

Deborah Langehennig
Chapter 13 Trustee

Send *only* plan payments to:
PO Box 298
Memphis, TN 38101-0298

www.ch13austin.com

Phone (512) 912-0305

Dear Chapter 13 Filer:

Chapter 13 Bankruptcy is designed to allow individuals to repay their creditors as much as possible while retaining most or all of their property. This method of debt repayment has gained widespread acceptance as Chapter 13 filers are putting forth their best efforts to repay their debts. Before Chapter 13 was an option, bankruptcy relief for many individuals meant the complete liquidation of their assets, and many creditors went unpaid.

Successfully working through a Chapter 13 Plan, which may last as long as 60 months, takes a great deal of effort on your part. You are to be commended for making the commitment to repay your creditors and taking the positive and assertive step of regaining control of your financial future.

The Trustee's office is here to administer your case, to receive your monthly payments for disbursement to your creditors, and to handle your case fairly for your benefit as well as the benefit of your creditors. Please remember that the Trustee's office is not a collection agency. It is your responsibility to be sure that your payments are received by the Trustee's office in the manner and method required.

Attached to this letter is a document entitled "Important Information About Your Chapter 13 Case" which will help answer many of your questions that may come up during the life of your Chapter 13 Plan. Also enclosed is a one-page Reference Guide. I encourage you to read the enclosed documents and refer to them throughout your Chapter 13 Plan.

I wish you the best of success in your Chapter 13 Plan.

Sincerely,

Deborah B. Langehennig, Esq.
Chapter 13 Trustee

REFERENCE GUIDE FOR A SUCCESSFUL PLAN

MAIL **PAYMENTS** TO: Deborah B. Langehennig, Trustee
 P.O. Box 298
 Memphis, TN 38101-0298

DO NOT SEND CASH OR PERSONAL CHECKS. SEND A MONEY ORDER OR CASHIER'S CHECK.

ALWAYS WRITE YOUR NAME AND CASE NUMBER ON YOUR *PAYMENTS*. ALWAYS WRITE YOUR CASE NUMBER ON ANY *CORRESPONDENCE*.

CHAPTER 13 TRUSTEE'S OFFICE PHONE NUMBER: (512) 912-0305

REMEMBER:

- If your address changes, notify your attorney and the Trustee's office in writing.
- If your employment status or employer changes, notify your attorney immediately.
- Keep copies of your payments to the Trustee's office.
- Do not make direct payments to any creditors that are being paid through your Chapter 13 plan.
- Do not use credit cards or charge accounts while in Chapter 13 bankruptcy.
- If you receive harassing phone calls from your creditors, notify your attorney immediately.
- An annual activity report will be mailed to you once a year during the life of your bankruptcy plan.
- Permission to purchase items on credit, such as a house or automobile, must be obtained *prior* to purchase. Contact your attorney.
- If your vehicle is involved in an accident, and an insurance settlement is involved, notify your attorney and notify the Trustee's office.
- Permission to sell property must be granted by the bankruptcy judge. Contact your attorney.
- Requests to the Trustee for the payoff amount of your case must be in writing and contain an explanation as to how you are able to pay off your case early.
- If you do not timely file a plan and schedules, make timely plan payments, or appear at the scheduled Meeting of Creditors, your case may be dismissed without further notice

IMPORTANT INFORMATION ABOUT YOUR CHAPTER 13 CASE

YOUR BANKRUPTCY ATTORNEY:

If you ever have a legal question concerning your Plan, a creditor, or your rights and options, call your attorney. *The Trustee's office cannot give legal advice.* If you call our office with a legal question, we must refer you to your attorney. Be sure that you have discussed legal fees with your attorney and that you understand what those fees do and do not cover.

If you receive harassing phone calls from a creditor, inform the creditor that you have filed Chapter 13 bankruptcy, give the creditor your case number and refer the creditor to your attorney. Do not discuss the debt with the creditor. Threatening letters from creditors should be forwarded to your attorney for handling. Do not personally contact your creditors.

