AMENDMENTS AND ADDITIONS

TO THE

GENERAL ORDERS IN BANKRUPTCY

AND

ADDITIONS TO THE OFFICIAL FORMS

PROMULGATED BY THE

SUPREME COURT OF THE UNITED STATES

APRIL 17, 1933

NOTE.—For later amendment of General Orders, adding new order numbered LI, see *infra*, p. 655.

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AMENDMENTS AND ADDITIONS TO THE GENERAL ORDERS IN BANKRUPTCY AND ADDITIONS TO THE OFFICIAL FORMS

ORDER, April 17, 1933

IT IS ORDERED that Rules I, III, IV, V, X, XII, XIII, XIV, XVII, XVIII, XXI, XXIV, XXVI, XXVIII, XXIX, XXX, XXXI, XXXII, XXXIII, XXXVI, XXXVIII, XXXIX, XLI, XLII, XLIII, XLIV, and XLVII of the General Orders in Bankruptcy are amended, effective April 24, 1933, to read respectively as follows:

I

DOCKET

The clerk shall keep a docket, in which the cases shall be entered and numbered in the order in which they are commenced. It shall contain a memorandum of the filing of the petition and of the action of the court thereon, of the reference of the case, if any reference is made, to the referee; and of the transmission by him to the clerk of his certified record of the proceedings, with the dates thereof, and a memorandum of all proceedings in the case except those duly entered on the referee's certified record aforesaid. The docket shall be arranged in a manner convenient for reference, shall indicate whether or not the proceeding is brought under any of the sections of Chapter VIII of the Act, and shall at all times be open to public inspection.

III

PROCESS

All process, summons, and subpoenas, except such as are issued by the Interstate Commerce Commission in the

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performance of its duties under section 77 of the Act, shall issue out of the court, under the seal thereof, and be tested by the clerk; and blanks, with the signature of the clerk and seal of the court, may, upon application, be furnished to the referees.

IV

CONDUCT OF PROCEEDINGS

Proceedings may be conducted by the bankrupt or debtor in person in his own behalf, or by a petitioning or opposing creditor; but a creditor will only be allowed to manage before the court his individual interest. Every party may appear and conduct the proceedings by attorney, who shall be an attorney or counselor authorized to practice in the district court. The name of the attorney or counselor, with his place of business, shall be entered upon the docket, with the date of the entry. All papers or proceedings offered by an attorney to be filed shall be indorsed as above provided, and orders granted on motion shall contain the name of the party or attorney making the motion. Notices and orders which are not, by the Act or by these general orders, required to be served on the party personally may be served upon his attorney.

V

FRAME OF PETITIONS

1. All petitions and the schedules filed therewith shall be printed or written out plainly, without abbreviation or interlineation, except where such abbreviation and interlineation may be for the purpose of reference.

2. Petitioners in involuntary proceedings for adjudication, whose claims rest upon assignment or transfer from other persons, shall annex to one of the duplicate petitions all instruments of assignment or transfer, and an affidavit setting forth the true consideration paid for the assignment or transfer of such claims and stating that

the petitioners are the bona fide holders and legal and beneficial owners thereof and whether or not they were purchased for the purpose of instituting bankruptcy proceedings.

3. Every voluntary bankrupt whose petition is not accompanied by schedules shall file with his petition, unless further time not exceeding ten days is granted by the court for cause shown, a verified list in triplicate of the names of his creditors and their residences, if known, and if unknown that fact to be stated.

X

INDEMNITY FOR EXPENSES

Before incurring any expense in publishing or mailing notices, or in traveling, or in procuring the attendance of witnesses, or in perpetuating testimony, the clerk, marshal, or referee may require, from the bankrupt, debtor, or other person in whose behalf the duty is to be performed, indemnity for such expense. Money advanced for this purpose by the bankrupt, debtor, or other person shall be repaid him out of the estate as part of the cost of administering the same.

XII

DUTIES OF REFEREE

1. The order referring a case to a referee shall name a day upon which the bankrupt or debtor shall attend before the referee, and from that day the bankrupt or debtor shall be subject to the orders of the court in all matters relating to the proceedings, and may receive from the referee a protection against arrest to continue, unless suspended or vacated by order of the court, until the final adjudication on his application for a discharge or for the confirmation of a composition or extension proposal. A copy of the order shall forthwith be sent by mail to the referee, or be delivered to him personally by the clerk or other officer of the court. And thereafter all the proceed-

ings, except such as are required by the Act or by these general orders to be had before the judge, shall be had before the referee.

2. The time when and place where the referees shall act upon the matters arising under the several cases referred to them shall be fixed by special order of the judge, or by the referee; and at such times and places the referees may perform the duties which they are empowered by the Act to perform.

3. Applications for a discharge, or for the confirmation of a composition where the proceeding is had under section 12 of the Act, or for an injunction to stay proceedings of a court or officer of the United States or of a State, shall be heard and decided by the judge. But he may refer such an application, or any specified issue arising thereon, to the referee, or in proceedings under section 77 of the Act, to a special master, to ascertain and report the facts. Unless otherwise ordered by the judge, applications for the confirmation of a debtor's proposal under section 74 of the Act, and all objections thereto, shall be heard and decided by the referee.

4. If a voluntary bankrupt files the list of creditors required by General Order V, the referee shall promptly call the first meeting of creditors without awaiting the filing of schedules.

XIII

APPOINTMENT AND REMOVAL OF TRUSTEE

The appointment of a trustee by the creditors shall be subject to be approved or disapproved, and he shall be removable, by the referee or by the judge.

