum contains detailed descriptions of these duties and restrictions and deserves special attention as it expands upon and adds to the explanations provided above. (**See Exhibit 11**)**.**

B. Other Duties of the Debtor:

1. Additional Duties for Small Business Debtors:

Recent legislation has created additional duties for debtors designated as "small businesses" under section 101(51D) of the Bankruptcy Code. (**See Exhibit 12**).

2. Federal Bankruptcy Rule No. 2015.3:

Federal Bankruptcy Rule No. 2015.3 also requires the trustee or debtor-in-possession to file "periodic, financial reports of the value, operations, and profitability of each entity that is not a publicly traded corporation or a debtor in a case under title 11, and in which the estate holds a substantial or controlling interest." The reports, also known as "related entities reports," should be based upon the most recent information reasonably available. (**See Exhibit 13**).

The first related entity report must be filed no later than five days before the original date scheduled for the "first meeting of creditors." Subsequent reports must be filed at least every six months thereafter, until the plan has been confirmed or the case is dismissed or converted.

For purposes of this rule, substantial control or interest shall be presumed when the debtor(s) estate owns or controls at least 20 percent interest in an entity.

VI. Intake Conferences and Site Visits by Bankruptcy Administrator

A. Intake Conference:

After filing the petition, but before the debtor(s) first meeting of creditors ("Section 341 Meeting"), the debtor(s) are required to attend an "initial intake conference" with the staff of the Bankruptcy Administrator's office.

The purpose of the initial debtor interview is to:

1. Familiarize the debtor(s) with the Bankruptcy Administrator and explain the supervisory role that the Administrator will serve throughout the case;

2. Provide the debtor with an opportunity to discuss the historical background of the business, introduce its principals, and describe its products or services;

3. Discuss the underlying reason(s) that the debtor(s) filed for Chapter 11 bankruptcy;

4. Identify the immediate hurdles which the debtor(s) must overcome to stabilize the business;

5. Inform the debtor(s) of their duties under Local Bankruptcy Rule No. 4002-1(c); and,

6. Collect certain financial information from the debtor(s) including:

   i. Tax Returns for the past three (3) years of operation (if applicable);
   ii. Year-end financials for the past three (3) years of operation (if applicable);
   iii. Bank Statements for at least one fiscal year preceding the petition date; and,
   iv. General Ledger for at least one fiscal year preceding the petition date.

The interview will take place at the Bankruptcy Administrator's Office in Greenville, unless specified otherwise. If the debtor is not an individual, the debtor(s) principal(s) should attend on the debtor(s) behalf. The debtor(s) counsel should also be present.

Once a time and date for the interview have been agreed upon, the Bankruptcy Administrator will send a copy of the following to the debtor(s) and the debtor(s) counsel:

1. The Intake Notice stating the date, time and location for the interview (Reference Exhibit 3).
2. A memo to the debtor(s) outlining the initial reporting requirements and the requirements under Local Bankruptcy Rule No. 4002-1(c).

Note that a reasonable effort will be made to accommodate participating individuals' schedules. However, the Bankruptcy Administrator reserves the right to finalize the intake conference date and time without ultimate consent from the debtor(s) or counsel for the debtor(s). The debtor should allow for a minimum of two hours for completing the intake conference.

At the completion of the intake conference, the Bankruptcy Administrator, debtor(s) and counsel for the debtor(s) will each sign an "Evidence Form" affirming that each party has been informed as to the requirements for Chapter 11 debtor(s) and understand that failure to comply with said requirements in a timely manner will result in dismissal or conversion of the debtor(s) case. (**See Exhibit 14**).

Furthermore, the debtor(s) and debtor(s) counsel will be provided a "Notice Of Deficiencies and Intent To Dismiss Or Convert," which will include a deadline to fulfill any outstanding requirements under Local Bankruptcy Rule No. 4002-1(c). If the deficiencies have not been cured by the deadline date, the Bankruptcy Administrator will file a "Motion To Convert, Or In The Alternative, Dismiss."

B. Site Visit:

If the debtor is engaged in business, the Bankruptcy Administrator will also conduct a "site visit." The Bankruptcy Administrator may also conduct site visits for certain individual debtors. Notice will be given to the debtor(s) counsel regarding the time and date of the site visit. As with intake conferences, the Bankruptcy Administrator will attempt to be flexible with scheduling.

The purpose of the site visit is to:

1. Allow the debtor(s) to present and explain the operational functions of its business; and,

2. Provide the Bankruptcy Administrator an opportunity to explore and evaluate the debtor(s) daily operations.

The visit will include a tour of the business site and a brief meeting with the business's officers. Note that the Bankruptcy Administrator will take photographic evidence during the site visit. The evidence collected during the site visit may be provided to the presiding Bankruptcy Judge.

A more detailed explanation of the criteria and procedures involved with site visits is attached to this packet. (**See Exhibit 15**)**.**

VII. Status Conferences

In addition to the intake conference and site visit with the Bankruptcy Administrator, counsel for the debtor(s) must participate in a "status conference" with the judge. 11 USC § 105(d). The purpose of the conference is to ensure the expeditious and economical resolution of the case.

During the conference, the debtor(s) counsel should be prepared to:

1. Describe the nature of the debtor(s) business and the reasons for filing the petition;
2. Describe the debtor(s) strategy for reorganization;
3. Provide a time frame for filing a plan and disclosure statement;
4. Provide an estimate for attorney fees and other professional fees to be associated with the case;
5. Identify anticipated significant events in the case; and
6. Discuss the need for future status conferences.

Following the status conference, the court will establish a date by which the debtor(s) disclosure statement and plan must be filed. (**See sections XI-XII)**. This date serves to notify the debtor(s) as to how long they have to solicit acceptances to the plan. The court may also file an order providing that the hearing on approval of the disclosure statement will be combined with the hearing on confirmation.

VIII. Meeting of Unsecured Creditors' Committee and First Meeting of Creditors ("341 Meeting")

A. Formation and Appointment of Committees:

At the time of filing the petition, the debtor(s) must also file a list of its twenty largest creditors with the Clerk of Court. Insiders, as defined in 11 U.S.C. § 101(31), should be excluded from this list.

The Bankruptcy Administrator will serve an informational memorandum and ballot on the entities included in the list. (**See Exhibit 16**). This memorandum will inform the creditors of their eligibility to serve on a creditors' committee in the debtor(s) bankruptcy proceeding.

Creditors are asked to indicate their interest on the ballot provided. If three or more affirmative responses are received, the Bankruptcy Administrator will file a recommendation with the court that these creditors be appointed to an unsecured creditors' committee.

The number of persons appointed to serve on the committee may be more or less than the seven persons set forth in 11 U.S.C. § 1102(b)(1). While the Bankruptcy Administrator recommends creditors to be appointed to the committee, the court will make the final decision regarding appointment of the committee and its membership. Any objections to committee formation or membership must be raised by a party in interest at the time the court enters its Order.

B. Meeting of Unsecured Creditors' Committee and First Meeting of Creditors:

The Bankruptcy Administrator (or designee) will preside at the organizational meeting of the unsecured creditors' committee and conducts the first meeting of creditors (also known as a "341 meeting"). At the 341 meeting, the debtor(s) should be prepared to summarize the debtor(s) transactions since the filing of the petition and to address matters related to the debtor(s)

compliance with Local Bankruptcy Rule No. 4002-1(c). The debtor(s) should also be prepared to respond to reasonable questions from the creditors in attendance.

IX. Employment of Professionals in the Debtor(s) Case

A. Employment of Professionals:

Sections 327, 1103, and 1107 of the Bankruptcy Code govern the employment of professionals in connection with a Chapter 11 case. Common examples of professionals related to Chapter 11 cases are attorneys and accountants. Unless the professional comes within the limited exception provided for by 11 U.S.C. § 327(b), the debtor(s) must apply for court approval before employing a professional to engage in work related to the Chapter 11 case.

Bankruptcy Rule 2014 provides: the application shall state the specific facts showing the necessity for the employment, the name of the person to be employed, the reasons for the selection, the professional services to be rendered, any proposed arrangement for compensation, and, to the best of the applicant's knowledge, all of the person's connections with the debtor(s), creditors, any other party in interest, their respective attorneys and accountants, the Bankruptcy Administrator, or any person employed in the office of the Bankruptcy Administrator.

The application shall be accompanied by a verified statement of the person to be employed setting forth their connections with the debtor(s), creditors, any other party in interest, their respective attorneys and accountants, the Bankruptcy Administrator, or staff member of the Bankruptcy Administrator's office.

The scope of disclosure is much broader than the question of disqualification; the applicant and the professional must disclose all connections and not merely those that rise to the level of conflicts.

The information required for an application to employ a professional, as well as a sample application are attached to these guidelines. **(See Exhibits 17-18).** Note there are additional requirements for applications to employ attorneys. (**See Exhibit 19**)**.**

B. Classification as a Professional:

Pursuant to 11 U.S.C. § 327(a), a professional whose employment requires prior court approval is limited to "persons in those occupations which play a central role in the administration of the debtor proceeding." (*In re Marion Carefree Ltd. Partnership*, 171 B.R. 584 (Bankr. N.D. Ohio 1994.))

Attorneys, accountants, appraisers, and auctioneers are expressly included in the group of professionals whose employment requires prior approval by the court. Occasionally, it is necessary for the trustee, debtor(s) in possession, or committee to contract with firms or individuals who do not fall into these categories. In such circumstances, an application for employment is only necessary for those professionals meeting the definition set forth above.

C. Court Approval:

Generally, employment cannot be approved earlier than twenty days after the filing date. However, Rule 6003 allows for "emergency relief" (first day motions) on applications to employ if there is a showing of immediate and irreparable harm.

The court's approval of a professional person's employment is contingent upon a finding that the applicant has met a two pronged test:

1. The professional must be disinterested; and,
2. The professional must not hold an interest adverse to the estate.

The court takes a strict approach to requests for the employment of professionals "nunc pro tunc." In the majority of cases, such requests are denied unless extraordinary circumstances are alleged in the application so as to justify the nunc pro tunc relief.

D. Disinterested Professionals:

For purposes of the first prong,11 U.S.C. § 101(14) defines a "disinterested person" as a person that:

1. Is not a creditor, an equity security holder, or an insider;
2. Has not been, within three years before the date of filing of the petition, an investment banker for a security of the debtor(s), or an attorney for such an investment banker in connection with the offer, sale, or issuance of a security of the debtor(s);
3. Is not and was not, within two years before the date of the filing of the petition, a director, officer, or employee of the debtor(s) or of an investment banker specified in (2) or (3) above;
4. Does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor(s) or an investment banker specified in (2) or (3) above, or for any other reason.

A judicial determination that a person's characteristics would pose problems for the administration of the bankruptcy estate is not a prerequisite for disqualification. In other words, if a professional meets one of the characteristics listed above, disqualification is automatic. It is irrelevant that the interest in question may be de minimus.

X. Compensation of Professionals in the Debtor(s) Case

A. Compensation of Professionals:

In addition to obtaining court approval to employ a professional, the debtor(s) may not compensate any such professional without prior court approval. Specifically, the court may use its discretion in granting:

1. Reasonable compensation for actual, necessary services rendered by any trustee, examiner, attorney, accountant, appraiser, auctioneer, other professional person, or any paraprofessional person employed by such person; and,
2. Reimbursement for actual, necessary expenses.

Unless otherwise permitted by the court, professionals may not apply for compensation more frequently than every 60 days. 11 U.S.C § 331. Such permission will only be granted upon a motion requesting the change being submitted to the court.

A more detailed description of the procedures for submitting an application for compensation of professional is attached to this packet. (**See Exhibit 20**).

B. Reasonableness of Compensation of Professionals:

In determining the amount of reasonable compensation to be awarded, the court shall consider the nature, extent, and value of such services. Relevant factors include:

1. The time spent on such services;
2. The rates charged for such services;
3. Whether the services were necessary to the administration or completion of the case;
4. Whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed; and**,**
5. Whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

C. Statement of Attorney Compensation and Disclosure of Fee-splitting:

The debtor(s) attorney must file a statement setting forth the compensation paid or agreed to be paid for their services in connection to the bankruptcy proceeding. This statement must be filed within fifteen days of the order for relief.

Fed. R. Bankr. P. 2016(b) also requires the debtor(s) attorney to disclose any agreement to share the compensation with any other entity other than a member or regular associate of the attorney's law firm.

Upon motion of a party in interest or on its own initiative the court is permitted to determine whether any payment or transfer to an attorney is excessive. (Fed. R. Bankr. P. 2017.) The court may order return of excessive payments to the estate or entity that made the payment. (11 U.S.C. § 329(b)).

To the extent possible, the statement should include separate time entries for each service. The practice of combining several different tasks together is discouraged as it makes it difficult to separate compensable and non-compensable items. Some courts have gone so far as to disallow entire blocks of time, because they were not separated.

The final attorney fee application should include the total fees and expenses (shown separately) being requested, as well as the amounts of fees and expenses that have already been paid.

[REMAINDER OF PAGE LEFT BLANK]

D. Attorney Retainers:

There is to be full disclosure and documentation of any pre-petition retainer paid to the debtor(s) attorney. The disclosed information must include the amount of time charged against any such retainer.

E. Flat Fees:

An attorney contemplating a flat fee arrangement for a Chapter 11 case in North Carolina should review Judge Small's opinion in *Pineloch Enterprises. In re Pineloch Enterprises, Inc.*, 192 B.R. 675 (Bankr. E.D.N.C. 1996).

XI. Disclosure Statements

A. Adequacy:

The disclosure process is key in carrying out a successful reorganization under the Bankruptcy Code. In particular, the code disallows acceptance or rejection of a debtor(s) plan of reorganization, unless the plan is accompanied by a disclosure statement containing "adequate information" regarding the plan.

"Adequate information" means information of sufficient detail so as to enable a reasonable investor (of the debtor's type of business) to make an informed judgment about the plan. (11 U.S.C. § 1125(a)(1).)

Adequacy is determined on a case by case basis. Several factors affect the appropriate quantity and quality of disclosure in a given case. These factors include, but are not limited to, the following:

1. The nature of the proposed plan of reorganization or liquidation, including a liquidation analysis;
2. The sophistication of the various holders of claims and interests and their familiarity with the debtor and its business;
3. Whether the expense of the disclosure would substantially outweigh its anticipated benefit to creditors and stockholders;
4. The peculiarities of the debtor(s) business or financial condition;
5. The need for an expeditious resolution;
6. The access of a plan proponent, other than the debtor(s), to factual information regarding the debtor(s); and
7. The overall tax consequences for the debtor(s).

Note the Bankruptcy Administrator will review the debtor(s) disclosure statement for adequacy.

B. Standardized Language in the Disclosure Statement:

Although disclosure statements are generally tailored to the specific case, some standardized language is appropriate. For example, the disclosure statement should warn against

relying on the summary in the disclosure statement. Specifically, there should be language in the disclosure statement explaining that the plan represents a legally binding arrangement that should be read in its entirety.

The disclosure statement should also refer to "the right to vote for acceptance or rejection" of the plan or "the right to vote upon" the plan. While the disclosure statement may serve the parallel purpose of solicitation, the solicitation aspect of the statement should be clearly identified as such and kept distinct from the disclosure aspect.

The disclosure statement should indicate which classes are impaired and are, therefore, entitled to vote on the plan. It should also define impairment in plain language. Furthermore, the voting requirements for acceptance under 11 U.S.C. § 1126 must be set forth in the disclosure statement and voters should be told where the ballots must be sent, as well as the deadline for voting.

C. Description of the Debtor(s) Business:

The disclosure statement should describe the nature of the debtor(s) business. In cases in which the plan contemplates cash payments upon confirmation, a brief narrative description should suffice. If the plan contemplates deferred payments or the issuance of common or preferred stocks to creditors and, therefore, its implementation depends upon the future course of the business, the description should be more detailed. Items that should be included in the latter case are: (1) material factors peculiar to the specific business of the debtor(s), such as seasonality, limited sources of supply, limited number of potential customers, patents or licenses, special capital needs, regulatory problems, or backlog; (2) principal product and services present, contemplated, or under development; (3) competitive conditions in the applicable market; and (4) material contracts and leases, including important terms such as expiration dates. Of course, if detailed information would have a detrimental impact on the debtor(s) competitive position, general terms may be permissible.

D. Reasons for Financial Difficulties and Correction of Those Factors:

The disclosure statement should give a brief narrative description of the factors leading to the debtor(s) financial difficulties, together with a listing of the steps already taken or to be taken by the debtor(s) to correct the problems. This description should be reviewed from the standpoint of the assistance it will provide the holders of claims and interests in assessing the likelihood of any recurrence of prior difficulties and, thus, the feasibility of the proposed plan.

E. Historical and Current Financial Information:

Historical information, such as cash flow statements and profit and loss statements, should, where relevant, provide the holders of claims and interests some perspective regarding the debtor(s) financial situation and future prospects.

Current financial information, such as cash flow statements, profit and loss statements, and balance sheets, provide holders of claims and interests with important information about the debtor(s) performance during the pendency of the Chapter 11 case. Of particular importance is

the comparison of the current balance sheet with the balance sheet as of the commencement of the case.

The disclosure statement should also include a projection of the financial condition of the debtor(s) upon confirmation of the plan. This information enables the court and creditors to determine if the debtor(s) will need further financial reorganization or if the plan will be followed by liquidation.

F. Outline of the Plan:

The degree of detail in which the proposed plan of reorganization should be outlined in the disclosure statement will vary greatly with the complexity of the plan. In some instances, cross-references in the disclosure statement to pertinent plan provisions will suffice. In other instances, complex features of the plan may need to be separately, but briefly, described in the disclosure statement. Similarly, complex plan provisions often contain language that should be clarified in the disclosure statement. Any default provisions or affirmative and negative covenants contained in the plan should be explained.

G. Means of Effectuating the Plan:

The disclosure statement should contain information relating to the source and application of funds to effectuate the proposed plan of reorganization, including an estimate of the amounts necessary for the initial payments under the plan. This number should be compared to the cash on hand. If the amount needed to confirm is greater than the cash available, there should be an explanation concerning the source of the additional funds.

There should also be a brief description of the structure of any transaction related to carrying out the plan. There should be an indication as to whether any transfers are avoidable and whether the debtor(s) intend to prosecute these claims. Any potential causes of action should be factored into the estimated liquidation analysis.

The disclosure statement should contain a brief description of the terms of any material agreements relating to the effectuation of the plan which the debtor has executed or proposes to execute. If a third party is to provide the necessary funds for confirmation, there should be some financial information with respect to the third party. If the third party does not want to be disclosed or does not want to disclose its financial condition, there are acceptable alternatives.

For instance, if the funds are deposited into an identifiable escrow account for confirmation or if an irrevocable letter of credit is issued, financial disclosure about the third party may not be necessary.

The disclosure statement should indicate if there are any preconditions that must be met by any party in order for the plan to be confirmed. The disclosure statement should also state the likelihood of the requisite events occurring as scheduled.

H. Projections:

Financial projections are necessary to assess the viability of the debtor(s) proposed plan and the feasibility of reorganization. Thus, except where the plan of reorganization does not contemplate any deferred payments or issuance of any equity security, the disclosure statement should incorporate financial projections.

The projections should include both cash flow and earnings estimates. All payments contemplated under the plan should be factored into the cash flow projections. If earlier projections are available, the disclosure statement should compare them with the actual results for the periods covered. Creditors will then be able to assess management's powers of projection.

I. Tax Consequences:

In most instances, the proposed plan of reorganization will engender federal tax consequences for debtor(s) that may have a material effect upon the future financial prospects of the debtor(s). If material in their affect, these tax consequences must be explained. For example, the discharge of the debtor(s) from indebtedness pursuant to the plan of reorganization may affect the debtor(s) net operating loss carry-overs, investment tax credits, capital loss carry-overs, or basis in assets. Similarly, a plan that contemplates a corporate reorganization (e.g., transfer of the debtor(s) assets to another corporation in exchange for stock) may or may not be tax-free at the corporate level.

J. Discharge in Individual Cases:

Under the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, an individual debtor does not generally receive a discharge on plan confirmation. However, Section 1141(d)(5)(A) provides an exception to this generality. In an individual's chapter 11 case, the court may find cause to grant discharge upon confirmation. Such an order requires "notice and a hearing" which can be accomplished by the disclosure statement if it states **conspicuously** that the discharge will be effective upon confirmation.

If the disclosure statement contains that provision, the clerk's office will **conspicuously** include in the notice of the confirmation hearing the following language: "**As stated in the disclosure statement, the debtor(s) plan proposes that the discharge in this case shall become effective upon confirmation of the plan. Any objection to that proposal must be filed by the deadline for objections contained in this notice. Whether or not an objection is filed, the court may or may not grant the relief requested based on whether or not the debtor(s) have set forth sufficient cause as required by 11 U.S.C. Sec. 1141(d)(5)(A) in the disclosure statement."** The notice and hearing requirement may also be met by a separate notice given by the debtor(s) advising that the plan proposes that the discharge be entered upon confirmation. The notice should give a response time and be served on all creditors and the Bankruptcy Administrator.