Your attorney will prepare a Pay Order and forward such to your employer. Contact your attorney immediately if you change jobs so that the Pay Order may be forwarded or amended as necessary. Remember, your attorney may be responsible for the Pay Order, but you are ultimately responsible for making certain that the Plan payment is made each month.

YOUR CASE NUMBER:

You are assigned a case number by the Court when the bankruptcy petition is filed. This number is very important. Always write the case number on all payments and correspondence and have the number close at hand when you call the Trustee's office.

PLAN PAYMENTS TO THE TRUSTEE'S OFFICE:

All Chapter 13 filers are required to make monthly payments to **Deborah B. Langehennig, Trustee, P.O. Box 298, Memphis, TN 38101-0298**, beginning 30 days after the date that the bankruptcy Plan was filed. Failure to make your payments in full and on time may result in your case being dismissed. **Pay Orders are required by the Trustee**, unless you are self-employed.

If you are self-employed and making payments directly, bear in mind that *we cannot accept cash or personal checks*. All payments must be made by money order or cashier's check. We do not accept direct deposits, wired funds or payments from online services. It is not necessary to mail the payments by Express or Priority mail. First-class regular postage is sufficient. Be sure to include your case number, name, and address directly on your payment. Please write or print legibly. This information is necessary to insure that your payment is credited to the proper account.

It is an excellent idea to keep copies of all of your payments to the Trustee. Should a discrepancy ever arise in your payment history, you will need to provide information to the Trustee's office to prove that the payments were made. If a problem occurred in your payment history, we will need to know the date of the missing payment, the amount of the payment, and the check number. We cannot search our records without this information. If, after receiving this information, we still cannot locate the payment, we will ask that you put a trace on the payment. You will need the above information when you contact the payment issuer should you wish to trace the payment.

TELEPHONE CALLS TO THE TRUSTEE:

Calls are accepted Monday through Friday. You will not need to speak with the Trustee about most issues. Our staff is familiar with the policies and guidelines in Chapter 13 and is well qualified to discuss your problems and questions. Remember that we cannot give legal advice. Please direct all of your legal questions to your attorney.

Our telephone system includes voice mail which enables callers to leave a message if the staff member is not available at the time of your call. We encourage you to leave a message. Your call will be returned. Be certain to speak slowly, speak clearly, and leave your name, case number and return phone number. We receive a tremendous number of telephone calls and we are unable on some occasions to return your call right away. Our goal is to return all calls on the same day, but this is sometimes impossible. On extremely busy days, it may be the following business day before we are able to return your call.

CORRESPONDENCE TO THE TRUSTEE'S OFFICE:

When sending correspondence to the Trustee's office, be sure to include your case number, name, address, and phone number. Mail your correspondence to:

Deborah B. Langehennig, Trustee
6201 Guadalupe Street
Austin, Texas 78752

Please note that *this is not the same address for payments*. Allow five to ten working days for a response if one is required. Time permitting, we may respond by telephone instead of letter.

CHAPTER 13 TRUSTEE WEBSITE:

As a service to Debtors and Creditors, the Chapter 13 Trustee has a website where case, claim, receipt, and payment information is available on the internet 24 hours a day. **Only** you, your attorney, your creditors, and the Trustee's staff may view this information.

You are encouraged to check the website prior to calling the Trustee's office. Many questions regarding your bankruptcy case may be answered by reviewing the information on the website.

In order to access your case information online, enter the following address in your web browser: <http://www.13datacenter.com> and select New Debtor access. Any questions regarding your access to your case information online should be directed to the National Datacenter. Select the "Contact" tab on the home page of the site and direct your questions there.

CHANGE OF ADDRESS:

It is very important that we know your current address while you are in the Chapter 13 Plan. We mail all notices, correspondence, checks, etc., to the address listed on your bankruptcy petition. If your address changes, it is very important that you notify your attorney and the Bankruptcy Court in writing immediately. Our office will send all notices, correspondence, checks, etc. to the new address once the address change is docketed in the Court's record.

CHANGE IN EMPLOYMENT:

If you have a change in employment, it is very important that you notify your attorney, the Bankruptcy Court and the Trustee's office in writing immediately. You should provide the name and address of your employer as well as the address of the payroll department so that your attorney can issue an Amended Pay Order.

TRUSTEE'S FEES:

Your attorney should have explained the Trustee's fees as allowed by the Court. This fee may fluctuate during the life of your Plan but will never be more than 10% of the total amount disbursed (excluding refunds sent to you).

THE FIRST MEETING OF CREDITORS:

The First Meeting of Creditors, also referred to as the "341 Meeting," is an opportunity for you, your attorney, and the Trustee to sit down and briefly discuss your case. Any creditors who wish to attend may ask questions. Chapter 13 filers are required to attend. Failure to attend the meeting can result in your case being dismissed without further notice. Your attorney, or your attorney's designated representative, must also attend the meeting. You will be notified of the date, time and location of the First Meeting of Creditors. You will need to bring your driver's license and Social Security Card so that the Trustee may verify your identity in compliance with federal regulations.

THE CONFIRMATION HEARING:

The Confirmation Hearing is an actual hearing where the Trustee makes a recommendation regarding whether your Plan will pay the creditors as proposed and whether the Plan complies with applicable federal law. If the Trustee recommends confirmation, she is stating that your plan works, your budget is reasonable and that you are paying all of your projected disposable income into the plan. If the Trustee does not recommend confirmation, she is stating that your plan will not pay the creditors as proposed, does not comply with applicable federal law and/or that your budget is not reasonable. Your attorney will advise you if you need to attend the Confirmation Hearing.

MOTION TO DISMISS:

You will no longer be protected under the federal bankruptcy laws if your case is dismissed. Dismissal reactivates all unpaid or disputed debts, all interest, finance charges, late charges, and all debts owed to creditors who did not file claims. In addition, you will be forced to deal with creditors on their terms, not yours or those proposed under the Chapter 13 Plan. It is, therefore, important that you commit 100% of your efforts to keeping your bankruptcy case alive and well.

The most common reason for dismissal of a bankruptcy case is failure to make adequate and timely payments to the Trustee. Your case may also be dismissed if you fail to file a Plan or appear at the Meeting of Creditors. The Trustee's office will *not* send you notice if you fall behind on your payments. It is your responsibility to make sure that you remain current on your payments and otherwise meet the requirements of your case. Should you not meet these requirements, or should you fall behind on your payments, the Trustee may ask the Court to dismiss your case.

VOLUNTARY DISMISSAL:

Federal law allows you to request that your Chapter 13 Plan be dismissed at any time. No one can force you to remain in your Chapter 13 case if you do not wish to continue. Contact your attorney if you wish to dismiss your case. You will want to discuss other available options for handling your debt, and the possible consequences of dismissal, with your attorney.

DIRECT PAYMENTS TO CREDITORS:

You may not make direct payments to your creditors unless your Chapter 13 Plan provides for this type of payment. If you have scheduled a creditor to receive payments directly from you, be certain to commence payments timely and to remain current on your payments for the remainder of your obligation. Contact your attorney if you are uncertain which creditors are being paid through the Plan and which creditors you will need to pay direct. Remember, you may not choose to leave debts out of your schedules and Plan and handle them on your own.

CREDIT CARDS:

The use of credit cards or charge accounts while in Chapter 13 bankruptcy is expressly prohibited.

SALE OF PROPERTY:

Permission to sell property must be granted by the Bankruptcy Judge. Obtaining permission for the sale can, in some instances, take several days or even require a court hearing. Do not enter into any agreements to sell your property without first contacting your bankruptcy attorney.

PROOFS OF CLAIM / BAR DATE / LATE FILED CLAIMS:

Creditors are allowed ninety days from the First Meeting of Creditors to file a Proof of Claim in your bankruptcy case. The Trustee cannot pay any money to your creditors unless and until your creditor has filed a Proof of Claim in your case. The ninetieth day after the Meeting of Creditors is referred to as the Bar Date. Claims filed by the creditors after the Bar Date will not be paid by the Trustee unless approved by the Bankruptcy Court.

Contact your attorney if you believe that one of the creditors that you wish to pay has not filed a Proof of Claim or filed their claim past the Bar Date.