K. Special Approval for Small Businesses:

The process of obtaining approval of a disclosure statement and soliciting votes for a plan of reorganization has been simplified for small business debtors. Section 1125(f)(1), provides that if the case is a small business case, as that term is defined in section 101 of the Bankruptcy Code, "the court may determine that the plan itself provides adequate information and that a separate disclosure statement is not necessary." In addition, section 1125(f)(2), provides that the court may approve a disclosure statement submitted on standard forms approved by the court or adopted under section 2075 of title 28, which is the Rules Enabling Act.

Under section 1125(f)(3), the court, subject to final approval after notice and a hearing, may conditionally approve a disclosure statement as the basis for solicitation of votes on a plan. Provided that the conditionally approved disclosure statement is mailed not later than 25 days before the date of the hearing on confirmation of the plan, the court may conduct a combined hearing for final approval of the disclosure statement and confirmation of the plan.

XII. Plan of Reorganization and Requirements for Confirmation

Unless otherwise specified by the court, a non-small business debtor has 120 days from the date of filing its Chapter 11 petition to file a plan of reorganization. The deadline for small business debtors is 180 days, unless otherwise specified by the court. Note, the court may extend or reduce the time allowed for filing a plan. There will be no separate hearing on the disclosure statement unless a motion for bifurcation is granted.

A. Contents of the Plan:

The contents of a plan shall include the provisions contained in 11 U.S.C. § 1123(a). Specifically, the plan, at a minimum, must:

1. Designate classes of claims;
2. Specify any class of claims that is not impaired;
3. Specify the treatment of those classes which are impaired;
4. Provide for the same treatment for each member of class; and,
5. Provide adequate means for the plan's implementation.

If the debtor is an individual, the plan should also provide for the payment to creditors any portion of the debtor(s) personal earnings as is necessary for the execution of the plan.

It is also important to note that section 1129(a)(15) requires either the individual chapter 11 debtor(s) pay all unsecured claims in full or that the debtor(s) plan devote an amount equal to five years' worth of the debtor(s) projected disposable income to unsecured creditors. Individual debtor(s) plans should provide adequate information such that it can be determined that the plan is in accordance with this requirement.

B. Requirements for Confirmation:

A plan may only be confirmed if all of the requirements of 11 U.S.C. § 1129(a) are met as follows:

1. The plan must comply with the applicable provisions of this title;
2. The proponent(s) of the plan must comply with the applicable provisions of this title;
3. The plan must be proposed in good faith;
4. Administrative expenses and professional fees are subject to court approval and any payments must be or have been made in accordance with the terms of the plan;
5. The identity and compensation of directors, officers, and insiders must be disclosed;
6. Approval for any rate increases must be obtained from the applicable regulatory authority;

7. Each holder of a claim must have accepted or will receive or retain property of a value as of the effective date of the plan that is not less than the amount such holder would receive or retain if liquidated under Chapter 7;
8. All classes must accept the plan or not be unimpaired;
9. The plan must comply with the Code's mandatory treatment of certain priority claims;
10. A minimum of one impaired, voting class must vote to accept the plan;
11. Confirmation must not be likely to be followed by liquidation or need for further reorganization;
12. All fees payable under section 1930 of title 28 ("bankruptcy fees") must have been paid or the plan must provide for their payment in full on the effective date of the plan;
13. Retiree benefits for which debtor(s) are obligated must continue to be paid;
14. The debtor(s) must have paid all amounts which arose post-petition in relation to a domestic support obligation; and
15. All quarterly fees must have been or be paid on the effective date of the plan.

C. Cram Down:

The term "cram down" is used to describe the power of the bankruptcy court to confirm a plan of reorganization even though one or more of the impaired classes of creditors has not accepted the plan. If the debtor(s) intend to invoke the cram down provisions against a dissenting class, that intention should be disclosed.

Moreover, if a cram down is intended, the disclosure statement should contain a brief summary of the operation of 11 U.S.C. § 1129(b) as it would affect the non-accepting class. The disclosure statement should also include a brief outline of the "fair and equitable" standard that would be applied should a "cram down" be invoked.

Note that the availability of cram down may be questionable in some circumstances. In every case in which the debtor(s) state or suggests that cram down is being contemplated, the Bankruptcy Administrator will analyze the legal issue(s) and formulate a judgment as to the availability of cram down under the circumstances.

XIII. Confirmation Hearing and Order of Confirmation

1. Confirmation Hearing:

The judge will set a date for the "confirmation hearing." The purpose of the hearing is to evaluate the Debtor(s) proposed plan of reorganization and determine whether it should be confirmed so as to release the Debtor(s) from all pre-confirmation debts as provided for under 11 USC 1141(d). At the hearing, the Debtor(s) counsel should be prepared to address the matters outlined in **Exhibit 22**.

2. Order of Confirmation:

The debtor(s) must submit an order confirming plan to the Clerk of Court. The order should conform to the format prescribed in **Exhibit 23**. If the Debtor(s) plan is confirmed, the

judge will sign and date the order. A copy of the signed order must be served on the Bankruptcy Administrator within ten days of the date of the confirmation hearing. In order to expedite the entry of this order, debtor(s) are encouraged to submit the proposed order as soon as possible via email.

XIV. Modification

Post-confirmation modification may be made only by the proponent of the plan or by the reorganized debtor(s), but not by the court and may take place any time after confirmation, but must take place before the plan is substantially consummated. The term, "substantial consummation" is defined in section 1101(2) to mean: (A) transfer of all or substantially all of the property proposed by the plan to be transferred; (B) assumption by the debtor(s) or by the successor to the debtor(s) under the plan of the business or of the management of all or substantially all of the property dealt with by the plan; and (C) commencement of distribution under the plan.

In the case of individuals who are debtor(s), post-confirmation modification can be made anytime before the completion of payments under the plan, regardless of whether the plan has been substantially consummated. When the chapter 11 debtor(s) are individuals, the debtor(s), the trustee, the Bankruptcy Administrator or an unsecured creditor may request the modification of a plan.

XV. Post-Confirmation Reports

The Order Confirming Plan provides that the debtor(s) shall file post-confirmation reports with the Clerk of the United States Bankruptcy Court. A copy of these reports must be served on the Bankruptcy Administrator pursuant to 11 U.S.C. § 1106(a)(7).

The first post-confirmation report is due on the earliest of March 31, June 30, September 30, or December 31 of the calendar year in which the plan of reorganization is confirmed. The Debtor(s) shall file subsequent reports at the end of every succeeding calendar quarter (March 31, June 30, September 30, or December 31), until the plan is substantially consummated. Quarterly reports shall reflect any progress made toward consummating the plan during the period covered by the report and should be prepared in a format prescribed by the Bankruptcy Administrator.

All post-confirmation reports should reflect a breakdown of progress by class in accordance with the confirmed plan. Upon confirmation of the plan, the debtor(s) are no longer required to file monthly operating reports unless otherwise directed by the court at the confirmation hearing. The format prescribed for the post-confirmation report is referenced in **Exhibit 24. Post-confirmation reports are to be signed by the debtor(s) under penalty of perjury. As such, debtor(s) and debtor(s) counsel should review these reports carefully to ensure accuracy.**

[REMAINDER OF PAGE LEFT BLANK]

XVI. Final Report and Motion for Final Decree

The order confirming plan also requires the debtor(s) to file a "Final report" within thirty days of substantial consummation of the plan. (**See Exhibit 25**). The Final Report should reflect the payments for all costs of administration and for each class of creditors. It is important that this information be as accurate and specific as possible.

The report should also include a motion for the entry of a "Final Decree" pursuant to Rule No. 3022. Fed. R. Bankr. P. 3022. A memo regarding the content of such motions is attached as **Exhibit 26.** Similar to the Final Report, it is important that the information included in the motion for the entry of a Final Decree is accurate and specific. Quarterly Fees must be paid prior to receiving a Final Decree from the Court. Quarterly Fees are assessed for partial quarters and are due upon filing of the Request for Final Decree.

In the event that the debtor(s) attempt to reorganize are unsuccessful and the debtor(s) case is converted to a Chapter 7 case, the debtor(s) are required by Federal Bankruptcy Rule of Procedure No. 1019 to file a Final Report. Fed. R. Bankr. P. 1019.

The report should be a complete accounting of the debtor(s) financial activities from the time the case was commenced under Chapter 11 through the date of conversion. The report must be filed in accordance with the provisions of the Order of Conversion and in the format prescribed by the Bankruptcy Administrator. (**See Exhibit 27**).

XVII. Conclusion

Prior to the filing of a Chapter 11 petition, the debtor(s) counsel should discuss with the debtor(s) the topics and procedures outlined in this material.

If the debtor(s) believe they will be unable to comply with the requirements set forth in the checklist at the beginning of this packet, the problem should be discussed with the Bankruptcy Administrator's Office in a timely manner in order to avoid a motion to dismiss or convert the case.

Lastly, the debtor(s) should be aware of the United States Bankruptcy Court for the Eastern District of North Carolina's policy on purchasing property from a bankruptcy estate. (**See Exhibit 28**).

CHAPTER 11 ADMINISTRATIVE GUIDELINES

EXHIBITS

1. Chapter 11 Timeline
2. Order Regarding Administration of Estate
3. Intake Notice
4. Notice of Deposit and Designated Depository
5. Monthly Report for Corporate Debtors
6. Monthly Report for Individual Debtors
7. Monthly Report for Small Business
8. Quarterly Fee Due Dates
9. Quarterly Fee Table
10. Notice of Quarterly Fees Paid
11. Memorandum Explaining Local Bankruptcy Rule 4002-1(c)
12. Additional Duties for Small Business Debtors
13. Related Entities Report
14. Evidence Form
15. Criteria and Procedures for Site Visits
16. Memorandum to Creditors who may be Eligible to Serve on the Committee of Unsecured Creditors
17. Items Required for Applications to Employ Professionals
18. Sample Application to Employ Professional
19. Sample Affidavit
20. Procedures for Preparing and Submitting Applications for Compensation
21. Ballot Report
22. Suggested Outline for Confirmation Hearing
23. Order Confirming Plan
24. Post-Confirmation Report
25. Final Report
26. Memorandum Detailing the Application for the Entry of Final Decree
27. Final Report Upon Conversion to Chapter 7
28. Policy on Purchasing Property of Bankruptcy Estates

EXHIBIT 1

CHAPTER 11 CHECKLIST WITH ESTABLISHED TIME REQUIREMENTS

The following topics address the basic requirements and time frames of which a Chapter 11 debtor in possession should be aware prior to filing a Chapter 11 petition. Failure to abide by these requirements may result in the dismissal or conversion of the Chapter 11 case or in the appointment of a Chapter 11 trustee.

A. Chapter 11 Accelerated Petition Filed
(List, Schedules and Statements: due within 14 days of filing petition. (Local Bankruptcy Rule No. 1007-1, EDNC)

B. List of Twenty Largest Unsecured Creditors
(Due at time of accelerated petition)
(Local Bankruptcy Rule No. 1007-1(b), EDNC)

C. Proof of Insurance Coverage
(Due within 5 days of filing petition)
(Local Bankruptcy Rule No. 4002-1(c)(1)(C), EDNC)

D. Notification of Designated Depository
(Due within 10 days of filing petition)
(Local Bankruptcy Rule No. 4002-1(c)(1)(E), EDNC)

E. Projected Operating Statement
(Due within 10 days of filing petition)
(Local Bankruptcy Rule No. 4002-1(c)(1)(H), EDNC)

F. Complete Schedules and Statement of Affairs
(Due within 15 days of filing petition; dismissal of case for failure to comply)
(Local Bankruptcy Rule No. 1007-1(a), EDNC)

G. Physical Inventory
(Due within 30 days of filing petition)
(Local Bankruptcy Rule 4002-1(c)(1)(G))

H. Related Entities Report
(First report due no later than seven days before the original date scheduled for the "first meeting of creditors.")
(Federal Bankruptcy Rule 2015.3)

I. Notice To Creditors Whose Claim is Listed in Petition as Contingent, Disputed, or Un-liquidated
(Due within 15 Days of filing petition)
(Local Bankruptcy Rule No. 3001-1(c), EDNC)

J. Employment of Professional Person
(Local Bankruptcy Rule No. 2014-1, EDNC)
(See also FBRP 2014, 2016, 2017)

K. Monthly Operating Report
(First report due within 30 days of filing petition with subsequent reports due on the 15th day of each month thereafter)
(Local Bankruptcy Rule No. 4002-1(c)(1)(A), EDNC)

L. Filing Claims
(Time for filing claims - due within 90 days of 341 meeting)
(Local Bankruptcy Rule No. 3001-1(b), EDNC)

M. Plan and Disclosure Statement
(Due within 120 days of filing petition or ordered by court per §105(d))
(Local Bankruptcy Rule No. 4002-1(c)(1)(F), EDNC)

N. Hearing on Disclosure Statement
(Local Bankruptcy Rule No. 2015-2(2), EDNC: Notice Requirements)
(May be combined per order of court §105(d))

O. Approved Disclosure Statement

P. Hearing on Confirmation of Plan
(Local Bankruptcy Rule No. 2015-2(3), EDNC: Notice Requirements)

Q. Confirmed Plan

R. Submission of Order Confirming Plan
(Submission of order confirming plan within 10 days of confirmation hearing)

S. Post-confirmation Report
(Due within 15 days of the end of each calendar quarter - 11 U.S.C. §1106)

T. Upon Substantial Consummation, Submission of Motion for Final Decree and Final Report
(Substantial Consummation - 11 U.S.C. §1101(2))

U. Entry of Final Decree

EXHIBIT 2

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA

ORDER REGARDING ADMINISTRATION OF ESTATE

This order is entered to aid in the administration of this estate and to carry out the provisions of Chapter11 of the Bankruptcy Code (11 U.S.C. Section 105).

Pursuant to § 302(d)(3)(I)(ii) of the Bankruptcy Judges, United States Trustees and Family Farmer Bankruptcy Act of 1986, the bankruptcy administrator is responsible for supervising the administration on of chapter 11 estates. In undertaking this responsibility, the bankruptcy administrator supervises compliance by the debtor−in−possession/chapter 11 trustee with the requirements set out in Local Bankruptcy Rule 4002−1(c), EDNC, as well as any other requirements ordered by the court or prescribed by the bankruptcy administrator to ensure the successful, orderly administration of a case. Failure to comply with this order may result in dismissal or conversion of the case to a case under chapter 7 or other appropriate action by the court. Accordingly,

IT IS ORDERED THAT:

I. The debtor(s) shall comply with the requirements set forth in U.S.C. Section 521, in Local Bankruptcy Rule No. 4002-1(c), EDNC, any other applicable provisions contained in the Local Bankruptcy Rules, EDNC, Bankruptcy Code, 28 U.S.C. § 1930 and Federal Rules of Bankruptcy Procedure.

II. The debtor-in-possession/Chapter11 trustee shall cooperate with and be accountable to the Bankruptcy Administrator, and in doing so shall file with the court regular reports of operations in such form and frequency as the Bankruptcy Administrator reasonably shall require.

III. Individual debtor(s) must be current with any domestic support obligations before their plan may be confirmed.

IV. If the debtor(s) are individuals, the debtor(s) must provide a picture (ID) and the debtor(s) social security card at the 341 meeting of creditors.

V. An automatic stay goes into effect immediately upon filing the petition and prohibits creditors from taking any action to collect most pre-bankruptcy debts. This means no lawsuits, repossessions, threatening telephone calls, or collection letters. Under certain circumstances, the stay may be limited to 30 days or may not exist at all.

DATED:

_____

United States Bankruptcy Judge

EXHIBIT 3

.

Office of the Bankruptcy Administrator for the Eastern District of North Carolina

434 Fayetteville Street, Suite 640
Raleigh, North Carolina 27601
(919) 856-4886

150 Reade Circle
Greenville, North Carolina 27858
(919) 856-4886

NOTICE

To: Debtor

INITIAL DEBTOR INTERVIEW: On **[DATE AND TIME],** the Debtor(s) the Debtor(s) attorney, and any other professionals employed by the Debtor(s), shall meet with the Bankruptcy Administrator, and/or members of her staff for an initial interview. This interview will take place at the Bankruptcy Administrator's Office in Greenville, NC**.** The purpose of this interview shall be to review the operating order, debtor-in-possession requirements, tax returns of the Debtor(s), financial statements of the Debtor(s), and the pre- and post-petition books and records of the Debtor(s). **THIS INTERVIEW IS NOT OPTIONAL.**

The Debtor(s) **shall bring** tax returns for the past three years, all year-end financial statements generated in the past three years (either prepared by CPA or in-house**)**, **all pre-petition** books and records for the twelve months prior to the Chapter 11 filing date (including, but not limited to all check registers, ledgers, bank statements and canceled checks), proof of insurance (i.e. copies of binders indicating that all assets are insured, and policy is up to date), signature cards of newly opened DIP accounts, and a 30 day projection of Debtor(s) income and expenses. It is not necessary to bring post-petition books and records to this meeting. It is advisable that any persons responsible for the financial activities of the debtor(s), i.e. daily upkeep of books and records, preparation of the monthly reports, etc., attend this meeting. **It is anticipated that this meeting will last approximately one to one and a half hours.**

PLEASE BE ADVISED that in addition to the requirements set out in this letter, the Debtor(s) must ensure that all requirements under Local Rule 4002 and the Bankruptcy Code are met at least twenty-four (24) hours prior to this interview. Any Debtor(s) found to not be in compliance will have the interview continued. If these deficiencies are not cured prior to the §341 meeting, the Bankruptcy Administrator will file a motion for a hearing to show cause why the Debtor(s) are in violation of the Court's order. Failure to cure these deficiencies may result in a dismissal or conversion of your case to Chapter 7.

Dated: _____

EXHIBIT 4

NOTICE OF DEPOSIT AND OF DESIGNATED DEPOSITORY

IN RE: **CASE NUMBER:**

[Case Name]

The undersigned Debtor in Possession/Trustee hereby files this Notice of Deposit and Designated Depository with the Bankruptcy Administrator, Eastern District of North Carolina, at 434 Fayetteville Street, Suite 640, Raleigh, NC 27601 or at 150 Reade Circle, Greenville, NC 27858:

The following information is being submitted to the Bankruptcy Administrator within ten [10] days of the filing of the chapter 11 petition on each account being maintained by the debtor in possession/trustee:

Date Opened:	[date new account opened]
Name on Account:	[name of individual or entity which will be reflected on bank statement or printed on check]
Type of Account:	[for example: checking, savings, operating/general, payroll, tax, special escrow, certificate of deposit, other}
Account Number:	[complete account number]
Authorized Signature on Acct:	[list each individual that has been authorized to sign on account]
Name of Depository:	[name of banking institution]
Address of Depository:	[address of banking institution]
Telephone of Depository:	[telephone # of banking institution]
Contact Person at Depository:	[individual contact person at banking institution]
Amount of Initial Deposit:	[total amount of initial deposit]

The debtor(s) hereby certify that the deposits for each account reflected above are fully covered by FDIC or FSLIC insurance of $100,000.00. The debtor(s) in possession/trustee agrees to immediately contact the Bankruptcy Administrator prior to the deposit of funds in a single depository which would result in an excess of $100,000.00 in the debtor(s) accounts.

DATE:

_____

Signature of Debtor in Possession/Trustee

EXHIBIT 5

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
DIVISION

IN RE:	**CHAPTER 11**
	CASE NO: _____
DEBTOR	☐ Check if this is an amended filing

MONTHLY REPORT OF CORPORATE DEBTOR IN POSSESSION/TRUSTEE

DATE PETITION WAS FILED: _____

REPORTING PERIOD COVERED: _____

I declare under penalty of perjury that the information contained in this report is true and correct to the best of my knowledge and belief:

DEBTOR:

Officer Name & Title: _____

Date: _____

Signature: _____

I have read the information in this report and the information contained herein is true and correct to the best of my knowledge and belief:

ATTORNEY FOR THE DEBTOR:

Printed Name: _____ Date: _____

Signature: _____

Penalty for making a false statement or filing a false report: Fine of up to $500,000.00 or imprisonment for up to 5 years or both. 18 U.S.C. §§ 152 and 3571

PART A: BUSINESS OPERATIONS

I. Summary of Business Operations:

1.) Please summarize the Debtor's business activities for the month:

2.) Did the Debtor operate with a cash surplus or cash loss for the month? If the Debtor operated at a loss, please explain what affected profitability:

3.) Did the Debtor have any significant receipts or disbursements this month that were unusual or do not reoccur every month? For example, receipts would include insurance claim proceeds, tax refunds and funds from sale proceeds. Disbursements would include annual or quarterly insurance premiums, tax payments, large repairs, etc.:

(a) RECEIPTS –

(b) DISBURSEMENTS –

II. Summary of Chapter 11 Activities:

1.) Were any transactions this month outside of the ordinary course of business? For example, did the Debtor sell any property, receive a loan from a third party or make any large purchases? If yes, please describe:

2.) What steps has the Debtor taken toward reorganization or liquidation?