SCHEDULE OF PAYMENTS TO CREDITORS:

The Trustee's office usually sends payments to creditors at the end of each month. There are basically three types of claims: secured, priority and unsecured. Unless otherwise designated in your Plan, secured creditors are paid first along with attorney fees, then priority claims are paid in full, then unsecured claims are paid. All claims are paid on a pro-rata basis according to the dollar amount of the claim unless the Plan states otherwise. For example, if the claim for your vehicle is equal to half of the total secured claims to be paid by the Trustee, the payment from the Trustee towards the vehicle will be equal to half of the funds to be disbursed per month to your secured creditors (after the Trustee fees and attorney fees have been deducted).

PLAN LENGTH:

The length of your Plan per the Confirmation Order is a close approximation. There are several factors that may affect the duration of the Plan. Sometimes a claim filed by a creditor may be much higher than anticipated, and this could in turn cause the plan to last several more months than originally scheduled. Your bankruptcy Plan may not exceed sixty months (five years) in length.

MODIFICATIONS:

A modification is an adjustment to a confirmed case that must be approved by the Bankruptcy Judge. Once your case is confirmed, situations may arise where you will find it necessary to adjust your Plan, such as: 1) changes in your employment status; 2) unanticipated or high claims by creditors; or, 3) subsequent loss of a house or automobile. Your attorney can advise you regarding these and other matters. Remember that modifications to your Plan must be approved by the Bankruptcy Judge.

BUSINESS CASES:

Chapter 13 filers who are self-employed must send their payments to the Trustee in the form of cashier's checks or money orders. Self-employed filers may also be required to supply the Trustee with additional information before a recommendation concerning confirmation is made. In some instances, self-employed filers will be required to complete a *Chapter 13 Business Case Questionnaire*, and provide additional information to the Trustee on a regular basis.

INSURANCE SETTLEMENT CHECKS:

The Trustee's office does not get involved in matters involving insurance settlements for automobiles. However, the Trustee's office must be notified to avoid overpayment of the creditor's claim. The insurance company should handle matters according to their standard procedures which usually involves discussion between the insurance company and the creditor.

VEHICLE TITLES:

The creditor will usually forward the vehicle title to you once the claim for your vehicle is paid in full. If the title is sent to the Trustee's office, it will be immediately forwarded to you. If you know that the vehicle has been paid in full and you want to know when to expect the title, call your attorney. The Trustee's office does not have any control over the creditor's procedures or timelines for releasing vehicle titles.

PAYING OFF YOUR CASE:

A request for the payoff amount for your case must be sent to the Trustee's office **in writing** and contain an explanation as to how you will be able to pay the case off early. Allow at least two weeks for your case to be audited for calculation of the payoff amount.

Once we have received all of the payments necessary to pay off your case, we will notify your employer to stop deducting the plan payments from your paycheck. It may take one or more pay periods before your employer is able to stop the deduction. If your case is overpaid, the excess money will be refunded directly to you when we do our monthly disbursements at the end of the month.

HOME LOANS:

Contact your attorney before you apply for a home equity loan, apply to refinance your existing mortgage or attempt to purchase a home. These loans must be approved in advance by the Trustee or the Bankruptcy Judge. You will need to obtain a settlement statement or other document from the potential lender showing the proposed amount to be borrowed, the proposed amount of payment, and estimated rate of interest. If you intend to pay off your case with the proceeds from this loan, wait until after the Application to Incur Debt is approved before contacting our office for a payoff amount. Allow at least two weeks for your case to be audited for calculation of the payoff amount.

CREDIT RATING:

The Trustee has no control over your credit rating. Each credit bureau reviews your past and present credit practices and rates you according to their standards. It is common for your Chapter 13 Bankruptcy to remain on your credit report for seven to ten years.

TAX RETURNS:

The Trustee's office cannot advise you on how to file your income tax return. The Special Procedures Section of the Internal Revenue Service must process all tax returns for Chapter 13 filers. This often results in a delay in your tax refund being issued. We urge you to file your return as soon as possible to minimize this delay in processing. Keep in mind that the IRS may apply your refund to taxes that you owe for prior years.