PART B: CERTIFICATIONS

1.) Is the Debtor current on all post-petition tax obligations? ☐ Yes ☐ No

If the Debtor checked **no**, please complete the chart below:

Name of Taxing Authority	Amount Of Taxes Owed

2.) Has the Debtor filed all necessary tax forms (e.g., 1040, 1120 and 941), coming due since the petition date? ☐ Yes ☐ No

If the Debtor checked **no**, please provide information regarding the tax forms that are currently unfiled:

3.) Is the Debtor current on all post-petition administrative expenses (excluding tax obligations)? ☐ Yes ☐ No

If the Debtor checked **no**, please complete the chart below:

Name of Administrative Creditor	Amount Owed

4.) Are the Debtor's insurance policies in full force and effect? ☐ Yes ☐ No

If the Debtor checked **no**, please detail which property owned by the Debtor is not insured:

5.) Has the Debtor closed all pre-petition bank accounts? ☐ Yes ☐ No

If the Debtor checked **no**, please list the pre-petition bank accounts that are still open and whether the Debtor sought Court approval to keep the accounts open:

Name of Banking Institution	Last 4 Digits of Account	Court Approval (Y/N)

6.) Did the Debtor pay any pre-petition unsecured debts this reporting period? ☐ Yes ☐ No

If the Debtor checked **yes**, please complete the chart below:

Name of Unsecured Creditor	Amount Paid

7.) Did the Debtor deposit all sources of income into its DIP bank accounts this reporting period? ☐ Yes ☐ No

If the Debtor checked **no**, please detail where the estate funds were deposited, or (if not deposited), how the funds were disbursed:

8.) Did the Debtor pay any professionals (e.g., attorney or accountant) without prior Court approval this reporting period? ☐ Yes ☐ No

If the Debtor checked **yes**, please complete the chart below:

Name of Professional	Amount Paid

9.) Did the Debtor sell or transfer any property outside of the ordinary course of business without prior Court approval during this reporting period? ☐ Yes ☐ No

If the Debtor checked **yes**, please provide additional information regarding the property that was sold or transferred:

10.) Did any person or entity pay any expenses or costs on behalf of the Debtor during this reporting period? ☐ Yes ☐ No

If the Debtor checked **yes**, please list all expenses paid on behalf of the Debtor, including the name of the person or entity who made the payments:

11.) Did the Debtor transfer any property to or for the benefit of an officer or insider of the Debtor, or a relative of an officer or insider of the Debtor during the reporting period (a transfer includes, but is not limited to, the payment of personal expenses, provision of non-court approved fringe benefits, purchase of items for a personal non-business purpose)? ☐ Yes ☐ No

If the Debtor checked **yes**, please list all expenses or costs the Debtor paid on behalf of any officer or insider of the Debtor, or on behalf of a relative of an officer or insider of the Debtor:

PART C: SUMMARY OF CASH RECEIPTS AND DISBURSEMENTS

NATURE/TYPE OF ACCOUNT: ☐ **Operating Account (Last 4 Digits:_____)**
☐ **Tax Account (Last 4 Digits:_____)**
☐ **Payroll Account (Last 4 Digits:_____)**
☐ **Cash Collateral Account (Last 4 Digits:____)**

AMOUNT:

1. CASH BALANCE FROM PREVIOUS MONTH'S REPORT: **$**_____

2. TOTAL RECEIPTS/TRANSFERS/UNCLEARED: **$**_____
[On following page- ***EXHIBIT 1***
- provide a description of the source and amount]

3. TOTAL DISBURSEMENTS/TRANSFERS/UNCLEARED: **$**_____
[On following page- ***EXHIBIT 2***
- provide a description of the disbursements]

4. ENDING RECONCILED BALANCE: **$**_____

SUMMARY OF BANK ACCOUNT INFORMATION

5. ENDING BANK BALANCE: **$**_____

6. PLUS UNCLEARED DEPOSITS **$**_____

7. LESS UNCLEARED CHECKS **$**_____

8. ENDING RECONCILED BALANCE: ***$**_____

*If item #4 differs from Item #8, please explain:

EXHIBIT 1

DESCRIPTION/ITEMIZATION OF RECEIPTS (Last 4 Digits of Acct #_____)

RECEIPTS:	**AMOUNT:**
Sales	**$**
Rental Income	**$**
Collection of post-petition accounts receivable	**$**
Collection of pre-petition accounts receivable	**$**
Borrowing by Debtor (list sources below): (a) _____ (b) _____ (c) _____	(list amounts below): (a) _____ (b) _____ (c) _____ Total = **$ 0.00**
Transfers from other accounts (list last 4 digits of account numbers below): (a) _____ (b) _____ (c) _____	(list amounts below): (a) _____ (b) _____ (c) _____ Total = **$ 0.00**
Other forms of income/deposits (list sources below): (a) _____ (b) _____ (c) _____	(list amounts below): (a) _____ (b) _____ (c) _____ Total = **$ 0.00**
Less allowance for returns and discounts	**$**

➔ *TOTAL = **$ 0.00** _____

***Total equals item #2 (Total Cash Receipts) on Part C.**

Click to add another account

EXHIBIT 2

DESCRIPTION/ITEMIZATION OF DISBURSEMENTS (Last 4 Digits of Acct # _____)

DISBURSEMENTS:	**AMOUNT:**
Payments to Secured Creditors	**$**
Purchases of Inventory	**$**
Net Payroll (excluding officer compensation)	**$**
Officer Compensation	**$**
Subcontractors and Contract Workers	**$**
Payroll Taxes	**$**
Sales Tax	**$**
Property Taxes	**$**
Supplies and Materials	**$**
Real Property Lease Payments	**$**
Vehicle & Equipment Lease Payments	**$**
Utilities (Telephone, Electricity, Water, Other)	**$**
Travel and Entertainment	**$**
Meal and Food Costs	**$**
Transportation Costs (e.g., fuel, tolls, parking)	**$**
Vehicle Maintenance and Repairs Costs	**$**
Equipment Repair Costs	**$**
Real Property Repairs and Maintenance Costs	**$**
Vehicle Insurance Premiums	**$**
Life and Health Insurance Premiums	**$**
Real Property Insurance Premiums	**$**
Other Insurance Premiums	**$**
Office Supplies	**$**
Freight and Shipping Costs	**$**
Advertising and Marketing	**$**
Professional Fees (e.g., Attorney, Accountant)	**$**
Quarterly Fees	**$**
Transfers to other accounts (list last 4 digits of account numbers below): (a)_____ (b)_____ (c)_____	(list amounts below): (a) _____ (b) _____ (c) _____ Total = **$ 0.00**
Other (PROVIDE ATTACHMENT)	**$**

➔ *TOTAL = **$ 0.00** _____

***Total equals item #3 (Total Cash Disbursements) on Part C.**

PART D: SUMMARY OF ACCOUNT RECEIVABLES

		AMOUNT:
1.	Beginning Balance	**$** _____
2.	Sales on Account	**$** _____
3.	Collections on Account	**$** _____
4.	Ending Balance [Item #1 plus #2 minus #3]	**$** _____

STATUS OF COLLECTIONS:

	AMOUNT:
Current to 30 days	**$** _____
31 to 60 days	**$** _____
61 to 90 days	**$** _____
91 to 120 days	**$** _____
121 days and older	**$** _____
TOTAL:	**$** _____

PART E: SUMMARY OF ACCOUNTS PAYABLE

[EXCLUDING PRE-PETITION ACCOUNTS PAYABLE]

	AMOUNT:
Current to 30 days	**$** _____
31 to 60 days	**$** _____
61 to 90 days	**$** _____
91 to 120 days	**$** _____
121 days and older	**$** _____
TOTAL:	**$ 0.00** _____

If there are payables outstanding greater than 60 days, please provide an explanation:

Click to add Secured Creditors

PART F: STATUS OF PAYMENTS TO SECURED CREDITORS

Instructions: List all secured creditors and collateral descriptions, ***regardless if payments are made***

☐ Check if this form is not applicable to the Debtor

Creditor Name:	
Description of Collateral:	
Amount Paid this Month:	
Payment Pursuant to Bankruptcy Court Order?	
Creditor Name:	
Description of Collateral:	
Amount Paid this Month:	
Payment Pursuant to Bankruptcy Court Order?	
Creditor Name:	
Description of Collateral:	
Amount Paid this Month:	
Payment Pursuant to Bankruptcy Court Order?	
Creditor Name:	
Description of Collateral:	
Amount Paid this Month:	
Payment Pursuant to Bankruptcy Court Order?	

Click to add Lessors

PART G: STATUS OF PAYMENTS TO LESSORS

Instructions: List all lessors and description of leased property, ***regardless if payments are made***

☐ Check if this form is not applicable to the Debtor

Lessor Name:	
Description of Leased Property:	
Amount Paid this Month:	
Is Lease Current?	
Lessor Name:	
Description of Leased Property:	
Amount Paid this Month:	
Is Lease Current?	
Lessor Name:	
Description of Leased Property:	
Amount Paid this Month:	
Is Lease Current?	
Lessor Name:	
Description of Leased Property:	
Amount Paid this Month:	
Is Lease Current?	

PART H: SUMMARY OF OFFICER/OWNER COMPENSATION, PROPERTY SALES AND PROFESSIONAL FEE PAYMENTS

1.) REPORT ALL COMPENSATION PAID TO ANY OFFICER OR OWNER THIS MONTH:

☐ Check if no officer compensation was paid this month

Name of Officer/Owner of the Debtor	Monthly Compensation Authorized by the Court	Compensation Received this Month

2.) PROPERTY SALE REPORT:

☐ Check if the Debtor did not sell any property this month

Description of Property Sold	Date Property Sold	Gross Sale Proceeds	Net Sale Proceeds Paid to Debtor

3.) REPORT OF ALL PAYMENTS MADE TO PROFESSIONALS THIS MONTH:

☐ Check if the Debtor did not pay any professionals this month

Name of Professional	Date Compensation Approved	Compensation Authorized by the Court	Compensation Received this Month

PART I: CHAPTER 11 QUARTERLY FEES

***DISBURSEMENTS INCLUDE*:** Sum total of all disbursements from all of the Debtor's bank accounts – **and** – payments made on behalf of the Debtor. Disbursements do not include transfers between the Debtor's accounts. Quarterly fees are not prorated.

Calculating the Fee: Use the table on the following page to compute the Amount of Fee Due for each quarter. Payment of quarterly fees should be submitted to Debtor's attorney, and then Debtor's attorney should submit the payment through **www.pay.gov**.

1st Quarter:

	Disbursements made by Debtor		Disbursements made on behalf of Debtor
Disbursements for January:	_____	+	_____
Disbursements for February:	_____	+	_____
Disbursements for March:	_____	+	_____
TOTAL:	**$ 0.00**	+	**$ 0.00**

TOTAL DISBURSEMENTS: **$ 0.00**

Amount of Fee Due: _____

Amount of Fee Paid: _____

Total Disbursement for the Quarter	Amount of Fee Due
$0 to $14,999.00	$325.00
$15,000.00 to $74,999.99	$650.00
$75,000.00 to $149,999.99	$975.00
$150,000.00 to $224,999.99	$1,625.00
$225,000.00 to $299.999.99	$1,950.00
$300,000.00 to $999,999.99	$4,875.00
$1,000,000.00 to $1,999,999.99	$6,500.00
$2,000,000.00 to $2,999,999.99	$9,750.00
$3,000,000.00 to $4,999,999.99	$10,400.00
$5,000,000.00 to $14,999,999.99	$13,000.00
$15,000,000.00 to $29,999,999.99	$20,000.00
$30,000,000.00 or more	$30,000.00

EXHIBIT 6

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
DIVISION

IN RE:	**CHAPTER 11**
	CASE NO: _____
DEBTOR(S)	☐ Check if this is an amended filing

MONTHLY REPORT OF INDIVIDUAL DEBTOR IN POSSESSION/TRUSTEE

DATE PETITION WAS FILED: _____

REPORTING PERIOD COVERED: _____

I/We declare under penalty of perjury that the information contained in this report is true and correct to the best of my/our knowledge and belief.

DEBTOR:	**JOINT DEBTOR:**
Printed Name: _____	Printed Name: _____
Date: _____	Date: _____
Signature: _____	Signature: _____

I have read the information in this report and the information contained herein is true and correct to the best of my knowledge and belief:

CHAPTER 11 TRUSTEE:

Printed Name: _____ Date: _____

Signature: _____

Penalty for making a false statement or filing a false report: Fine of up to $500,000.00 or imprisonment for up to 5 years or both. 18 U.S.C. §§ 152 and 3571

PART A: CERTIFICATIONS

1.) Is the Debtor current on all post-petition tax obligations? ☐ Yes ☐ No

If the Debtor checked **no**, please complete the chart below:

Name of Taxing Authority	Amount Of Taxes Owed

2.) Has the Debtor filed all necessary tax forms (e.g., 1040) coming due since the petition date? ☐ Yes ☐ No

If the Debtor checked **no**, please provide information regarding the tax forms that are currently unfiled:

3.) Is the Debtor current on all post-petition administrative expenses (excluding tax obligations)? ☐ Yes ☐ No

If the Debtor checked **no**, please complete the chart below:

Name of Administrative Creditor	Amount Owed

4.) Are the Debtor's insurance policies in full force and effect? ☐ Yes ☐ No

If the Debtor checked **no**, please detail which property owned by the Debtor is not insured:

5.) Has the Debtor closed all pre-petition bank accounts? ☐ Yes ☐ No

If the Debtor checked **no**, please list the pre-petition bank accounts that are still open and whether the Debtor sought Court approval to keep the accounts open:

Name of Banking Institution	Last 4 Digits of Account	Court Approval (Y/N)

6.) Did the Debtor pay any pre-petition unsecured debts this reporting period? ☐ Yes ☐ No

If the Debtor checked **yes**, please complete the chart below:

Name of Unsecured Creditor	Amount Paid

7.) Did the Debtor deposit all sources of income into the DIP bank accounts this reporting period? ☐ Yes ☐ No

If the Debtor checked **no**, please detail where the estate funds were deposited, or (if not deposited), how the funds were disbursed:

8.) Did the Debtor pay any professionals (e.g., attorney or accountant) without prior Court approval this reporting period? ☐ Yes ☐ No

If the Debtor checked **yes**, please complete the chart below:

Name of Professional	Amount Paid

9.) Did the Debtor sell or transfer any property without prior Court approval during this reporting period? ☐ Yes ☐ No

If the Debtor checked **yes**, please provide additional information regarding the property that was sold or transferred:

10.) Did any person or entity pay any expenses or costs on behalf of the Debtor during this reporting period? ☐ Yes ☐ No

If the Debtor checked **yes**, please list all expenses paid on behalf of the Debtor, including the name of the person or entity who made the payments:

PART B: SUMMARY OF CASH RECEIPTS AND DISBURSEMENTS

NATURE/TYPE OF ACCOUNT:

- ☐ **Checking Account (Last 4 Digits:_____)**
- ☐ **Savings Account (Last 4 Digits:_____)**
- ☐ **Cash Collateral Account (Last 4 Digits:_____)**
- ☐ **Cash Activity**

AMOUNT:

1. CASH BALANCE FROM PREVIOUS MONTH'S REPORT: **$** _____
2. TOTAL INCOME/TRANSFERS/UNCLEARED: **$** _____
   [On following page- ***EXHIBIT 1***
   - provide a description of the source and amount]
3. TOTAL EXPENSES/TRANSFERS/UNCLEARED: **$** _____
   [On following page- ***EXHIBIT 2***
   - provide a description of the disbursements]
4. ENDING RECONCILED BALANCE: **$** _____

SUMMARY OF BANK ACCOUNT INFORMATION

5. ENDING BANK BALANCE: **$** _____
6. PLUS UNCLEARED DEPOSITS **$** _____
7. LESS UNCLEARED CHECKS **$** _____
8. ENDING RECONCILED BALANCE: * **$** _____

*If item #4 differs from item #8, please explain:

EXHIBIT 1

DESCRIPTION/ITEMIZATION OF INCOME (Last 4 Digits of Acct # _____)

INCOME:	**AMOUNT:**
Salary & Wages	**$**
Rental Income	**$**
Pension & Retirement Income	**$**
Social Security & VA Disability	**$**
Borrowing by Debtor(s) (list sources below): (a) _____ (b) _____ (c) _____	(list amounts below): (a) _____ (b) _____ (c) _____ Total = **$ 0.00**
Transfers from other accounts (list last 4 digits of account numbers below): (a) _____ (b) _____ (c) _____	(list amounts below): (a) _____ (b) _____ (c) _____ Total = **$ 0.00**
Other forms of income/deposits (list sources below): (a) _____ (b) _____ (c) _____	(list amounts below): (a) _____ (b) _____ (c) _____ Total = **$ 0.00**

➔ *TOTAL = **$ 0.00** _____

***Total equals item #2 (TOTAL INCOME/TRANSFERS) on Part B.**

Click to add another account

EXHIBIT 2

DESCRIPTION/ITEMIZATION OF EXPENSES (Last 4 Digits of Acct # _____)

EXPENSES:	**AMOUNT:**
Mortgage (Primary Residence)	**$**
Vehicle Loans	**$**
Other Secured Debt	**$**
Residential Lease	**$**
Vehicle Lease	**$**
Taxes (Income, Property, Etc.)	**$**
Alimony & Child Support	**$**
Utilities (Telephone, Electricity, Water, Other)	**$**
Real Property Insurance Premiums	**$**
Vehicle Insurance Premiums	**$**
Life and Health Insurance Premiums	**$**
Food (Groceries, Dining Out, Etc.)	**$**
Recreation/Entertainment/Travel	**$**
Medical (Doctor, Prescriptions, Etc.)	**$**
Personal Care	**$**
Clothing	**$**
Gifts	**$**
Donations (Charity, Tithing, Etc.)	**$**
Transportation Costs (e.g., fuel, tolls, parking)	**$**
Vehicle Maintenance and Repairs Costs	**$**
Household Supplies	**$**
Real Property Repairs and Maintenance Costs	**$**
Tuition/Education Costs	**$**
Professional Fees (e.g., Attorney, Accountant)	**$**
Quarterly Fees	**$**
Cash Withdrawals (Itemize on Separate Part B)	**$**
Transfers to other accounts (list last 4 digits of account numbers below): (a)_____ (b)_____ (c)_____	(list amounts below): (a) _____ (b) _____ (c) _____ Total = **$ 0.00**
Other (PROVIDE ATTACHMENT)	**$**

➔ *TOTAL = **$ 0.00**_____

***Total equals item #3 (TOTAL EXPENSES/TRANSFERS) on Part B.**

Revised December 2017

Click to add Secured Creditors

PART C: STATUS OF PAYMENTS TO SECURED CREDITORS

*Instructions: List all secured creditors and collateral descriptions, **regardless if payments are made***

☐ Check if this form is not applicable to the Debtor(s)

Creditor Name:	
Description of Collateral:	
Amount Paid this Month:	
Payment Pursuant to Bankruptcy Court Order?	
Creditor Name:	
Description of Collateral:	
Amount Paid this Month:	
Payment Pursuant to Bankruptcy Court Order?	
Creditor Name:	
Description of Collateral:	
Amount Paid this Month:	
Payment Pursuant to Bankruptcy Court Order?	
Creditor Name:	
Description of Collateral:	
Amount Paid this Month:	
Payment Pursuant to Bankruptcy Court Order?	

Click to add Lessors

PART D: STATUS OF PAYMENTS TO LESSORS

*Instructions: List all lessors and description of leased property, **regardless if payments are made***

☐ Check if this form is not applicable to the Debtor(s)

Lessor Name:	
Description of Leased Property:	
Amount Paid this Month:	
Is Lease Current?	
Lessor Name:	
Description of Leased Property:	
Amount Paid this Month:	
Is Lease Current?	
Lessor Name:	
Description of Leased Property:	
Amount Paid this Month:	
Is Lease Current?	
Lessor Name:	
Description of Leased Property:	
Amount Paid this Month:	
Is Lease Current?	

PART E: SUMMARY OF PROPERTY SALES AND PROFESSIONAL FEE PAYMENTS

1.) PROPERTY SALE REPORT:

☐ Check if the Debtor(s) did not sell any property

Description of Property Sold	Date Property Sold	Gross Sale Proceeds	Net Sale Proceeds Paid to Debtor(s)

2.) REPORT OF ALL PAYMENTS MADE TO PROFESSIONALS THIS MONTH:

☐ Check if the Debtor(s) did not pay any professionals

Name of Professional	Date Compensation Approved	Compensation Authorized by the Court	Compensation Received this Month

PART F: CHAPTER 11 QUARTERLY FEES

***DISBURSEMENTS INCLUDE*:** Sum total of all disbursements from all of the Debtor's bank accounts – **and** – payments made on behalf of the Debtor. Disbursements do not include transfers between the Debtor's accounts. Quarterly fees are not prorated.

Calculating the Fee: Use the table on the following page to compute the Amount of Fee Due for each quarter. Payment of quarterly fees should be submitted to Debtor's attorney, and then Debtor's attorney should submit the payment through **www.pay.gov**.

1st Quarter:

	Disbursements made by Debtor		Disbursements made on behalf of Debtor
Disbursements for January:	_____	+	_____
Disbursements for February:	_____	+	_____
Disbursements for March:	_____	+	_____
TOTAL:	**$ 0.00**	+	**$ 0.00**

TOTAL DISBURSEMENTS: $ 0.00

Amount of Fee Due: _____

Amount of Fee Paid: _____

Total Disbursement for the Quarter	**Amount of Fee Due**
$0 to $14,999.00	$325
$15,000.00 to $74,999.99	$650
$75,000.00 to $149,999.99	$975
$150,000.00 to $224,999.99	$1,625
$225,000.00 to $299.999.99	$1,950
$300,000.00 to $999,999.99	$4,875
$1,000,000.00 to $1,999,999.99	$6,500
$2,000,000.00 to $2,999,999.99	$9,750
$3,000,000.00 to $4,999,999.99	$10,400
$5,000,000.00 to $14,999,999.99	$13,000
$15,000,000.00 to $29,999,999.99	$20,000
$30,000,000.00 or more	$30,000

Fill in this information to identify the case:

Debtor Name _____

United States Bankruptcy Court for the:

Case number: _____

EXHIBIT 7

☐ Check if this is an amended filing

Official Form 425C

Monthly Operating Report for Small Business Under Chapter 11

12/17

Month: _____ Date report filed: _____ MM / DD / YYYY

Line of business: _____ NAISC code: _____

In accordance with title 28, section 1746, of the United States Code, I declare under penalty of perjury that I have examined the following small business monthly operating report and the accompanying attachments and, to the best of my knowledge, these documents are true, correct, and complete.

Responsible party: _____

Original signature of responsible party _____

Printed name of responsible party _____

1. Questionnaire

Answer all questions on behalf of the debtor for the period covered by this report, unless otherwise indicated.

		Yes	No	N/A
	If you answer *No* to any of the questions in lines 1-9, attach an explanation and label it *Exhibit A*.			
1.	Did the business operate during the entire reporting period?	☐	☐	☐
2.	Do you plan to continue to operate the business next month?	☐	☐	☐
3.	Have you paid all of your bills on time?	☐	☐	☐
4.	Did you pay your employees on time?	☐	☐	☐
5.	Have you deposited all the receipts for your business into debtor in possession (DIP) accounts?	☐	☐	☐
6.	Have you timely filed your tax returns and paid all of your taxes?	☐	☐	☐
7.	Have you timely filed all other required government filings?	☐	☐	☐
8.	Are you current on your quarterly fee payments to the U.S. Trustee or Bankruptcy Administrator?	☐	☐	☐
9.	Have you timely paid all of your insurance premiums?	☐	☐	☐
	If you answer *Yes* to any of the questions in lines 10-18, attach an explanation and label it *Exhibit B*.			
10.	Do you have any bank accounts open other than the DIP accounts?	☐	☐	☐
11.	Have you sold any assets other than inventory?	☐	☐	☐
12.	Have you sold or transferred any assets or provided services to anyone related to the DIP in any way?	☐	☐	☐
13.	Did any insurance company cancel your policy?	☐	☐	☐
14.	Did you have any unusual or significant unanticipated expenses?	☐	☐	☐
15.	Have you borrowed money from anyone or has anyone made any payments on your behalf?	☐	☐	☐
16.	Has anyone made an investment in your business?	☐	☐	☐

17. Have you paid any bills you owed before you filed bankruptcy? ❑ ❑ ❑

18. Have you allowed any checks to clear the bank that were issued before you filed bankruptcy? ❑ ❑ ❑

2. Summary of Cash Activity for All Accounts

19. **Total opening balance of all accounts**

This amount must equal what you reported as the cash on hand at the end of the month in the previous month. If this is your first report, report the total cash on hand as of the date of the filing of this case. $ _____

20. **Total cash receipts**

Attach a listing of all cash received for the month and label it *Exhibit C*. Include all cash received even if you have not deposited it at the bank, collections on receivables, credit card deposits, cash received from other parties, or loans, gifts, or payments made by other parties on your behalf. Do not attach bank statements in lieu of *Exhibit C*.

Report the total from *Exhibit C* here. $ _____

21. **Total cash disbursements**

Attach a listing of all payments you made in the month and label it *Exhibit D*. List the date paid, payee, purpose, and amount. Include all cash payments, debit card transactions, checks issued even if they have not cleared the bank, outstanding checks issued before the bankruptcy was filed that were allowed to clear this month, and payments made by other parties on your behalf. Do not attach bank statements in lieu of *Exhibit D*.

Report the total from *Exhibit D* here. - $ _____

22. **Net cash flow**

Subtract line 21 from line 20 and report the result here.
This amount may be different from what you may have calculated as *net profit*. + $ _____

23. **Cash on hand at the end of the month**

Add line 22 + line 19. Report the result here.

Report this figure as the *cash on hand at the beginning of the month* on your next operating report. = $ _____

This amount may not match your bank account balance because you may have outstanding checks that have not cleared the bank or deposits in transit.

3. Unpaid Bills

Attach a list of all debts (including taxes) which you have incurred since the date you filed bankruptcy but have not paid. Label it *Exhibit E*. Include the date the debt was incurred, who is owed the money, the purpose of the debt, and when the debt is due. Report the total from *Exhibit E* here.

24. **Total payables** $ _____

(Exhibit E)

4. Money Owed to You

Attach a list of all amounts owed to you by your customers for work you have done or merchandise you have sold. Include amounts owed to you both before, and after you filed bankruptcy. Label it *Exhibit F*. Identify who owes you money, how much is owed, and when payment is due. Report the total from *Exhibit F* here.

25. **Total receivables** $ _____

(Exhibit F)

5. Employees

26. What was the number of employees when the case was filed? _____
27. What is the number of employees as of the date of this monthly report? _____

6. Professional Fees

28. How much have you paid this month in professional fees related to this bankruptcy case? $ _____
29. How much have you paid in professional fees related to this bankruptcy case since the case was filed? $ _____
30. How much have you paid this month in other professional fees? $ _____
31. How much have you paid in total other professional fees since filing the case? $ _____

7. Projections

Compare your actual cash receipts and disbursements to what you projected in the previous month. Projected figures in the first month should match those provided at the initial debtor interview, if any.

	Column A **Projected** Copy lines 35-37 from the previous month's report.	–	Column B **Actual** Copy lines 20-22 of this report.	=	*Column C* **Difference** Subtract Column B from Column A.
32. **Cash receipts**	$ _____	–	$ _____	=	$ _____
33. **Cash disbursements**	$ _____	–	$ _____	=	$ _____
34. **Net cash flow**	$ _____	–	$ _____	=	$ _____

35. Total projected cash receipts for the next month: $ _____
36. Total projected cash disbursements for the next month: - $ _____
37. Total projected net cash flow for the next month: = $ _____

8. Additional Information

If available, check the box to the left and attach copies of the following documents.

- ❑ 38. Bank statements for each open account (redact all but the last 4 digits of account numbers).
- ❑ 39. Bank reconciliation reports for each account.
- ❑ 40. Financial reports such as an income statement (profit & loss) and/or balance sheet.
- ❑ 41. Budget, projection, or forecast reports.
- ❑ 42. Project, job costing, or work-in-progress reports.

Print Save As... Reset

EXHIBIT 8

QUARTERLY FEE DUE DATES

Quarter	Quarterly Fee Due Dates Ending	Due Date for Payment
1st Quarter (Jan-Feb-Mar)	March 31	April 30
2nd Quarter (Apr-May-June)	June 30	July 31
3rd Quarter (Jul-Aug-Sept)	September 30	October 31
4th Quarter (Oct-Nov-Dec)	December 31	January 31

It is the debtor's independent responsibility to ensure that these fees are paid on or before the due date. The debtor(s) will not receive a bill for quarterly fees due.

QUARTERLY FEE STATEMENTS

Fed. R. Bankr. P 2015(a)(5) requires that a debtor-in-possession file with the Bankruptcy Court and transmit to the United States Bankruptcy Administrator a statement of disbursements made during a calendar quarter, the amount of quarterly fees owed, and the amount of fees paid. The debtor(s) must include the Chapter 11 Quarterly Fees Statement with the debtor(s) monthly operating reports, post-confirmation reports and final report. Even if the plan has been confirmed, this information must be submitted until the case has been converted or dismissed. A copy of the Quarterly Fee Statement is attached to these instructions.

If the debtor(s) seek to voluntarily dismiss the Chapter 11 case, the debtor(s) must tender the quarterly fee to clerk of court before the order dismissing the case is entered. Failure to tender the quarterly fee may result in conversion of the case to a Chapter 7 liquidation.

Questions regarding these instructions and reporting requirements should be addressed to debtor(s) counsel.

EXHIBIT 9

JUDICIAL CONFERENCE QUARTERLY FEES-
INSTRUCTIONS TO DEBTORS

All chapter11 cases filed after April 1, 2002, are subject to a quarterly fee. The quarterly fee helps fund the operation and maintenance of the courts of the United States.

The fee must be paid to the Clerk, U.S. Bankruptcy Court for every quarter (including any fraction thereof), from the time the petition is filed until the date of entry of an order dismissing, converting, or closing the case. The fee is applicable to each and every case commenced under chapter 11 after April 1, 2002, regardless of whether the case has been administratively consolidated with any other case.

The obligation to pay quarterly fees begins on the day the case is filed and ceases when the case is no longer pending in chapter 11, i.e., when a final decree is entered closing the case or when the case is either converted or dismissed. **Cases pending even one day during a quarter will be required to pay the fee applicable to that entire quarter.**

The debtor(s) are responsible for the prompt and full payment of this fee. The amount varies depending upon the dollar value of **all disbursements** made during the quarter the case is pending in chapter 11; however, a minimum fee of $325.00 is due each quarter even if no disbursements are made during the quarter.

JUDICIAL CONFERENCE QUARTERLY FEE TABLE

Total Disbursement for the Quarter	Amount of Fee Due
$0.00 to $14,999.00	$325
$15,000.00 to $74,999.99	$650
$75,000.00 to $149,999.99	$975
$150,000.00 to $224,999.99	$1,625
$225,000.00 to $299.999.99	$1,950
$300,000.00 to $999,999.99	$4,875
$1,000,000.00 to $1,999,999.99	$6,500
$2,000,000.00 to $2,999,999.99	$9,750
$3,000,000.00 to $4,999,999.99	$10,400
$5,000,000.00 to $14,999,999.99	$13,000
$15,000,000.00 to $29,999,999.99	$20,000
$30,000,000.00 or more	$30,000

EXHIBIT 10

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
DIVISION

IN RE:	**CHAPTER 11**
	CASE NO: _____
DEBTOR(S)	☐ Check if this is an amended filing

NOTICE OF QUARTERLY FEES PAID

Amount Paid: _____

The Debtor is submitting these funds to be allocated as follows:

1ST Quarter (January 1 – March 31) – _____

2nd Quarter (April 1 – June 30) – _____

3rd Quarter (July 1 – September 30) – _____

4th Quarter (October 1 – December 31) – _____

Other (please explain) – _____

If a Final Report and Application for Final Decree are filed, the amount of fee due should be calculated from the beginning of the quarter through the date of the Final Report. Payment of quarterly fees should be submitted to Debtor's attorney, and then Debtor's attorney should submit the payment through **www.pay.gov**.

I certify that the information contained in this Notice is true and correct to the best of my knowledge and belief.

DEBTOR:

DATE: _____

Printed Name: _____

Signature: _____

Revised December, 2017

EXHIBIT 11

Office of the Bankruptcy Administrator for the Eastern District of North Carolina

434 Fayetteville Street, Suite 640
Raleigh, North Carolina 27601
(919) 856-4886

150 Reade Circle
Greenville, North Carolina 27858
(919) 856-4886

Marjorie K. Lynch
Bankruptcy Administrator

Reply to:

MEMO TO: Debtor(s) in Possession, Chapter 11,
Counsel for Debtor(s)

FROM: United States Bankruptcy Administrator, EDNC

RE: Reporting Requirements pursuant to the Order and Notice by the Court, Local Bankruptcy Rule 4002-1(c), Eastern District of North Carolina, and Chapter 11 Administrative Guidelines of the United States Bankruptcy Administrator

You, (individually, your company or your partnership) have filed for relief under Chapter 11 of the Bankruptcy Code. The goal of a Chapter 11 case is to allow you to reorganize your financial affairs through a court-approved plan of reorganization. An individual, partnership or corporation that has filed for bankruptcy under Chapter 11 is known as a "debtor-in-possession." As a debtor-in-possession (or "DIP") you have certain obligations and duties that you are required to perform. The Bankruptcy Administrator supervises the activities of the debtor-in-possession, to ensure that the DIP is complying with the applicable statutes and rules. As the debtor-in-possession, you or your company/partnership are required to cooperate with and be accountable to the Bankruptcy Administrator. This memo provides important information regarding your duties and obligations. The person or entity that filed the bankruptcy case is referred to as the "debtor" or the "debtor-in-possession" interchangeably throughout this memo.

OBLIGATIONS OF THE DEBTOR-IN-POSSESSION:

1. **INITIAL DEBTOR INTERVIEW/INTAKE CONFERENCE:** The Bankruptcy Administrator or her representative will meet with the debtor(s) representative, counsel and financial professional to review the requirements imposed upon a debtor-in-possession. The Bankruptcy Administrator will send written notification to the debtor(s) and counsel of the date, time and location of the initial debtor interview. The notice will set forth a list of financial records the debtor(s) are to provide to the Bankruptcy Administrator at the interview.

2. **BOOKS OF ACCOUNT AND RECORDS:** All pre-petition books of account and records should be closed as of the date of the filing. New books of account and records should be opened by the debtor(s), as debtor in possession, no later than the opening of business on the next succeeding business day. The debtor(s) should segregate on their books of account and records all taxes collected or withheld as prescribed by applicable federal, state, or local law. **If this has not been done, it should be done upon receipt of this memo**. Regardless of the time of actual closing and opening, the date of the filing of the petition is the point of separation.

   From the filing date, the new post petition books and records shall be kept in accordance with generally accepted accounting principles.

3. **BANK ACCOUNTS:** It is essential to establish a "bright line" between the debtor(s) pre-petition and post-petition bank accounts. Accordingly, all pre-petition bank accounts must be closed effective on the date of the filing of the debtor(s) Chapter 11 petition. **If this has not been done, it should be done upon receipt of this memo**. Regardless of the actual date that the pre petition accounts are closed and new DIP accounts opened, the filing date of the petition is the point of separation. New bank accounts should consist of at least a general account and a tax account. A payroll account should be maintained as necessary based upon the nature of the Chapter 11 estate. The new bank signature cards for these accounts should indicate that the debtor(s) are "Chapter 11 Debtors-In-Possession." (The debtor(s) printed checks do not have to disclose this information.) The debtor(s) must notify the Bankruptcy Administrator of the name of the bank, the bank account number, proof of closure of pre-petition accounts and copies of the signature cards for the post-petition bank accounts.

4. **COLLATERALIZATION OF ACCOUNTS:** The debtor(s) should comply with the provisions of 11 U.S.C. § 345 regarding the deposit or investment of estate funds. Promptly after opening new bank accounts, the debtor(s) shall submit written verification to the Bankruptcy Administrator's office of bank account numbers, location of accounts and amount of funds deposited by completing and filing the DIP Deposit Report with the Bankruptcy Administrator. A form for reporting this information is available from the Bankruptcy Administrator's office or on the Bankruptcy Administrator's web site at www.nceba.uscourts.gov. **THE DEBTOR(S) SHOULD NOTIFY THE BANKRUPTCY ADMINISTRATOR'S OFFICE IF AT ANY TIME THE DEBTOR(S) DEPOSITS IN ANY BANKING INSTITUTION EXCEED THE FEDERALLY INSURED AMOUNT OF $100,000.00.**

5. **TAX ACCOUNTS AND DEPOSITS:** During the pendency of this proceeding, the debtor(s) should segregate and hold in a separate bank account, all taxes deducted and withheld from employees (including Social Security taxes) or monies collected under any law of the United States, or any state or subdivision thereof, and the State of North Carolina.

6. **PROOF OF INSURANCE:** **Within five (5) days of the filing of the Chapter 11 voluntary petition**, the debtor(s) should file with the Bankruptcy Administrator a

verified statement or a legible copy of the declaration page showing that all of the debtor(s) property is insured. It is preferable that the debtor submit a legible copy of the declaration page. Either the verified statement or the declaration page should include a general description of the property insured, the name of the insurer, name and address of the issuing agent, the amount of coverage, type of insurance, date of expiration, policy number and amount of the premium for each policy proving that all insurance on estate property and other types of insurance customarily maintained in the business engaged in by the debtor(s) are in full force and effect. The debtor(s) should have adequate insurance for (1) workers' compensation; (2) fire and theft; (3) vehicles; (4) liability; and (5) other needs associated with the operation of the debtor(s) business.

The debtor(s) must also disclose the name of the mortgagee to the Bankruptcy Administrator if the property being insured is encumbered.

7. PROJECTED OPERATING STATEMENT: **Within ten (10) days of the filing of the voluntary petition for relief under Chapter 11**, the debtor(s) should file a projected operating statement covering the next thirty (30) days of operation, which should include the following information:

(a) The estimated costs of operation for the next thirty (30) days;

(b) The most recent statement of financial position (balance sheet) and income (profit/loss) statement;

(c) The amount of cash available for the operation;

(d) How the debtor(s) intend to fund the cost of operation for the next thirty (30) days; and

(e) Any additional information that is pertinent to determine the desirability of continuing the debtor(s) business, including a report on the anticipated use of cash collateral and need to obtain credit under 11 U.S.C. § 364(b), (c), or (d).

8. MONTHLY OPERATING REPORT:

(a) The debtor(s) are required to file monthly operating reports with the Clerk of the U.S. Bankruptcy Court and serve a copy thereof on the Bankruptcy Administrator. If a creditors committee has been appointed in the case, the debtor(s) should serve a copy of the monthly operating report on the chairperson and attorney for the committee of unsecured creditors and any other party in interest requesting a copy. The debtor(s) will be informed of the due date of the first monthly operating report at the intake conference. The first monthly operating report should include the period between the date the petition was filed and the last date of the calendar month. Subsequent reports should include the entire calendar month and are due on or before the 15th day of the following month. The monthly report must be filed in the format prescribed by the

Bankruptcy Administrator. There are specific forms for corporations, individuals, and individuals engaged in business (non-wage earners). The proper form will be provided to you at the initial debtor intake conference.

(b) The monthly operating report includes:

(1) Statement of cash receipts and disbursements, prepared on a cash basis;

(2) Statement of income (profit/loss), prepared on an accrual basis;

(3) Statement of accounts payable and aged receivables;

(4) Statement of post-petition secured debt and lease payments;

(5) Certifications concerning the debtor(s) compliance with Local Bankruptcy Rule 4002-1(b) requirements;

(6) Narrative statements regarding the debtor(s) financial condition and the progress of the estate's administration;

(7) The name, location and amount of estate funds deposited in each depository;

(8) Copies of corresponding monthly bank statements; and

(9) Quarterly fee statement.

(c) If a party other than the debtor(s), i.e., accountant, bookkeeper, etc., will be assisting in the preparation of the monthly operating report, the name, title, address and phone number of that responsible party should be provided to the Bankruptcy Administrator. You are urged to bring the individual who will be preparing the report to the Bankruptcy Administrator intake conference. You are cautioned, however, that the employment of an accountant requires approval by the court. (See Paragraph 12.)

9. CASH COLLATERAL AND OBTAINING CREDIT: Debtor(s) may not use cash collateral except by court order or with the permission and consent of the secured creditor. “Cash collateral” consists of cash generated from the sale or liquidation of property that is subject to a pre-petition lien, such as cash from the collection of accounts receivable. All cash collateral in the debtor(s) possession, custody, or control should be segregated from non-cash collateral and accounted for by the debtor. Debtor(s) may not incur post-petition secured or unsecured debt without court approval unless such debt is in the “ordinary course of the business.” Debtor(s) must receive court approval before obtaining credit or incurring debt with a priority over specified administrative expenses, sometimes referred to as a “superpriority lien.”