Do not apply for a "Rapid Refund" while you are in the bankruptcy case. Most "Rapid Refund" programs are loans. You may not borrow money during the life of your bankruptcy case without first obtaining permission from the Trustee or the Bankruptcy Court.

DISCHARGE OR COMPLETION OF YOUR CASE:

The Trustee's office will notify you or your employer that payments towards the Plan should cease once all of the allowed claims in your case have been paid in accordance with the terms of your confirmed Plan. Payments need to continue to be made until you receive this notification. The Trustee's office will do a final audit of your case to be sure that all matters are in order. After the completion of this audit, the Trustee's office will send notice to the Bankruptcy Court along with a request that your discharge order be entered. The Trustee will issue a Final Report and Account once all outstanding checks to your creditors have cleared the bank. If you paid in more funds than were necessary, the overpayment will be refunded to you after the final audit of your case.

The Bankruptcy Court will enter the *Notice of Discharge* upon completion of your case. It is strongly recommended that you keep a copy of your *Notice of Discharge* in a safe place, along with the rest of your paperwork in the bankruptcy case, as copies may be requested from you when you apply for credit at a later date.

United States Trustee, Region 7

Southern and Western Districts of Texas

515 Rusk, Suite 3516

713-

718-4650

Houston, Texas 77002

FAX 713-718-4670

NOTICE OF DEBTOR AUDITS

Commencing with cases filed by individual debtors on and after October 20, 2006, Chapter 7 and Chapter 13 cases will be selected for audit pursuant to §603 of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (“BAPCPA”). These Debtor Audits will be focused on determining the accuracy, veracity and completeness of petitions, schedules and other information provided by debtors under §521 and §1322 of the Bankruptcy Code.

Cases will be selected both randomly (one out of at least every 250 cases filed for the district) and based upon debtor’s income or expenses having a greater than average variance from the statistical norm for the district. The Debtor Audits will be performed by independent firms selected by the United States Trustee using auditing standards developed by the United States Trustee Program (the “USTP”). These Debtor Audit Standards have been published in the Federal Register and are posted to the USTP’s website at: www/usdoj.gov/ust.

The Office of United States Trustee will send a letter to Debtor’s Attorney, or a *pro se* Debtor, indicating that a case has been selected for audit, enclosing a form for the attorney to indicate whether the audit firm can directly contact a represented debtor about

documents and an information sheet about the audit for the debtor. The letter will also identify the firm that will be conducting the audit and the documents that must be produced to the audit firm. These documents include the following:

- Pay stubs for the six calendar months prior to filing;
- Two years of federal tax returns, including any schedules and forms;
- Account statements for all depository and investment accounts for the six calendar months preceding the date of the filing of the petition, plus the month in which the petition was filed, along with sufficient documentation to reasonably explain the source of deposits or credits, and the purpose of checks, withdrawals or debits; and;
- A copy of any divorce decree and/or property settlement entered within the last three years, and any current child support/alimony obligation involving the debtor.

Debtors will have 21 days to provide the audit firm with the requested documents. Debtors must cooperate with the audit firm and provide records to the auditor. A debtor's discharge may be revoked if the debtor does not satisfactorily explain the failure to make available all documents or property requested by the audit firm.

Once the audit is complete, the audit firm will issue a report which must specify any material misstatements of income, expenses, or assets that were identified by the audit firm. Before including a material misstatement in an audit report, the audit firm will contact the debtor's counsel, or the *pro se* debtor, in writing, notifying the debtor of the concern and offering the debtor an opportunity to provide an immediate written explanation for the item(s) in question.

Audit firms must file the audit report with the court and transmit it to the United States Trustee. The clerk of court must send a notice to creditors in cases in which one or more material misstatements have been identified in an audit report.

If material misstatements are not adequately explained by the debtor, the United States Trustee may take appropriate civil action and, where appropriate, make a criminal referral to the U.S. Attorney.

A public report will be issued annually by the USTP, and will include the percentage of cases by district in which a material misstatement is reported.

For more information regarding Debtor Audits, please visit the Program's website at www.usdoj.gov/ust.

Charles F. McVay

United States Trustee, Regions 7 and 19