10. **INSPECTION OF PROPERTY AND RECORDS:** Debtor(s) must permit the Bankruptcy Administrator or her representative(s) reasonable access to the debtor(s) business premises, to inspect the debtor(s) properties, books of account and records.

11. **PAYMENT TO PRINCIPALS:** Debtor(s) shall not compensate or pay themselves or any of their partners, officers, directors or shareholders in any manner without prior approval of the court. The debtor(s) must obtain court approval prior to making any payments to these individuals by filing an application for officer compensation.

(a) The application should state the name and position of the individual that the debtor(s) wish to compensate, as well as a detailed description of the job duties, the hours the individual will devote to those duties and the reasons why the debtor(s) believe that employment of the individual is necessary to their reorganization.

(b) The application must state the amount of compensation broken down on a weekly or monthly basis and disclose all perquisites, benefits and consideration of any kind that the individual is to receive, e.g., use of company vehicles, payment of life or health insurance premiums, reimbursement of expenses.

(c) If the individual was employed by the debtor(s) prior to the filing, the application should clearly disclose the pre-petition salary and benefits for 12 months prior to the bankruptcy filing. The debtor(s) must provide evidence of the individual(s) pre-petition salary in the form of pay records, Form W-2 or other documentation.

(d) If the debtor(s) are requesting an increase in compensation, the application should state the reason for the increase. The application must be signed under oath and the information verified. If the debtor(s) have not already done so, the debtor(s) must supply information regarding its financial condition and its ability to pay the compensation requested.

12. **RETENTION OF PROFESSIONALS:** The debtor(s) may, with prior court approval, hire or retain attorneys, accountants, brokers or other professionals to assist it in its reorganization or in operating its business. Professionals must meet requirements of disinterestedness in order to be eligible to be retained by a debtor in possession. In most instances, the professional cannot be a pre-petition creditor of the debtor. In addition, the professional that is hired must prepare an affidavit making full disclosure of all connections to the debtor(s) and the other parties in the case. The debtor(s) may not pay the professional until (1) a court order approving his/her employment, and (2) a court order approving the amount of compensation have been entered. The exception to this rule is when the debtor(s) make a fee deposit or pre-petition retainer that is held in trust by the professional until the court approves payment.

13. JUDICIAL CONFERENCE QUARTERLY FEES:

(a) All Chapter 11 cases filed after April 1, 2002, are subject to the Judicial Conference Quarterly Fee. This fee must be paid to the Clerk of the United States Bankruptcy Court and is assessed from the filing date until the case is converted or dismissed. The fee is calculated on all disbursements the debtor(s) make during a calendar quarter and is due within 30 days of the end of the quarter. The minimum fee is $325.00, regardless of the amount actually disbursed. The debtor(s) are responsible for the payment of these fees; no bill will be sent. All quarterly fees must be paid in full before a Chapter 11 plan can be confirmed. A table showing how to calculate the quarterly fee is attached as Exhibit 1.

(b) All quarterly fee payments must be made to the Clerk, U.S. Bankruptcy Court. Debtor(s) checks will not be accepted. Attorney trust account checks, cashier's check, certified funds or postal money order will be accepted, made payable to the "Clerk, U.S. Bankruptcy Court." The debtor(s) case number should be written on the face of the payment document. The original of the Monthly Operating Report with Quarterly Fee Statement should be filed with the clerk. Electronic filing of the Monthly Operating Report with Quarterly Fee Statement is permitted. When filing electronically, the Quarterly Fee must be paid through the use of the credit card of the debtor(s) attorney on file with the Clerk, U.S. Bankruptcy Court.

14. PLAN OF REORGANIZATION AND DISCLOSURE STATEMENT: Debtor(s) are required to file the plan of reorganization and disclosure statement within 120 days of the date of the filing of the Chapter 11 petition. The court may require the debtor(s) to file a plan more quickly than 120 days in a separate order entered at the conclusion of the court's Chapter 11 telephone status conference. If the debtor(s) elect "small business" treatment under the Code, the debtor(s) will have to submit a plan within 90 days of filing.

15. DISCLOSURE STATEMENTS/ACCELERATED CHAPTER 11 CASES: If the court has entered an order shortening the time for filing the plan of reorganization and disclosure statement, it is unlikely that the monthly operating reports alone will accurately predict the debtor(s) financial future. Therefore, to ensure that the debtor(s) plan is reviewed with the benefit of a clear understanding of the debtor(s) economic condition, the disclosure statement filed with the plan of reorganization should reflect the following financial information:

(a) An income and expense statement for the twelve month period immediately preceding the filing of the debtor(s) petition;

(b) An income and expense statement for the period since the filing of the debtor(s) petition along with a narrative describing any unusual increases or decreases in the debtor(s) income or expenses and what steps the debtor(s) have taken while operating under the protection of the bankruptcy court to improve the profitability of its operations; and

(c) A projected income and expense statement for the twelve months beginning with the anticipated effective date of the debtor(s) plan. The expense projections should include and clearly identify the debtor(s) payment obligations under the confirmed plan. The depth of detail required to present an accurate picture of the debtor(s) financial past, present, and future will depend on the size and nature of the debtor(s) business and the debtor(s) may wish to consult counsel about the possibility of employing an accountant to assist with the preparation of this information.

16. **ORDER CONFIRMING PLAN:** **Within ten (10) days after the hearing on confirmation**, the debtor(s) should file with the court a proposed Order Confirming Plan. The proposed order shall be in a format consistent with the form used in the Eastern District and should incorporate any amendments or modifications to the debtor(s) plan announced at the hearing on confirmation. **A copy of the Order Confirming Plan utilized in the Eastern District may be obtained by contacting the Bankruptcy Administrator's office**.

17. **FINAL REPORT UPON CONVERSION:** In the event that the debtor(s) attempt to reorganize are unsuccessful and the debtor(s) case is converted to one under Chapter 7, the debtor(s) are required by Federal Rule of Bankruptcy Procedure 1019 to file a Final Report. The Report should be a complete accounting of the debtor(s) financial activities from the time the case was filed through the date of conversion and must be filed within fifteen (15) days following the entry of the order of conversion of the Chapter 11 case. **The Final Report of Chapter 11 Estate Upon Conversion to Chapter 7 must be filed in the format prescribed by the Bankruptcy Administrator. You are encouraged to obtain this form from the Bankruptcy Administrator's office.**

18. **POST CONFIRMATION REPORTS:** After the plan of reorganization has been confirmed by the court, pursuant to the Order Confirming Plan, the debtor must file postconfirmation reports. Reports are to be filed with the clerk of the U.S. Bankruptcy Court with a copy served on the Bankruptcy Administrator. Until the plan has been substantially consummated, the debtor shall file quarterly reports beginning thirty (30) days from the end of the next calendar quarter. Quarterly reports shall reflect any progress made in consummating the plan during the period covered by the report. The quarterly reports must also disclose the sum of all disbursements made during the calendar quarter upon which the Judicial Conference Quarterly Fee is calculated. **The postconfirmation reports shall be filed in the format prescribed by the Bankruptcy Administrator. You are encouraged to obtain this form from the Bankruptcy Administrator's office.**

19. **APPLICATION FOR FINAL DECREE AND FINAL REPORT**: When the plan has been "substantially consummated" as defined in the Bankruptcy Code, the debtor(s) should file the application for final decree and final report. The forms for these two items are available from the Bankruptcy Administrator's office. **Substantial consummation** occurs when all of the property that is to be sold or transferred under the plan has been transferred and when payments to creditors have commenced.

PLEASE NOTE

FAILURE TO COMPLY WITH THE DUTIES AND RESPONSIBILITIES LISTED IN THIS MEMO WILL RESULT IN A MOTION TO DISMISS OR CONVERT TO A CASE UNDER CHAPTER 7 BY THE BANKRUPTCY ADMINISTRATOR. YOU ARE ENCOURAGED TO CONTACT THE BANKRUPTCY ADMINISTRATOR'S OFFICE SHOULD YOU HAVE ANY QUESTIONS REGARDING ANY OF THE INFORMATION CONTAINED IN THIS MEMO.

EXHIBIT 12

11 USC §1116

Duties of Trustee or Debtor(s) in Possession in Small Business Cases

In a small business case, a trustee or the debtor in possession, in addition to the duties provided in this title and as otherwise required by law, shall:

(1) Append to the voluntary petition or, in an involuntary case, file not later than 7 days after the date of the order for relief;

(A) Its most recent balance sheet, statement of operations, cash-flow statement, and Federal income tax return; or

(B) A statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed.

(2) Attend, through its senior management personnel and counsel, meetings scheduled by the court or the United States trustee, including initial debtor interviews, scheduling conferences, and meetings of creditors convened under section 341 [11 USC § 341] unless the court, after notice and a hearing, waives that requirement upon a finding of extraordinary and compelling circumstances;

(3) Timely file all schedules and statements of financial affairs, unless the court, after notice and a hearing, grants an extension, which shall not extend such time period to a date later than 30 days after the date of the order for relief, absent extraordinary and compelling circumstances;

(4) File all post-petition financial and other reports required by the Federal Rules of Bankruptcy Procedure or by local rule of the district court;

(5) Subject to section 363(c)(2) [11 USC § 363(c)(2)], maintain insurance customary and appropriate to the industry;

(A) Timely file tax returns and other required government filings; and

(B) Subject to section 363(c)(2) [11 USCS 363(c)(2)], timely pay all taxes entitled to administrative expense priority except those being contested by appropriate proceedings being diligently prosecuted.

(6) Allow the United States trustee, or a designated representative of the United States trustee, to inspect the debtor(s) business premises, books, and records at reasonable times, after reasonable prior written notice, unless notice is waived by the debtor.

Fill in this information to identify the case:

Debtor Name _____

United States Bankruptcy Court for the:_____ District of _____
(State)

Case number: _____

EXHIBIT 13

Official Form 426

Periodic Report Regarding Value, Operations, and Profitability of Entities in Which the Debtor's Estate Holds a Substantial or Controlling Interest

12/17

This is the *Periodic Report* as of [_____] on the value, operations, and profitability of those entities in which a Debtor holds, or two or more Debtors collectively hold, a substantial or controlling interest (a "Controlled Non-Debtor Entity"), as required by Bankruptcy Rule 2015.3. For purposes of this form, "Debtor" shall include the estate of such Debtor.

[Name of Debtor] holds a substantial or controlling interest in the following entities:

Name of Controlled Non-Debtor Entity	Interest of the Debtor	Tab #

This *Periodic Report* contains separate reports (*Entity Reports*) on the value, operations, and profitability of each Controlled Non-Debtor Entity.

Each *Entity Report* consists of five exhibits.

Exhibit A contains the most recently available: balance sheet, statement of income (*loss*), statement of cash flows, and a statement of changes in shareholders' or partners' equity (*deficit*) for the period covered by the *Entity Report*, along with summarized footnotes.

Exhibit B describes the Controlled Non-Debtor Entity's business operations.

Exhibit C describes claims between the Controlled Non-Debtor Entity and any other Controlled Non-Debtor Entity.

Exhibit D describes how federal, state or local taxes, and any tax attributes, refunds, or other benefits, have been allocated between or among the Controlled Non-Debtor Entity and any Debtor or any other Controlled Non-Debtor Entity and includes a copy of each tax sharing or tax allocation agreement to which the Controlled Non-Debtor Entity is a party with any other Controlled Non-Debtor Entity.

Exhibit E describes any payment, by the Controlled Non-Debtor Entity, of any claims, administrative expenses or professional fees that have been or could be asserted against any Debtor, or the incurrence of any obligation to make such payments, together with the reason for the entity's payment thereof or incurrence of any obligation with respect thereto.

This *Periodic Report* must be signed by a representative of the trustee or debtor in possession.

The undersigned, having reviewed the *Entity Reports* for each Controlled Non-Debtor Entity, and being familiar with the Debtor's financial affairs, verifies under the penalty of perjury that to the best of his or her knowledge, (i) this *Periodic Report* and the attached *Entity Reports* are complete, accurate, and truthful to the best of his or her knowledge, and (ii) the Debtor did not cause the creation of any entity with actual deliberate intent to evade the requirements of Bankruptcy Rule 2015.3

For non-individual Debtors:	✘ _____ Signature of Authorized Individual _____ Printed name of Authorized Individual Date _____ MM / DD / YYYY	
For individual Debtors:	✘ _____ Signature of Debtor 1 _____ Printed name of Debtor 1 Date _____ MM / DD / YYYY	✘ _____ Signature of Debtor 2 _____ Printed name of Debtor 2 Date _____ MM / DD / YYYY

Exhibit A: Financial Statements for [Name of Controlled Non-Debtor Entity]

Exhibit A-1: Balance Sheet for [Name of Controlled Non-Debtor Entity] as of [date]

[Provide a balance sheet dated as of the end of the most recent 3-month period of the current fiscal year and as of the end of the preceding fiscal year.

Describe the source of this information.]

Exhibit A-2: Statement of Income (*Loss*) for [Name of Controlled Non-Debtor Entity] for period ending [date]

[Provide a statement of income (*loss*) for the following periods:

(i) For the initial report:

a. the period between the end of the preceding fiscal year and the end of the most recent 3-month period of the current fiscal year; and

b. the prior fiscal year.

(ii) For subsequent reports, since the closing date of the last report.

Describe the source of this information.]

Exhibit A-3: Statement of Cash Flows for [Name of Controlled Non-Debtor Entity] for period ending [date]

[Provide a statement of changes in cash position for the following periods:

(i) For the initial report:

a. the period between the end of the preceding fiscal year and the end of the most recent 3-month period of the current fiscal year; and

b. the prior fiscal year.

(ii) For subsequent reports, since the closing date of the last report.

Describe the source of this information.]

Exhibit A-4: Statement of Changes in Shareholders'/Partners' Equity (*Deficit*) for [Name of Controlled Non-Debtor Entity] for period ending [date]

[Provide a statement of changes in shareholders'/partners equity (*deficit*) for the following periods:

(i) For the initial report:

a. the period between the end of the preceding fiscal year and the end of the most recent 3-month period of the current fiscal year; and

b. the prior fiscal year.

(ii) For subsequent reports, since the closing date of the last report.

Describe the source of this information.]

Exhibit B: Description of Operations for [Name of Controlled Non-Debtor Entity]

[Describe the nature and extent of the Debtor's interest in the Controlled Non-Debtor Entity.

Describe the business conducted and intended to be conducted by the Controlled Non-Debtor Entity, focusing on the entity's dominant business segments.

Describe the source of this information.]

Exhibit C: Description of Intercompany Claims

[List and describe the Controlled Non-Debtor Entity's claims against any other Controlled Non-Debtor Entity, together with the basis for such claims and whether each claim is contingent, unliquidated or disputed.

Describe the source of this information.]

Exhibit D: Allocation of Tax Liabilities and Assets

[Describe how income, losses, tax payments, tax refunds, or other tax attributes relating to federal, state, or local taxes have been allocated between or among the Controlled Non-Debtor Entity and one or more other Controlled Non-Debtor Entities.

Include a copy of each tax sharing or tax allocation agreement to which the entity is a party with any other Controlled Non-Debtor Entity.

Describe the source of this information.]

Exhibit E: Description of Controlled Non-Debtor Entity's payments of Administrative Expenses, or Professional Fees otherwise payable by a Debtor

[Describe any payment made, or obligations incurred (or claims purchased), by the Controlled Non-Debtor Entity in connection with any claims, administrative expenses, or professional fees that have been or could be asserted against any Debtor.

Describe the source of this information.]

EXHIBIT 14

[EVIDENCE FORM]

Discussion of Duties of Chapter 11 Debtor in Possession and Local Bankruptcy Rule No. 4002-1(c), EDNC.

Local Bankruptcy Rule No. 4002-1(c):

(1) The debtor shall:

(A) MONTHLY REPORT: file with the Clerk of Court and serve on the Bankruptcy Administrator, monthly accountings, the first report being due within 30 days after the filing of the petition and subsequent reports on or before the 15th day of each month thereafter. The debtor(s) shall serve a copy of all monthly reports on the attorney and the chairman for the unsecured creditors' committee. Such report shall provide the following information:

a. Beginning and ending balance in all accounts;
b. Receipts from all sources;
c. Disbursements, classified, including the amounts and dates of deduction and payment of federal and state taxes;
d. Indebtedness incurred and unpaid and contractual and other obligations assumed; and
e. Beginning and ending inventory.

COMMENTS:

The original monthly report is filed with the Bankruptcy Clerk. The debtor(s) shall serve a copy of the monthly report on the Bankruptcy Administrator, the attorney and chairperson of the unsecured creditors' committee and any other parties requesting a copy. Monthly reports are reviewed by the Bankruptcy Administrator to determine if the debtor(s) are in compliance with the Order Authorizing Operation of Business, if the debtor(s) are operating a profitable business and if the debtor(s) are paying any unauthorized expenses. **The monthly report shall be in the format prescribed by the Bankruptcy Administrator.**

(B) BOOKS OF ACCOUNT: close the present books of account as of the close of business on the date on which the petition is filed and shall open new books of account and a bank account in a court approved depository as of the opening of business on the next succeeding business day. In the new books of account, the debtor(s) shall keep proper records of earnings, expenses, receipts and disbursements, and all obligations

incurred and business transactions. The debtor(s) shall preserve proper vouchers for all payments made on account of the disbursements. If the debtor(s) are authorized to use "cash collateral," separate "cash collateral" accounts must be established and maintained pursuant to 11 U.S.C. § 363(c)(4).

COMMENTS:

Effective on the date of filing a Chapter 11 petition, the debtor(s) should close all prepetition books of account and records. New books of account and records should be opened by the debtor(s), as debtor in possession. **It is essential to establish a "bright line" between each of a debtor's pre petition bank accounts and post petition debtor in possession bank accounts.** Accordingly, all pre petition bank accounts must be closed effective on the date of the filing of the debtor(s) Chapter 11 petition, and new bank accounts must be opened. At a minimum, these accounts shall normally consist of general/operating, payroll and tax accounts. The debtor(s) shall provide the Bankruptcy Administrator with copies of the new bank signature cards for *each* of the debtor-in-possession's new bank accounts, along with written notification of the closing of pre petition accounts within ten days of the filing of the petition. The debtor(s) new bank signature cards shall indicate that the debtor is a "Chapter 11 debtor in possession." The debtor(s) should provide the Bankruptcy Administrator with written notification of proof of the establishment of new debtor in possession bank account, and the closing of pre petition accounts within ten days of the filing of the petition.

(C) BANKING INSTITUTIONS: advise the Bankruptcy Administrator within ten (10) days of the filing of the petition, of the name of the bank to be used as the debtor(s) depository.

COMMENTS:

A debtor in possession should comply with the provisions of 11 U.S.C. § 345 regarding the deposit or investment of estate monies. Verification of all estate funds on deposit should be provided to the Bankruptcy Administrator within three (3) days of the initial deposit in accordance with the Deposit Report Form prescribed by the Bankruptcy Administrator.

(D) TAX ACCOUNTS: segregate and hold separate from all other funds, all monies withheld from employees or collected from others for taxes, including social security taxes, under any law of the United States or any state or subdivision thereof. The debtor shall deposit the funds so withheld or collected, together with the debtor(s) share of social security taxes in a separate bank account simultaneously with the collection or withholding. The debtor(s) shall pay from the bank account to the appropriate taxing authority the amounts due at the times and in the manner prescribed by law.

COMMENTS:

The monthly reports are reviewed to ensure that separate tax accounts have been established and that post-petition taxes are being withheld and paid on a timely basis.

(E) PROOF OF INSURANCE COVERAGE: keep the property of the debtor(s) insured in a manner and to the extent as may be deemed necessary and prudent with loss payable clauses, in the case of pledged or mortgaged property in favor of the appropriate secured creditors as their interests may appear. Within five (5) days of the filing of the petition, debtor(s) shall file a verified statement or written evidence that worker's compensation, general liability, fire, theft, and motor vehicle insurance are in full force and effect, together with all other insurance coverage normally used in the debtor(s) operations.

COMMENTS:

The debtor(s) should verify that all insurance on estate property is in full force and effect by providing the Bankruptcy Administrator with a legible copy of the declaration page for each policy that discloses the type, nature, extent of coverage and expiration date within five (5) days of filing the voluntary petition. The amount of insurance should be at least the fair market value of the property to be insured. The debtor(s) should notify the Bankruptcy Administrator in writing immediately upon any lapse, cancellation or proposed cancellation of any such insurance coverage.

(F) PHYSICAL INVENTORY: procure a physical inventory, if applicable, upon the filing of the petition and file the inventory with the Bankruptcy Administrator within thirty (30) days of the filing of the petition or such other time as the court may direct.

COMMENTS:

The inventory should include an itemized statement disclosing the value of the inventory at the debtor(s) cost unless a different basis for valuation is permitted.

(G) PROJECTED OPERATING STATEMENT: file with the Bankruptcy Administrator within ten (10) working days of the filing of the petition commencing the case a projected operating statement for the next thirty (30) days of operation under a chapter 11. The statement must contain:

a. The estimated costs of operation for the next succeeding thirty (30) days;
b. The estimated profit or loss for the period;
c. The amount of cash available for the operation;
d. How the debtor(s) intend to fund the cost of operation for the next thirty (30) days; and
e. Any other additional information that is pertinent to determine the desirability of continuing the debtor(s) business.

(H) FILING OF PLAN AND DISCLOSURE STATEMENT: file a plan of reorganization and a disclosure statement within 120 days of the filing of the petition.

COMMENTS:

The Bankruptcy Administrator monitors the filing of Disclosure Statements and Plans. Unless the case is designated by the court for accelerated treatment, the debtor(s) are required by this local rule to file a disclosure statement and plan of reorganization within 120 days of the petition date.

(I) RELATIONSHIP WITH SECURED CREDITORS AND UNSECURED CREDITORS COMMITTEE: Debtor(s) attorney shall promptly respond to reasonable inquiries of secured creditors, the unsecured creditors committee, and any court appointed consultant, as well as the Bankruptcy Administrator. The Debtor(s) shall cooperate with the Bankruptcy Administrator's office and the Unsecured Creditors Committee, as well as any court approved trustee or examiner.

(2) The debtor(s) shall not:

(A) PAYMENT TO PRINCIPALS: prior to confirmation of a plan of reorganization, compensate or remunerate itself, or any of its partners, officers, directors or shareholders in any manner without prior approval of the court. Any application for approval of compensation should set forth the name and proposed position of the individual sought to be employed along with a detailed description of the duties the individual is to perform, the number of hours each week the individual will devote to those duties and the reasons why employment of the individual is necessary to the successful reorganization of the debtor(s). Also, the application should set forth the amount of compensation sought on a weekly or monthly basis and disclose all perquisites, benefits and consideration of any kind the individual is to receive, e.g. use of company vehicles, payment of life or health insurance premiums, reimbursement of expenses. The individual *shall* provide a copy of his/her W-2 form, pay stub or other documentation of compensation paid by the debtor(s) for the year immediately proceeding the filing of the petition. The application shall be signed under oath.

(B) PAYMENT OF PRE-PETITION DEBT: pay pre-petition unsecured debt without approval of the court.

(C) In addition to the provisions of the Local Rules, pursuant to Rules of the Bankruptcy Code, the Debtor(s) shall not employ or compensate professionals without prior court approval:

COMMENTS:

(1) EMPLOYMENT OF PROFESSIONALS: The debtor(s) must seek court approval to employ any professional, including attorneys, accountants, real estate brokers, and consultants. The employment must be sought as soon as possible after the filing of the case or before the professional begins to render services to the debtor(s). The employment procedure is governed by the Bankruptcy Rules and Code. The professional is required to execute an affidavit disclosing any and all connections the professional may have with the debtor(s), counsel or any party in interest in the bankruptcy case. The professional must disclose the terms and conditions of the proposed employment, including the precise nature of the duties to be performed, together with any financial arrangements with the debtor(s) or third parties.

(2) COMPENSATION: No post-petition compensation may be paid to any professional without prior court approval. Compensation is awarded through the fee application procedures set forth in the Rules and Code. All professionals must disclose any compensation paid by the debtor(s) in each application. If the professional is being compensated on an hourly rate basis, the professional must keep time in .1 of an hour increments and in a format prescribed by the Bankruptcy Administrator. Time sheets must be attached to all fee applications.

FINAL COMMENTS REGARDING DUTIES OF THE DEBTOR UNDER LOCAL BANKRUPTCY RULE 4002-1(b), EDNC AND THE BANKRUPTCY CODE:

In cases of noncompliance with the Order Authorizing Operation of Business or this local rule, the Bankruptcy Administrator will file a motion to dismiss or convert to a case under Chapter 7 or other appropriate relief.

I reviewed the contents of this document with the Debtor(s) representative on _____

at the initial debtor intake conference.

Signed:

The Intake Officer, _____, reviewed the contents of this document with me and my counsel on the date above. I understand that if I do not perform the duties set forth herein, my Chapter 11 case _____ (Name and Number) may be dismissed or converted.

Signed:

I acknowledge that I am counsel for the debtor(s) in the bankruptcy case of :_____ _____ and I was present at the intake conference wherein the intake officer reviewed the contents of this document with my client(s) or client(s) officer, _____, and I understand that if my client(s) fail to perform the duties set forth herein, the Chapter 11 case may be converted or dismissed. Signed:_____

EXHIBIT 15

Criteria and Procedure for Site Visits Conducted by the Bankruptcy Administrator's Office in Cases Under Chapter 11

In some cases, the Bankruptcy Administrator's office may conduct a site visit of the Chapter 11 debtor(s) premises. This will normally be in addition to the Initial Intake Conference. In some instances, the intake will be conducted during the site visit. The visit will enable the Bankruptcy Administrator to understand more about a debtor(s) particular business and prospects for a successful reorganization. A representative of the Bankruptcy Administrator's office will tour the debtor(s) business, review books and records, and meet with officers and employees. The representative will address any problems or concerns regarding the debtor(s) compliance with the rules and procedures which are necessary in a particular case.
Not all cases lend themselves to site visits. Whether a visit will be beneficial or necessary is determined on a case-by-case basis.

The Bankruptcy Administrator's office will contact debtor(s) counsel by phone to arrange a date and time for the site visit. The attorney will have an opportunity to inform the Bankruptcy Administrator about any issues or problems the attorney wishes to address during the visit. The attorney will then be responsible for contacting his or her client to confirm the time and place of the visit. Whether counsel is present during the visit will be left to the discretion of counsel and the debtor(s). If telephone contacts prove unsuccessful, the Bankruptcy Administrator will contact the debtor(s) and counsel in writing.

The Bankruptcy Administrator representative may contact the debtor(s) financial officer to discuss the kinds of records the debtor(s) have and to answer any general questions about the pending visit. It is anticipated that this initial contact will alleviate some of the anxiety that is likely to be associated with the prospect of a visit by a government officer. Whenever possible, the Bankruptcy Administrator will provide the debtor(s) with a list of the items which the debtor(s) should have available for inspection. This list may vary from case to case.

During the visit to the site, the representative of the Bankruptcy Administrator's office will meet with the individual who is primarily responsible for the debtor(s) record keeping and will go over reporting requirements with that person as requested by the debtor(s) attorney, if necessary. The representative will conduct a review of the debtor(s) books and records, look for irregular transactions or evidence of hidden assets, verify the existence of necessary property and liability insurance, and assess the overall condition of the physical site and financial condition of the business. Before leaving, the representative will determine whether or not any modifications in the standard reporting forms and requirements are necessary and will discuss them with the bookkeeper and counsel, if present.

If necessary, the Bankruptcy Administrator representative will draft a report of findings made as a result of the site visit and make a recommendation regarding additional action to be taken.

EXHIBIT 16

Office of the Bankruptcy Administrator
for the Eastern District of North Carolina

434 Fayetteville Street, Suite 640
Raleigh, North Carolina 27601
(919) 856-4886

150 Reade Circle
Greenville, North Carolina 27858
(919) 856-4886

MEMORANDUM TO CREDITORS WHO MAY BE ELIGIBLE TO SERVE ON THE COMMITTEE OF UNSECURED CREDITORS FROM UNITED STATES BANKRUPTCY ADMINISTRATOR EASTERN DISTRICT OF NORTH CAROLINA

As one of the twenty largest unsecured creditors of this debtor, you have been selected to participate in the administration of the debtor's Chapter 11 reorganization through your membership on the official Committee of Unsecured Creditors. If you choose to participate as a member of the Committee, you will have the opportunity to insure that all unsecured creditors receive fair and equitable treatment under any plan of reorganization. Committees also have the power to investigate the debtor's financial affairs which may result in the return of additional funds to the debtor's estate for distribution to creditors. Your participation is completely voluntary and you may elect not to participate as a member of the committee. If you have any questions about the functions and powers of committees in Chapter 11 cases, you should contact Lynn Tingen, Bankruptcy Analyst, at the Office of the Bankruptcy Administrator at 252-917-6157.

The Bankruptcy Administrator is authorized to organize and recommend to the court the appointment of a committee of creditors holding unsecured claims against the debtor. The Bankruptcy Administrator is authorized to convene and preside at the organizational meeting of the Creditors Committee until a chairperson has been elected by the committee.

To assist the Bankruptcy Administrator in forming the committee of unsecured creditors in this case, please notify the Bankruptcy Administrator's office of your interest or lack of interest by mailing or faxing the attached completed Acceptance/Rejection form to the address above prior to the initial unsecured creditor meeting. Creditors who would be willing to serve on the committee but will be unable to attend the initial meeting should indicate this in any response. **A Notice indicating the date and time of the Initial Meeting of the Unsecured Creditors' Committee is enclosed.**

ORGANIZATION OF THE COMMITTEE

The Creditors Committee is normally composed of the seven largest unsecured creditors of the debtor who are willing to serve on the committee. The Bankruptcy Administrator will not recommend that a Committee consisting of fewer than three creditors be appointed. The number of persons appointed to serve on the Committee may be more or less than the seven persons holding the largest claims against the Debtor (11 U.S.C. § 1102). The Committee serves as a vehicle for ideas and suggestions from those creditors who know the debtor best. By participating on the

Committee, the unsecured creditor is given a greater voice in the proceedings of the Chapter 11 reorganization.

The Committee should promptly select a **Chairperson** who can administer the Committee's activities. The Committee may, subject to the court's approval, employ an attorney. If the Committee deems the services of an attorney will be necessary, the Bankruptcy Administrator should be apprised. The attorney selected to represent the Committee should be experienced in bankruptcy law and is prohibited from representing any adverse interest in the case while so employed. The court may also authorize the employment of other professionals such as accountants but only upon a showing that their services are reasonably necessary to promote the interests of the estate.

The role of the Committee often varies according to the size of the business and the need to employ professionals often varies in a similar manner. The larger and more complex business may require the employment of several professionals by the committee.

FUNCTION OF THE COMMITTEE

The major function of the Committee is to investigate the debtor's financial condition and the operation of the business. The Committee may investigate various aspects of the debtor's financial condition including the assets and liabilities, the debtor's conduct and other aspects of the operation of the business.

Another important role of the Committee may be participation in the formulation of a reorganization plan. The debtor usually has the exclusive right to file a plan for 120 days following the filing of the petition unless otherwise provided by the court. The Committee may provide the debtor input in the formulation of the debtor's plan. If the debtor's plan exclusivity period expires, the creditors may submit a plan to the court. Usually the Committee will need an attorney to represent it if the Committee plans to take an active role in the case.

The Committee may seek the appointment of an examiner or trustee if it feels this is in the best interest of the creditors. The Committee may seek the appointment of an examiner to investigate the debtor's financial affairs, including allegations of fraud, dishonesty or some other irregularity or mismanagement in the debtor's business. If the Committee feels that a major change in management is necessary, it may seek the appointment of a trustee who can begin operating the business rather than the debtor-in-possession. The court may appoint a trustee upon a sufficient showing of cause including fraud, dishonesty, gross mismanagement or incompetence in the operation of the debtor's business.

CONCLUSION

The Creditors Committee can be an important part of the debtor's reorganization process. It can monitor the debtor's business operation and provide valuable advice as the debtor attempts to reorganize a troubled business. However, it should be mindful of its limitations. Its role is largely advisory. It cannot participate in the actual operation of the debtor's business.

The role of the Bankruptcy Administrator is to supervise the administration of the estate by the debtor. In addition to various other duties, the Bankruptcy Administrator will monitor the filing and review the contents of reports filed by Chapter 11 trustees and debtors-in-possession as to the financial condition of the estate and the progress of its administration. The Bankruptcy Administrator will also monitor the filing of disclosure statements and plans and review the contents for compliance with requirements imposed by statute, by rule, and by local practice.
The Chairperson selected to represent the committee and counsel for the committee will receive a copy of the monthly operating reports from the debtor's counsel.

STATUTORY AND OTHER PROVISIONS GOVERNING CREDITORS COMMITTEES IN THE EASTERN DISTRICT OF NORTH CAROLINA

1.) Organization and Appointment of Creditors' Committees:

Pursuant to Judicial Conference Regulations Governing the Bankruptcy Administrator Program, the Bankruptcy Administrator is authorized to recommend to the court for appointment, a committee of creditors holding unsecured claims and may also recommend the appointment of additional committees of creditors or of equity security holders as the Bankruptcy Administrator deems appropriate. §3.01(e)(1), Judicial Conference Regulations.

The Bankruptcy Administrator may exercise discretion in recommending persons for appointment to a creditors committee. The number of persons appointed to serve may be more or less than the seven persons described in 11 U.S.C. §1102(b)(1). It is not mandatory that the creditors holding the seven largest claims be appointed. Rather, the Bankruptcy Administrator may recommend persons who take an active interest in serving on the committee. The Bankruptcy Administrator may also recommend the appointment of members of a pre-petition creditors committee.

In a particularly large bankruptcy case, the Bankruptcy Administrator may recommend that appointment of more than 7 persons to the committee. In a large case, an organizational meeting may be held in advance of the first meeting of creditors so that interests of the unsecured class can be properly represented at the early stages of the bankruptcy proceeding.

The Bankruptcy Administrator sends notice to persons listed on the List of Creditors Holding 20 Largest Claims regarding eligibility to serve on the creditors committee. This list is prepared by the debtor and submitted with the petition. The Bankruptcy Administrator will rely exclusively on the debtor's list when soliciting interest for the formation of committee.

2.) Optional Committees:

On request of a party in interest, the court may appoint additional committees of creditors or equity security holders if necessary to insure adequate representation of creditors or of equity security holders. §1102(a)(2). The optional committee should also consist of no more than 7 members with the largest claims of the type represented by the committee.

3.) Small Business Cases:

On request of a party interest in case involving a debtor that qualifies as a "small business debtor" under 11 U.S.C. §101(51C) may, for cause, request that a committee not be appointed. 11 U.S.C.§1102(A)(3).

POWERS AND DUTIES OF ALL COMMITTEES

11 U.S.C. § 1103(c) of the Bankruptcy Code describes the powers and duties of committees in Chapter 11 cases. A Committee appointed in a Chapter 11 case may do the following:

a. Consult with the trustee or debtor-in-possession concerning the administration of the case;

b. Investigate the acts, conduct, assets, liabilities and financial condition of the debtor, the operation of the debtor's business and the desirability of the continuance of such business, and any other matter relevant to the case or to the formulation of a plan;

c. Participate in the formulation of a plan, advise those represented by such committee of such committee's determination as to any plan formulated, and collect and file with the court acceptances or rejections of a plan;

d. Request the appointment of a trustee or examiner under § 1104 of this title; and

e. Perform such other services as are in the interest of those represented.

Even though the Committee's powers and duties are not directly subject to the court's control, if any of the duties or powers outlined above requires the expenditure of funds and encompasses expenses out of line with daily operations of the Committee, court approval should be obtained prior to making such expenditures. The Committee is required to meet with any court appointed trustee, if one is appointed, as soon as possible after the trustee's appointment.

A debtor-in-possession has most of the powers and functions of a trustee. The debtor should be available to meet with the members of the Creditors Committee upon reasonable request and should generally be responsive to inquiries of the Committee regarding the operation and conduct of the debtor's business.

[REMAINDER OF PAGE LEFT BLANK]

EMPLOYMENT OF PROFESSIONALS AND COMPENSATION

A.) Employment of Professionals - Committees may employ attorneys, accountants, or other professionals to represent or perform services for the Committee with the approval of the bankruptcy court. 11 U.S.C. § 1103(a). In order to employ a professional, the Committee must observe the following procedures:

(1) Meeting - Employment and selection of professionals may only be carried out at a scheduled meeting of the committee with a majority present. 11 U.S.C. § 1103(a);

(2) Subject to court approval - Such employment and selection of professionals is subject to the court's approval. 11 U.S.C. § 1103(a);

(3) Application to the court [1]- To obtain court approval to employ attorneys, accountants, appraisers, auctioneers, agents, or other professional services pursuant to 11 U.S.C. § 1103, the Committee must make an application to the court. The application must include the following specific facts:

1. Necessity for such employment;
2. Name of person to be employed;
3. Reason for selection;
4. Professional services to be rendered;
5. Any proposed arrangement for compensation; and
6. All of person's connections with debtors, creditors, and other interested parties as well as their attorneys and accountants to the best of applicant's knowledge. Bankruptcy Rule 2014(a).

(4) Qualifications - A person employed to represent the committee appointed under § 1102 of this title may not "represent any other entity having an adverse interest with the case" at the same time. 11 U.S.C. § 1103(b). Thus, an attorney or other professional who represents a creditor on the committee may continue both representations as long as there is no conflict between the interests of the committee and the individual. Often it is better to have a different attorney for the committee because it may not be possible to foresee conflicts which may arise in the future and require substitute counsel.

B.) Compensation of Professionals - A Committee appointed by the court under 11 U.S.C. § 1102 may employ a professional person under 11 U.S.C. § 1103 on "any reasonable terms and conditions of employment, including a retainer, on an hourly basis, or on a contingent fee basis." 11 U.S.C. § 328(a). This authority to compensate is subject to the following limitations:

---

[1] Ordinarily, the individual or firm selected to serve as counsel for the committee will assist the committee in obtaining court approval for the professional's employment.

1) Court May Alter Agreement - The court may alter any fee arrangements after performance if it determines that the terms as originally approved were not reasonable in light of circumstances not anticipated at the time of employment. 11 U.S.C. § 328(a);

2) Adverse Interest - The court may deny compensation for services and reimbursement of expenses if the professional person is not disinterested or represents or holds an interest adverse to the estate on the matter on which he is employed. 11 U.S.C. § 328(c);

3) Actual Payment - Actual payment of the compensation is authorized only upon court approval, following notice and opportunity for hearing. 11 U.S.C. § 330(a). The court may award:

   a. reasonable compensation for actual, necessary services rendered by such persons and by any paraprofessionals employed by such person, based on:

      1. Time;
      2. Nature of job;
      3. Extent of job;
      4. Value of services; and
      5. Cost of comparable services; and,

   b. reimbursement of actual, necessary expenses. 11 U.S.C. § 330(a)(1) and (2).

4) Interim Compensation - Professional persons employed under 11 U.S.C. § 1103 may apply to the court for interim compensation and reimbursement payments not more than once every 120 days after the order for relief is rendered or more often if allowed by the court. The court may award interim compensation only after notice to interested parties and an opportunity for a hearing. 11 U.S.C. § 331.

5) Duty of Committee- The Committee has a fiduciary duty to the creditors to carefully review compensation requests of its professionals and should be a good steward of the estate's resources whenever possible.

EXHIBIT 17

ITEMS REQUIRED FOR APPLICATIONS TO EMPLOY PROFESSIONALS

1. Date of filing petition;

2. Reasons for hiring the professional;

3. Name of professional being hired;

4. Why the specific professional was selected; and

5. Services to be rendered by the professional.

6. **All** of the professional's connections with debtor(s), creditor and parties in interest, including an affirmative statement that the professional is a disinterested person pursuant to 11 U.S.C.§101(14).

7. Disclosure of fee arrangement between professional and client, including as a minimum:

   (a) Amount of retainer and the date paid;
   (b) Statement that funds were placed into a trust account;
   (c) Copy of written employment agreement, if any, or if none, statement of debtor's understanding of fee arrangement; and
   (d) Any other agreements between the parties.

8. Affidavit of professional complying with Rule 2014(a), which addresses at a minimum the following items:

   (a) Connections with debtor, creditors, parties in interest, etc., including a statement that the professional is a disinterested person pursuant to 11 U.S.C. §101(14) and the professional is in fact disinterested;
   (b) Whether professional has previously worked for debtor, and if so, disclosure of fact; disclosure of sums owed (even if none), and waiver of claim if monies are owed; and,
   (c) Whether professional has represented related entities, and if so, disclosure of fact; disclosure of potential conflict and disclosure if debtors have common debts or owe money to one another.

EXHIBIT 18

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA

IN THE MATTER OF: **CASE NO.:**

Debtor(s) **Chapter 11**

APPLICATION TO EMPLOY ATTORNEY

The Application of the above-named debtor(s) respectfully represents:

1. On the ___ day of _____, 20__, debtor(s) filed a Petition herein under Chapter 11 of the Bankruptcy Code.

2. Your Applicant has continued in possession of the property, and your Applicant as debtor(s)-in-possession is now operating said business and managing said property.

3. Debtor(s), as debtor(s)-in-possession, wish to employ {Attorney}, an attorney duly admitted to practice in this court.

4. Your Applicant has selected {Attorney} for the reason that he has had considerable experience in matters of this character, and believes that {Attorney} is well qualified to represent said debtor(s) as debtor(s)-in-possession in this proceeding.

5. The professional services the said {Attorney} is to render are:

(a) To give debtor(s) legal advice with respect to powers and duties as debtor(s)-in-possession in the continued operation of said business and management of the property owned;

(b) To prepare on behalf of your Applicant as debtor(s)-in-possession necessary applications, answers, orders, reports and other legal papers;

(c) To perform all other legal services for debtor(s) as debtor(s)-in-possession which may be necessary herein;

(d) To take necessary action, if any, to avoid liens against the debtor(s) property obtained by creditors and to recover preferential payments within 90 days of the filing of said petition under Chapter 11;

(e) To make a detailed search of the records of the Register of Deed's Office and the Clerk of Superior Court's Office in ____ County, North Carolina, to determine the validity of all liens filed against the property of the debtor(s).

6. To the best of debtor(s) knowledge, said {Attorney}, is a disinterested person, and has no connection with the creditors or any other party in interest, or their respective attorneys, and that his employment is necessary and would be in the best interest of the estate.

7. {Attorney}, Attorney has agreed to accept employment on behalf of the debtor(s)-in-possession, subject to the approval of the court, at the hourly rate of $____, plus expenses to be applied initially against a retainer of $___.

WHEREFORE, debtor(s) pray that its employment of {Attorney}, Attorney under the terms specified to represent it as debtor(s)-in-possession in this proceeding under Chapter 11 of the Bankruptcy Court be approved.

DATED:

{Name of Debtor(s)}

_____

By: {Agent}

EXHIBIT 19

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA

IN THE MATTER OF: **CASE NO.:**

Debtor(s) **Chapter 11**

AFFIDAVIT OF PROPOSED ATTORNEY

I, {ATTORNEY}, Attorney, hereby make solemn oath:

1. I am an Attorney and Counsel at Law, duly admitted to practice in the State of North Carolina and in this court.

2. That I have no connection with {debtor(s)}, the above-named debtor(s), said creditors, or any other party in interest herein, or their respective attorneys, except:

3. I represent no interest adverse to {debtor(s)} as debtor(s)-in-possession herein, have never previously worked for the debtor(s)-in-possession, am owed no monies by said party and have never represented any related entities, except:

4. I am a disinterested person within the meaning of 11 U.S.C. §101(14).

5. That simultaneously with the preparation of the Chapter11 petition, the debtor(s) paid a retainer of $___ into the undersigned's trust account. The letter agreement signed between the Applicant and the debtor(s) authorize payment for compensation at the rate of $__ per hour billable in one-tenth hour increments plus reimbursement for postage, copies, fax charges, court costs, mileage and parking reimbursement with fees to be subject to the approval of the Bankruptcy Court. There are no other fee agreements between the Applicant and debtor(s).

DATED:

_____

{Attorney}
Attorney for Debtor(s)
{Address}
{City, State, Zip}
{Telephone}

EXHIBIT 20

PROCEDURES FOR PREPARING AND SUBMITTING APPLICATIONS FOR COMPENSATION BY PROFESSIONALS

1. **General Form:**

Counsel may submit interim fee applications every sixty (60) days unless the court approves a request to file applications more frequently. Each interim and final application for professional compensation shall contain certain basic information. A list of some, but not all, such elements are listed below:

A. Date petition was filed.

B. Date of the order employing the professional.

C. Amount of any retainer received, where the retainer is deposited and any proposed disbursements from the retainer.

D. Amount of any other funds received.

E. Biographical data on each of the individuals for whom compensation is sought.

F. A summary, by individual, showing the name of the individual, their position in the firm, the total hours (at each rate where an individual has time billed at more than one rate), the rate per hour, and the extended amount.

G. A detailed listing of time entries that supports the above summary. This listing shall indicate the date of the event, the person performing the action, the amount of time expended, and a description of sufficient detail and clarity that the event and its benefit to the estate are readily apparent.

H. All time detail shall be in hours in decimal notation. Examples of proper time entries would include 1.30, 1.25 or .10 hours. Examples of incorrect notations would be 55 minutes, 2 ½ hours, ½ day. Apparent minimum billing increments for certain tasks, such as .20 hours or more time for each phone call, may result in a reduction in hours. Reductions may be imposed where all time entries appear to be rounded to nearest one quarter (.25) hour or some other hourly increment. The highest minimum billing increment for any particular entry is .10 rather than .25 or .30 as may be the practice in non-bankruptcy matters.

2. **Format of Time Itemization:**

To the extent possible, separate time entries shall be made for each service - time entries should not be "lumped" together. The practice of lumping several different tasks together is discouraged as it often makes it difficult to separate compensable and non-compensable items.

When such a separation cannot be easily accomplished, some courts have disallowed the entire block of time. Therefore, time shall be grouped so that each task stands on its own. Time itemizations shall be totaled (*by month and "grand total" for period which compensation is sought). The final fee application shall include the total fee and total expenses (shown separately) and expenses being requested; the amounts of fees and expenses that have already been approved by the court; the amounts of fees and expenses already paid; and the balance of fees and expenses being requested.

3. **Specific Time Itemization:**

The Bankruptcy Administrator and the court specifically require that the following time itemizations be listed separately in fee applications:

A. Travel time - Travel time will be compensated at no more than one half (½) of the professional's allowed rate. Travel time shall be shown as a separate line item in the detail and summarized separately from other time in the summary of time submitted as part of the applications. If professional services are rendered while the professional is in transit, then time may be billed at the professional's allowed rate. However, such services must be specifically described in the application.

B. Court time - Court time should include only time actually spent in court and should not include travel time to or from court or any time spent in any conferences held in conjunction with the court appearance.

C. Preparation of briefs and other papers - Time spent in the preparation of briefs, petitions, schedules, and other major writings such as the statement of financial affairs should be broken out and not lumped with any other items. The time itemization should be specific as to the paper being prepared. An annotation such as "motion" or "brief" will be insufficient.

D. Research - Any research should be detailed separately from other time entries. The description should include the nature of the research being done.

E. Intra office conferences - Any intra office conferences between professionals and paraprofessionals shall be set out separately. The need for each office conference shall be clearly explained. Where the nature of the case and/or the law firm involved is such that more than one professional will be needed with each in a clearly delineated role and where such division of labor will require occasional status and/or coordination conferences, the need for such conferences may be justified in the body of

the application. In these cases, the specific time entries for intra office conferences do not need to include long descriptions justifying the need for each individual conference. However, if the amount of intra office conference time is more than nominal, the time item will need to include justification for the conference.

F. Duplicate billing - When more than one professional or a professional and a paraprofessional, attend a court hearing or participate in a meeting, the time entries for each individual shall include sufficient information about his or her services to clearly justify the need for more than one individual to handle the matter.

4. **Disclosure/Documentation of Prepetition Time Charged Against Retainers:**

There is to be a full disclosure and documentation of the total amount of prepetition retainer paid and the time charged against the retainer when the retainer is drawn down prior to filing the petition. This disclosure and documentation of the prepetition time charged against the retainer is to be set out in accordance with the usual itemizations that are required for post-petition fee applications. *When the prepetition time is charged against a retainer, it shall be set out in the applicant's initial application for interim compensation and clearly labeled by the applicant as prepetition time charged against retainer*. Counsel may not draw down on the retainer post-petition without court approval.

5. **Biographical Information:**

All initial fee applications filed must include a brief biographical description of all the professionals and paraprofessionals for whom any compensation is sought. This information is necessary to help the court evaluate the applicant(s) and to aid in the determination of both the interim and final rate of compensation. Interim and final fee applications may refer to the biographical descriptions included in the initial fee application unless changes have occurred in that information.

Applications received without biographical information cannot be evaluated and the omission of such information may delay the award of compensation by the court.

The biographical information shall include the following information:

A. Name.
B. Position in the firm.
C. Educational background.
D. Professional (or paraprofessional) background including -
   (1) Number of years of general experience.
   (2) Number of years of bankruptcy experience.
   (3) Specialization or certification.
   (4) Percentage of practice devoted to bankruptcy.
E. Normal billing rate

6. **Ministerial and Clerical Tasks:**

Nonprofessional duties including ministerial and clerical tasks shall be considered overhead, assumed to be part of the professional's billing rate, and not charged separately. Therefore, typing, opening the mail, copying, filing, and the like will be considered to be non-compensable unless the description clearly justifies a need for a professional or paraprofessional person to perform such task.

7. Expenses:

The Code allows reasonable and necessary expenses to be paid by the estate. However, the description of expense items submitted with the application is often insufficient. It is important that each expense be set out and that the benefit to the estate for extraordinary items be justified. Failure to provide sufficient description of expense items may lead to disallowance of the same.

The following standards are applicable to expenses for which reimbursement is sought:

(i) Copy costs - The nature of the document being copied, the number of copies, cost per copy, and the total cost shall be set out. Also the description should disclose if the copy was produced "in house" or done by an outside service. The maximum allowable copy cost is .20/copy.

(ii) Mileage - The date, the destination of the trip, the number of miles, the charge per mile, and the total cost should be provided. The maximum allowable mileage charge is the reimbursement rate allowed by the Internal Revenue Service at the time the expense is incurred.

(iii) Other travel - Where a trip requires expenses such as meals or lodging, the detail of all the individual expenses, such as meals and lodging as well as transportation, shall be clearly set out in such a manner that the expense of the total trip might be easily ascertained. The description of such an expense shall include sufficient information to indicate how the expense benefitted the estate.

If transportation expenses, other than mileage, are incurred, the cost shall be clearly shown. If air or rail travel is used in lieu of automobile, the cost difference between the alternative method and mileage should be calculated and clearly shown. Such a calculation shall include both the cost of the travel time (hours times rate for one method versus hours times rate for the other) and expense (ticket price versus mileage) of travel. Where a substantial difference exists between the alternative methods and the more expensive method is used, the choice should be justified and the benefit to the estate clearly set out.

For travel expenses, other than transportation, such as meals or lodging, each expense item should be set out separately and summarized as discussed above. A

single entry for the total expense of a trip will not be considered to be adequate supporting detail.

(iv) Express mail, and fax services - The use of accelerated methods of delivery are often necessary and of a benefit to the estate. Such services should only be used when necessary, and such use should be reasonable. The maximum allowable cost for incoming faxes is .20/page. The maximum allowable cost for outgoing faxes is $1.00/page.

8. **Copies of Fee Applications to Office of Bankruptcy Administrator:**

Fee applicants or their respective counsel shall ensure that without exception copies of all fee applications filed with the Bankruptcy Clerk's office are served upon the office of the Bankruptcy Administrator by mailing same to the Office of the Bankruptcy Administrator, 434 Fayetteville Street, Suite 640, Raleigh, North Carolina 27601. The Bankruptcy Administrator shall be served copies of all fee applications filed by or on behalf of any professionals employed in the case **at the same time that the original application is filed with the Bankruptcy Clerk.** The application itself must be served on the Bankruptcy Administrator, not just the notice. The original of all applications shall be filed with the Bankruptcy Clerk with copies only served upon the Bankruptcy Administrator; in no event shall the original of any fee application ever be filed with the office of the Bankruptcy Administrator. **Failure to serve copies of all fee applications upon the Bankruptcy Administrator and to conform with the foregoing requirements only will result in unnecessary delay.**

9. **Employment of Professional Persons/Nunc Pro Tunc:**

The court takes a strict approach to requests for employment of professional persons, nunc pro tunc, and such requests are normally denied unless extraordinary circumstances are alleged in the application which justify the nunc pro tunc relief.

10. **Representing a Chapter 11 Debtor for a Flat Fee**

Judge Small has published an opinion on the issue of flat fees in a Chapter 11 case. The opinion is In re Pineloch Enterprises, Inc., 192 B.R. 675 (Bkrtcy. E.D.N.C. 1996). An attorney contemplating a flat fee arrangement should review the Pineloch case and comply with the guidelines set forth therein.

The following is a summary of the Pineloch guidelines:

a. Debtor’s counsel must disclose the flat fee arrangement in the application to employ counsel.

b. Debtor’s counsel must maintain the fee in his/her trust account until disbursements may be made as set forth below.

c. Debtor’s counsel must notice the flat fee agreement and all details of the agreement must be noticed to all creditors.

d. Debtor's counsel may transfer into his/her operating account 1/3 of the fee after the Section 341 hearing is conducted.

e. Debtor's counsel may transfer into his/her operating account 1/3 of the fee after the plan is filed and the disclosure statement is conditionally approved

f. Debtor's counsel may transfer into his/her operating account the final 1/3 when the plan is confirmed.

g. No application to the court is necessary to make the above transfers.

h. If the plan is not confirmed, counsel can apply for the balance at any time after the confirmation hearing.

Like all other professional fee awards, the transfers from the trust account under flat fee arrangements are interim fee awards and are subject to court review if warranted.

EXHIBIT 21

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
_____ DIVISION

IN RE:

XXXXXXXXX **CASE NO. XX-XXXXX-XXX**

DEBTOR **CHAPTER 11**

BALLOT REPORT

The Debtor, by and through undersigned counsel, submits the following report of all ballots received by the undersigned in connection with the Debtor's (*insert Amended, if applicable*) Plan of Reorganization filed _____.

CLASS 1
Class/Creditor Name
Impaired/Unimpaired * (*select one*)

Creditor Name	Accept	Reject	Amount of Claim (per ballot unless otherwise stated)
Name of Creditor	No Ballots		$0.00

NUMBER ACCEPTING (_____ OF _____) _____ %
AMOUNT ACCEPTING ($_____ OF $_____) _____ %

*If unimpaired, state reason why (*e.g., unaltered contract rights, Section 507(a)(8) claim, or other statutory authority*)

CLASS 2
Class/Creditor Name
Impaired/Unimpaired * (*select one*)

Creditor Name	Accept	Reject	Amount of Claim (per ballot unless otherwise stated)
Name of Creditor	No Ballots		$0.00

NUMBER ACCEPTING (_____ OF _____) _____ %
AMOUNT ACCEPTING ($_____ OF $_____) _____ %

*If unimpaired, state reason why (*e.g., unaltered contract rights, Section 507(a)(8) claim, or other statutory authority*)

CLASS 3
Class/Creditor Name
Impaired/Unimpaired * (*select one*)

Creditor Name	Accept	Reject	Amount of Claim (per ballot unless otherwise stated)
Name of Creditor	No Ballots		$0.00

NUMBER ACCEPTING (_____ OF _____) _____ %
AMOUNT ACCEPTING ($_____ OF $_____) _____ %

*If unimpaired, state reason why (*e.g., unaltered contract rights, Section 507(a)(8) claim, or other statutory authority*)

CLASS 4
Class/Creditor Name
Impaired/Unimpaired * (*select one*)

Creditor Name	Accept	Reject	Amount of Claim (per ballot unless otherwise stated)
Name of Creditor	No Ballots		$0.00

NUMBER ACCEPTING (_____ OF _____) _____ %
AMOUNT ACCEPTING ($_____ OF $_____) _____ %

*If unimpaired, state reason why (*e.g., unaltered contract rights, Section 507(a)(8) claim, or other statutory authority*)

CLASS 5
Class/Creditor Name

Creditor Name	Accept	Reject	Amount of Claim (per ballot unless otherwise stated)
Name of Creditor	XXX		$

NUMBER ACCEPTING (_____ OF _____) _____ %
AMOUNT ACCEPTING ($_____ OF $_____) _____ %

CLASS 6
Class/Creditor Name

Creditor Name	Accept	Reject	Amount of Claim (per ballot unless otherwise stated)
Name of Creditor	XXX		$

NUMBER ACCEPTING (_____ OF _____) _____ %
AMOUNT ACCEPTING ($_____ OF $_____) _____ %

CLASS 7
Class/Creditor Name

Creditor Name	Accept	Reject	Amount of Claim (per ballot unless otherwise stated)
Name of Creditor	XXX		$

NUMBER ACCEPTING (_____ OF _____) _____ %
AMOUNT ACCEPTING ($_____ OF $_____) _____ %

DATED:

Firm Name
By: _____
Attorney Name
NC State Bar Number: _____
Attorney for Debtor(s)
Address
Telephone Number
Email Address

EXHIBIT 22

SUGGESTED OUTLINE FOR CONFIRMATION HEARING

The bankruptcy law requires a confirmation hearing in every Chapter 11 case. (§1128; FRBP. 2002(b)).

Many confirmation hearings are uncontested, but it is necessary in every case for the court to determine that the confirmation requirements of §1129 are met. The court also wants to know if the plan is feasible, what protections are included for recipients of future payments, and when the plan will be consummated.

The following is a suggested outline of how counsel or the Chapter 11 debtor can provide the required information to the court in an expeditious manner.

1. **Counsel should:**

a. describe the general character of the plan; e.g., liquidation, partial liquidation, sale to third party, merger, continued operation (§1123(a)(5));

b. describe the debtor's business -- e.g., history, nature of business, highlights, principals, number of employees;

c. describe the debtor's problems;

d. describe the debtor's activities in chapter 11 -- sales of assets, salaries paid, gross sales, profit or loss, adequate protection payments;

e. indicate how the debtor's problems have been solved;

f. review operation projections, make comparisons with prior operating statements;

g. describe how the debtor will finance future operations;

h. describe the debtor's assets with an estimate of value -- indicate any change from the date of the petition (the court wants to know if the creditors' position has improved or deteriorated in Chapter 11);

i. review the specifics of the plan by class -- state the nature of the debts in each class (e.g., trade debt, insider loan, tort claim), state the amount in each class, identify any insider claims, review the acceptances and rejections;

j. state the amount, date of assessment, and specifically how the tax claims will be paid (§1129(a)(9)(A));

k. state the amount and how the costs of administration will be paid (§1129(a)(9)(A));

l. if a class is unimpaired, state why it is unimpaired (§1124);

m. indicate that the debtor has sufficient funds on hand to fund immediate payments required by the plan;

n. indicate what rights are provided to claimants who are to receive future payments;

o. indicate the mechanics of consummation and estimate when the plan will be "substantially consummated" (§1101(2));

p. indicate if there are any anticipated items which will come before the court (e.g., objections to claims, valuation of collateral, approval of sales); and

q. indicate whether the debtor is current with its Judicial Conference Quarterly Fees as required by §1129(a)(12).

2. **<u>An officer of the debtor should</u>:**

a. indicate that all of counsel's statements are correct;

b. give an opinion concerning the prospects of successful operations;

c. give an opinion that the creditors are receiving more under the plan than they would receive in a Chapter 7 liquidation (§1129(a)(7)(a)(ii));

d. indicate that no payments have been made or promised to any creditors or other parties except as provided in the plan (e.g., no creditors are being paid "outside the plan");

e. state that all salaries paid or to be paid in the future to "insiders" have been disclosed (§1129(a)(5)(B));

f. identify all officers and directors who will serve after confirmation (§1129(a)(5)(A));

g. indicate that any rate requiring approval by a regulatory commission has been approved (§1129(a)(6));

h. state that all payments made or to be made for services or costs and expenses in connection with the plan or the case have been disclosed and approved, or are subject to approval (§1129(a)(4)); and

i. indicate that confirmation will not likely be followed by liquidation or the need for further reorganization (§1129(a)(11)).

This suggested outline is provided only as a guide and is not meant to be the mandatory agenda for Chapter 11 confirmation hearings.

EXHIBIT 23

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA

In Re: **Case Number:**
Debtor(s)

Order Confirming Plan

The plan under Chapter 11 of the Bankruptcy Code filed by the debtor on _____ (if appropriate, as amended by an amended plan filed on _____,) or a summary thereof, having been transmitted to creditors and equity security holders; and

It having been determined after hearing on notice that the requirements for confirmation set forth in 11 U.S.C. §1129(a) [or, if appropriate, 11 U.S.C. §1129(b)] have been satisfied;

IT IS ORDERED THAT:

1. The plan filed by the debtor, on _____ (If appropriate, as amended by an amended plan filed on _____) is CONFIRMED. A copy of the confirmed plan is attached.

2. Except as provided in this order and the debtor's plan of reorganization or in 11 U.S.C. §1141(d) of the Code, the debtor is hereby released from all dischargeable debts. [If appropriate]

3. The debtor shall file post-confirmation reports with the Clerk of the U.S. Bankruptcy Court and serve a copy thereof on the Bankruptcy Administrator pursuant to 11 U.S.C. §1106(a)(7). The first post-confirmation report shall be due on the earliest of June 30, September 30, December 31, or March 31 of the calendar year in which this plan of reorganization is confirmed. The debtor shall file subsequent reports at the end of every succeeding calendar quarter (June 30, September 30, December 31 or March 31), until the plan is substantially consummated. Quarterly reports shall reflect any progress made toward consummating the plan during the period covered by the report and shall be prepared in a format prescribed by the Bankruptcy Administrator.

4. Within thirty (30) days of substantial consummation of the plan, as defined by 11 U.S.C. §1101(2), the debtor shall file a final report, in a format prescribed by the Bankruptcy Administrator, reflecting the payments made for all costs of administration and each class of creditor, and a motion for the entry of a Final Decree pursuant to Rule No. 3022, F.R.B.P.

5. The debtor shall continue to pay quarterly fees on all disbursements pursuant to 28 U.S.C.§1930 until the case is dismissed, closed or converted to a case under another chapter.

6. The debtor shall pay to the Clerk, United States Bankruptcy Court, the sum of $_____ for court costs.

7. The debtor shall serve a copy of this Order on all creditors within five (5) days of the entry of this Order and promptly file a Certificate of Service with the Clerk.

DATED: _____
United States Bankruptcy Judge

EXHIBIT 24

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
DIVISION

IN RE:	**CHAPTER 11**
	CASE NO: _____
DEBTOR(S)	☐ Check if this is an amended filing

CHAPTER 11 POST-CONFIRMATION REPORT PURSUANT TO THE ORDER CONFIRMING PLAN

REPORTING PERIOD COVERED: _____

DATE PLAN CONFIRMED: _____

EFFECTIVE DATE OF PLAN: _____

ESTIMATED CLOSING DATE: _____

I/We declare under penalty of perjury that the information contained in this report is true and correct to the best of my/our knowledge and belief.

DEBTOR:	**JOINT DEBTOR:**
Printed Name: _____	Printed Name: _____
Date: _____	Date: _____
Signature: _____	Signature: _____

Title (for Corporate Debtor): _____

I have read the information in this report and the information contained herein is true and correct to the best of my knowledge and belief:

CHAPTER 11 TRUSTEE:

Printed Name: _____ Date: _____

Signature: _____

Penalty for making a false statement or filing a false report: Fine of up to $500,000.00 or imprisonment for up to 5 years or both. 18 U.S.C. §§ 152 and 3571

PAYMENTS TO CREDITORS

Class 1 – (Creditor(s) in this Class: _____)

(a) Date payments commence to this Class: _____

(b) No payments due (if applicable): ☐ Paid in Full, ☐ Collateral Sold/Surrendered, ☐ Unsecured Creditor Treatment, ☐ No Claim Owed, ☐ Third Party Obligation

(c) Payments are ☐ Monthly, ☐ Quarterly, ☐ Bi-Annually, ☐ Annually, ☐ Other

(d) Total amount required to be paid this Quarter: _____

(e) Total amount paid this Quarter: _____

(f) Is the Debtor in compliance with the Plan with regards to this Class? ☐ Yes ☐ No

(g) If the Debtor has not made all required payments, please provide specific details regarding the number of payments missed and when the Debtor intends to bring the payments current:

Class 2 – (Creditor(s) in this Class: _____)

(a) Date payments commence to this Class: _____

(b) No payments due (if applicable): ☐ Paid in Full, ☐ Collateral Sold/Surrendered, ☐ Unsecured Creditor Treatment, ☐ No Claim Owed, ☐ Third Party Obligation

(c) Payments are ☐ Monthly, ☐ Quarterly, ☐ Bi-Annually, ☐ Annually, ☐ Other

(d) Total amount required to be paid this Quarter: _____

(e) Total amount paid this Quarter: _____

(f) Is the Debtor in compliance with the Plan with regards to this Class? ☐ Yes ☐ No

(g) If the Debtor has not made all required payments, please provide specific details regarding the number of payments missed and when the Debtor intends to bring the payments current:

Class 3 – (Creditor(s) in this Class: _____)

(a) Date payments commence to this Class: _____

(b) No payments due (if applicable): ☐ Paid in Full, ☐ Collateral Sold/Surrendered, ☐ Unsecured Creditor Treatment, ☐ No Claim Owed, ☐ Third Party Obligation

(c) Payments are ☐ Monthly, ☐ Quarterly, ☐ Bi-Annually, ☐ Annually, ☐ Other

(d) Total amount required to be paid this Quarter: _____

(e) Total amount paid this Quarter: _____

(f) Is the Debtor in compliance with the Plan with regards to this Class? ☐ Yes ☐ No

(g) If the Debtor has not made all required payments, please provide specific details regarding the number of payments missed and when the Debtor intends to bring the payments current:

Class 4 – (Creditor(s) in this Class: _____)

(a) Date payments commence to this Class: _____

(b) No payments due (if applicable): ☐ Paid in Full, ☐ Collateral Sold/Surrendered, ☐ Unsecured Creditor Treatment, ☐ No Claim Owed, ☐ Third Party Obligation

(c) Payments are ☐ Monthly, ☐ Quarterly, ☐ Bi-Annually, ☐ Annually, ☐ Other

(d) Total amount required to be paid this Quarter: _____

(e) Total amount paid this Quarter: _____

(f) Is the Debtor in compliance with the Plan with regards to this Class? ☐ Yes ☐ No

(g) If the Debtor has not made all required payments, please provide specific details regarding the number of payments missed and when the Debtor intends to bring the payments current:

Class 5 – (Creditor(s) in this Class: _____)

(a) Date payments commence to this Class: _____

(b) No payments due (if applicable): ☐ Paid in Full, ☐ Collateral Sold/Surrendered, ☐ Unsecured Creditor Treatment, ☐ No Claim Owed, ☐ Third Party Obligation

(c) Payments are ☐ Monthly, ☐ Quarterly, ☐ Bi-Annually, ☐ Annually, ☐ Other

(d) Total amount required to be paid this Quarter: _____

(e) Total amount paid this Quarter: _____

(f) Is the Debtor in compliance with the Plan with regards to this Class? ☐ Yes ☐ No

(g) If the Debtor has not made all required payments, please provide specific details regarding the number of payments missed and when the Debtor intends to bring the payments current:

Class 6 – (Creditor(s) in this Class: _____)

(a) Date payments commence to this Class: _____

(b) No payments due (if applicable): ☐ Paid in Full, ☐ Collateral Sold/Surrendered, ☐ Unsecured Creditor Treatment, ☐ No Claim Owed, ☐ Third Party Obligation

(c) Payments are ☐ Monthly, ☐ Quarterly, ☐ Bi-Annually, ☐ Annually, ☐ Other

(d) Total amount required to be paid this Quarter: _____

(e) Total amount paid this Quarter: _____

(f) Is the Debtor in compliance with the Plan with regards to this Class? ☐ Yes ☐ No

(g) If the Debtor has not made all required payments, please provide specific details regarding the number of payments missed and when the Debtor intends to bring the payments current:

Class 7 – (Creditor(s) in this Class: _____)

(a) Date payments commence to this Class: _____

(b) No payments due (if applicable): ☐ Paid in Full, ☐ Collateral Sold/Surrendered, ☐ Unsecured Creditor Treatment, ☐ No Claim Owed, ☐ Third Party Obligation

(c) Payments are ☐ Monthly, ☐ Quarterly, ☐ Bi-Annually, ☐ Annually, ☐ Other

(d) Total amount required to be paid this Quarter: _____

(e) Total amount paid this Quarter: _____

(f) Is the Debtor in compliance with the Plan with regards to this Class? ☐ Yes ☐ No

(g) If the Debtor has not made all required payments, please provide specific details regarding the number of payments missed and when the Debtor intends to bring the payments current:

Class 8 – (Creditor(s) in this Class: _____)

(a) Date payments commence to this Class: _____

(b) No payments due (if applicable): ☐ Paid in Full, ☐ Collateral Sold/Surrendered, ☐ Unsecured Creditor Treatment, ☐ No Claim Owed, ☐ Third Party Obligation

(c) Payments are ☐ Monthly, ☐ Quarterly, ☐ Bi-Annually, ☐ Annually, ☐ Other

(d) Total amount required to be paid this Quarter: _____

(e) Total amount paid this Quarter: _____

(f) Is the Debtor in compliance with the Plan with regards to this Class? ☐ Yes ☐ No

(g) If the Debtor has not made all required payments, please provide specific details regarding the number of payments missed and when the Debtor intends to bring the payments current:

Click to add Creditor Classes

Class 9 – (Creditor(s) in this Class: _____)

(a) Date payments commence to this Class: _____

(b) No payments due (if applicable): ☐ Paid in Full, ☐ Collateral Sold/Surrendered, ☐ Unsecured Creditor Treatment, ☐ No Claim Owed, ☐ Third Party Obligation

(c) Payments are ☐ Monthly, ☐ Quarterly, ☐ Bi-Annually, ☐ Annually, ☐ Other

(d) Total amount required to be paid this Quarter: _____

(e) Total amount paid this Quarter: _____

(f) Is the Debtor in compliance with the Plan with regards to this Class? ☐ Yes ☐ No

(g) If the Debtor has not made all required payments, please provide specific details regarding the number of payments missed and when the Debtor intends to bring the payments current:

Class 10 – (Creditor(s) in this Class: _____)

(a) Date payments commence to this Class: _____

(b) No payments due (if applicable): ☐ Paid in Full, ☐ Collateral Sold/Surrendered, ☐ Unsecured Creditor Treatment, ☐ No Claim Owed, ☐ Third Party Obligation

(c) Payments are ☐ Monthly, ☐ Quarterly, ☐ Bi-Annually, ☐ Annually, ☐ Other

(d) Total amount required to be paid this Quarter: _____

(e) Total amount paid this Quarter: _____

(f) Is the Debtor in compliance with the Plan with regards to this Class? ☐ Yes ☐ No

(g) If the Debtor has not made all required payments, please provide specific details regarding the number of payments missed and when the Debtor intends to bring the payments current:

PAYMENTS TO NON-CLASSIFIED CLAIMS

☐ Check if this form is not applicable to the Debtor(s)

A.) Name of Claimants: _____

(a) Date payments commence to these creditors: _____

(b) No payments due (if applicable): ☐ Paid in Full, ☐ No Claim Owed

(c) Payments are ☐ Monthly, ☐ Quarterly, ☐ Bi-Annually, ☐ Annually, ☐ Other

(d) Total amount required to be paid this Quarter: _____

(e) Total amount paid this Quarter: _____

(f) Is the Debtor in compliance with the Plan with regards to these creditors? ☐ Yes ☐ No

(g) If the Debtor has not made all required payments, please provide specific details regarding the number of payments missed and when the Debtor intends to bring the payments current:

B.) Name of Claimants: _____

(a) Date payments commence to these creditors: _____

(b) No payments due (if applicable): ☐ Paid in Full, ☐ No Claim Owed

(c) Payments are ☐ Monthly, ☐ Quarterly, ☐ Bi-Annually, ☐ Annually, ☐ Other

(d) Total amount required to be paid this Quarter: _____

(e) Total amount paid this Quarter: _____

(f) Is the Debtor in compliance with the Plan with regards to these creditors? ☐ Yes ☐ No

(g) If the Debtor has not made all required payments, please provide specific details regarding the number of payments missed and when the Debtor intends to bring the payments current:

PROPERTY SALE REPORT

(a) Does the Plan propose the sale or transfer of property? ☐ Yes ☐ No

(b) If Yes, please complete the following chart:

Description of Property	Date Property Must be Sold	Date Property Sold

(c) If the Debtor sold property during the quarter, please complete the following chart:

Description of Property Sold	Date Property Sold	Gross Sale Proceeds	Net Sale Proceeds Paid to Debtor

PAYMENTS TO PROFESSIONALS

Please list any and all payments made to any and all professionals (e.g., attorney, accountant, realtor, etc.) during the reporting period, not otherwise disclosed in this report.

Name of Professional	Date Payment Made	Amount Paid to Professional

MATTERS PENDING

What other specific matters does the Court need to resolve prior to closing the case (e.g., adversary proceedings, claim disputes, filing fee applications, etc.)? Please indicate the nature of each matter, and an estimated time frame that these matters will be resolved:

CHAPTER 11 QUARTERLY FEES

***DISBURSEMENTS INCLUDE*:** Sum total of all disbursements from all of the Debtor's bank accounts – **and** – payments made on behalf of the Debtor. Disbursements do not include transfers between the Debtor's accounts. Quarterly fees are not prorated.

Calculating the Fee: Use the table on the following page to compute the Amount of Fee Due for each quarter. Payment of quarterly fees should be submitted to Debtor's attorney, and then Debtor's attorney should submit the payment through **www.pay.gov**.

1st Quarter:

	Disbursements made by Debtor		Disbursements made on behalf of Debtor
Disbursements for January:	_____	+	_____
Disbursements for February:	_____	+	_____
Disbursements for March:	_____	+	_____
TOTAL:	**$ 0.00**	+	**$ 0.00**

TOTAL DISBURSEMENTS: **$ 0.00**

Amount of Fee Due: _____

Amount of Fee Paid: _____

Total Disbursement for the Quarter	Amount of Fee Due
$0 to $14,999.00	$325
$15,000.00 to $74,999.99	$650
$75,000.00 to $149,999.99	$975
$150,000.00 to $224,999.99	$1,625
$225,000.00 to $299.999.99	$1,950
$300,000.00 to $999,999.99	$4,875
$1,000,000.00 to $1,999,999.99	$6,500
$2,000,000.00 to $2,999,999.99	$9,750
$3,000,000.00 to $4,999,999.99	$10,400
$5,000,000.00 to $14,999,999.99	$13,000
$15,000,000.00 to $29,999,999.99	$20,000
$30,000,000.00 or more	$30,000

EXHIBIT 25

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA

In Re: **Case Number:**

Debtor(s)

Final Report Pursuant to Order Confirming Plan

The undersigned counsel for the debtor files this Final Report with the court as follows:

The above debtor's Order Confirming Chapter 11 Plan of Reorganization was entered by this court on _____, 20__, and the debtor is complying with the requirements of the Plan as follows:

1. Classes as set forth in confirmed plan, as modified[1].

Class 1: (Indicate Name of Creditor)

(a) proposed treatment in plan:

(b) debtor's compliance/noncompliance with plan:

Class 2: (Indicate Name of Creditor)

(a) proposed treatment in plan:

(b) debtor's compliance/noncompliance with plan:

Class 3: (Indicate Name of Creditor)

(a) proposed treatment in plan:

(b) debtor's compliance/noncompliance with plan:

Class 4: Unsecured

(a) proposed treatment in plan:

(b) debtor's compliance/noncompliance with plan:

---

[1] If the plan was modified post confirmation, please provide a description of the modified treatment of the class.

The dividend to be paid to holders of unsecured claims is ____%.

Other: For all claims not designated in a separate class in the plan[2]

(a) proposed treatment in plan:

(b) debtor's compliance/noncompliance with plan:

2. All post confirmation reports have been properly filed. All quarterly fees due based upon disbursements reported have been paid in full.

3. The Quarterly Fee due for the quarter ending (date) is enclosed with this report.

Wherefore, the undersigned prays the court for the entry of a Final Decree.

This ____ day of _____, 20___.

_____
Attorney for the Debtor(s)

[2] Such as administrative priority claims, tax claims and executory contracts, provide description of proposed treatment and the debtor's compliance/non-compliance with the plan.

EXHIBIT 26

MEMORANDUM

TO: **Debtors in Possession and Counsel**

FROM: **Bankruptcy Administrator, Eastern District of North Carolina**

RE: **Closing of Chapter 11 Cases**

The following information must be included in an application for the entry of a final decree in accordance with 11 U.S.C. §1106(a)(7). Please note, however, that this list is not comprehensive; additional information may be required under the circumstances of a particular case.

1. There has been a transfer of all or substantially all of the property proposed by the plan to be transferred;

2. There has been an assumption by the debtor or by the successor to the debtor under the plan of the business or of the management of all or substantially all of the property dealt with by the plan;

3. The debtor has commenced distribution under the plan;

4. All administrative claims have been paid in full or are current as provided pursuant to the confirmed plan of reorganization;

5. **IF THIS CASE WAS FILED ON OR AFTER APRIL 1, 2002,** ALL quarterly fees assessed by the Judicial Conference of the United States pursuant to 28 U.S.C. §1930(a)(7) have been paid in full;

6 All plan payments are current; and

7. A Final Report Pursuant to the Order Confirming Plan has been filed simultaneously.

EXHIBIT 27

United States Bankruptcy Court
Eastern District of North Carolina

In Re: **Case Number:**

Debtor(s)

Final Report and Account of Chapter 11 Estate
Upon Conversion to Chapter 7

Pursuant to the Order of Conversion entered _____{date}_____, the above captioned case was converted from case under Chapter 11 to a Chapter 7 case. The debtor(s), _____{name of debtor(s)}_____, in the above referenced case, hereby reports the following to the court in accordance with Bankruptcy Rule 1019:

I. All records and property of the estate under its custody and control as required by Bankruptcy Rule 1019(5) have been turned over to the Chapter 7 trustee; and

II. The statements and schedules required by Bankruptcy Rules 1019(1)(A) and 1007(b), have been filed with the court; and

III. The following is a summary and accounting of all receipts and disbursements:

A. RECEIPTS OF THE ESTATE

1. From Sale of Real Property:

Date	Source	Amount

2. From Sale of Personal Property:

Date	Source	Amount

3. From Accounts Receivable:

Date	Source	Amount

4. Other Receipts:

Date	Source	Amount

B. DISBURSEMENTS FROM THE ESTATE

1. Costs of Administration:

Date	Payee	Purpose	Amount

2. Secured Creditors:

Date	Payee	Purpose	Amount

3. Other:

Date	Payee	Purpose	Amount

C. BALANCE ON HAND

Checking Account in _____ $_____

Savings Account in _____ $_____

Certificate of Deposit in _____ $_____

Other in _____ $_____

Total Balance on Hand Turned Over to Chapter 7 Trustee: $_____

IV. The following is a schedule of all debts incurred and unpaid after commencement of Chapter 11 case but before conversion to Chapter 7 **including the name and address of each creditor:**

A. Administrative Costs:

B. Post-Petition Taxes:

C. Secured:

D. Other:

V. The following is a summary and accounting of the disposition of the property of the estate other than in the ordinary course of business:

A. Property reflected on Chapter 11 petition disposed of since commencement of Chapter 11 case but before conversion to Chapter 7 (include the date of the Order entered authorizing such disposition):

Real Property	Personal Property	Other Property

B. Property acquired after commencement of Chapter 11 case but before conversion to Chapter 7, including date of acquisition and amount of consideration paid:

Real Property	Personal Property	Other Property

VI. {If Applicable} A Chapter 11 plan of reorganization was confirmed on _____.

A. Detailed summary of debtor's compliance with Chapter 11 confirmed plan: {Breakdown by each class provided in plan}

B. Detailed summary of debtor's noncompliance with Chapter 11 confirmed plan: {Breakdown by each class provided in plan}

C. Summary of executory contracts entered into or assumed after the commencement of the Chapter 11 case but before conversion to Chapter 7:

D. A copy of the Confirmation Order and final plan is being provided to the Chapter 7 trustee with a copy of this report

VII. {If Applicable} A statement of intention with respect to retention or surrender of property securing consumer debts, as required by 11 U.S.C. §521(2)(A) and Bankruptcy Rule 1019(1)(B) has been filed with the court.

VIII. {If Applicable} Pending Adversary Proceedings, Motions or Applications at the Time of Conversion to Chapter 7:

IX. Brief Narrative as to the Status of Final Tax Returns, as in the 940, 941 and W-2's:

VERIFICATION

I declare under penalty of perjury that the information contained in the foregoing report is true and correct to the best of my knowledge.

Date:

_____
Debtor

The undersigned, as counsel for the debtor, has read and reviewed the foregoing report and respectfully files the report with the Court.

Date:

_____
Attorney for Debtor

cc: Chapter 7 Trustee
Bankruptcy Administrator

EXHIBIT 28

POLICY ON PURCHASING PROPERTY OF BANKRUPTCY ESTATES

The United States Bankruptcy Court for the Eastern District of North Carolina adopts the following policy on the purchase of property from bankruptcy estates by specified insiders as set forth below. The purpose of this policy is to provide guidance to trustees, counsel and other parties in interest on the propriety of any business dealings with the bankruptcy estate.

1. Any attorney representing a debtor, debtor in possession or bankruptcy trustee, his/her partners, associates and employees are prohibited from purchasing property either directly or indirectly from the bankruptcy estate for which he or she is appointed counsel by the court.

2. Any bankruptcy trustee, and any professional employed by the trustee, including auctioneers, real estate agents, accountants and special purpose attorneys, are prohibited from purchasing property either directly or indirectly from the bankruptcy estate in which he or she serves in any of these capacities.

3. Employees, partners and associates of any bankruptcy trustee, and any professional employed by the trustee, are prohibited from purchasing property, either directly or indirectly from the bankruptcy estate.

4. Relatives of the bankruptcy trustee, attorney for trustee, the attorney for the debtor-in-possession or other professional person employed by the Chapter 11 bankruptcy estate are prohibited from purchasing property either directly or indirectly from the bankruptcy estate. Relative is defined as any person related to the individual either by marriage or within the 3rd degree of consanguinity (1st cousins).

5. Relatives of law partners, associates or employees of persons restricted from dealing in the property of a bankruptcy estate are not prohibited *per se* from purchasing property of the estate. However they remain subject to any prohibition on such conduct found in relevant statutory or case law.