XIV

NO OFFICIAL OR GENERAL TRUSTEE

No official trustee shall be appointed by the court, nor any general trustee to act in classes of cases. This general

order shall not apply to proceedings under section 77 of the Act.

XVII

DUTIES OF TRUSTEE

1. The trustee shall, immediately upon entering upon his duties, prepare a complete inventory of all the property of the bankrupt or debtor that comes into his possession.

2. The trustee shall make report to the court, within five days after receiving the notice of his appointment, unless further time is granted by the court, of the articles set off to the bankrupt or debtor by him, according to the provisions of section 47 of the Act, with the estimated value of each article, and any creditor or the bankrupt or debtor may take exceptions to the determination of the trustee within ten days after the filing of the report, unless further time is granted by the court. The referee may require the exceptions to be argued before him, and shall certify them to the court for final determination at the request of either party.

3. The accounts of the trustee, required by section 47 of the Act, shall include a statement of all items of property received and of all items of property disposed of; his final report shall include such accounts, and the referee, except in no asset cases, shall mail a summary of said report and accounts to the creditors with the notice of the final meeting, together with a statement of the amount of claims proved and allowed.

4. The trustee shall examine the correctness of all proofs of claim filed against estates and object to the allowance thereof if he deems them improper.

5. In case the trustee shall neglect to file any report or statement which it is made his duty to file or make by the Act, or by any general order in bankruptcy, within five days after the same shall be due, it shall be the duty

of the referee to make an order requiring the trustee to show cause before him, at a time specified in the order, why he should not be removed from office. The referee shall cause a copy of the order to be served upon the trustee at least three days before the time fixed for the hearing.

6. All accounts of trustees shall be referred as of course to the referee for audit, unless otherwise specially ordered by the court.

7. This general order shall not apply to proceedings under section 77 of the Act.

XVIII

SALE OF PROPERTY

1. All sales shall be by public auction unless otherwise ordered by the court. Where the property is sold by an auctioneer he shall, upon completion of the sale, furnish the receiver or trustee with an itemized statement of the property sold, the name of each purchaser, and the price received for each item, or for the property as a whole if it is sold in bulk.

2. Upon application to the court, and for good cause shown, the trustee may be authorized to sell any specified portion of the estate at private sale; in which case he shall keep an accurate account of each article sold, and the price received therefor, and to whom sold; which account he shall file at once with the referee.

3. Upon petition by a bankrupt, debtor, creditor, receiver, or trustee, setting forth that a part or the whole of the estate is perishable, the nature and location of such perishable estate, and that there will be loss if the same is not sold immediately, the court, if satisfied of the facts stated and that the sale is required in the interest of the estate, may order the same to be sold, with or without notice to the creditors, and the proceeds to be deposited in court.

4. This general order shall not apply to procedings under section 77 of the Act.

XXI

PROOF OF DEBTS

1. Depositions to prove claims against an estate shall be correctly entitled in the court and in the cause. When made to prove a debt due to a partnership it must appear on oath that the deponent is a member of the partnership; when made by an agent, the reason the deposition is not made by the claimant in person must be stated; and when made to prove a debt due to a corporation, the deposition shall be made by a duly authorized officer of the corporation. Depositions to prove debts existing in open account shall state when the debt became or will become due; and if it consists of items maturing at different dates the average due date shall be stated, in default of which it shall not be necessary to compute interest upon it. All such depositions shall contain an averment that no note has been received for such account, nor any judgment rendered thereon. Proofs of debt received by any trustee shall be delivered to the referee to whom the cause is referred.

2. Any creditor may file with the referee a request that all notices to which he may be entitled shall be addressed to him at any place, to be designated by the post-office box or street number, as he may appoint; and thereafter, and until some other designation shall be made by such creditor, all notices shall be so addressed; and in other cases notices shall be addressed as specified in the proof of debt.

3. Claims which have been assigned before proof shall be supported by a deposition of the owner at the time of the commencement of proceedings, setting forth the true consideration of the debt, and that it is entirely unsecured, or if secured, the security as is required in prov-

ing secured claims. Upon the filing of satisfactory proof of the assignment of a claim proved and entered on the referee's docket, the referee shall immediately give notice by mail to the original claimant of the filing of such proof of assignment; and, if no objection be entered within ten days, or within further time allowed by the referee, he shall make an order subrogating the assignee to the original claimant. If objection be made, he shall proceed to hear and determine the matter.

4. The claims of persons contingently liable for the bankrupt or debtor may be proved in the name of the creditor when known by the party contingently liable. When the name of the creditor is unknown, such claim may be proved in the name of the party contingently liable; but no dividend shall be paid upon such claim, except upon satisfactory proof that it will diminish pro tanto the original debt.

5. The execution of any letter of attorney to represent a creditor, or of an assignment of claim after proof, may be proved or acknowledged before a referee, or a United States commissioner, or a notary public. When executed on behalf of a partnership or of a corporation, the person executing the instrument shall make oath that he is a member of the partnership, or a duly authorized officer of the corporation on whose behalf he acts. When the person executing is not personally known to the officer taking the proof or acknowledgment, his identity shall be established by satisfactory proof.

6. When the trustee or any creditor or the bankrupt or debtor shall desire the reëxamination of any claim filed against the estate, he may apply by petition to the referee to whom the case is referred for an order for such reëxamination, and thereupon the referee shall make an order fixing a time for hearing the petition, of which due notice shall be given by mail addressed to the creditor. At the time appointed the referee shall take the examination of the creditor, and of any witness that may be called by

either party and if it shall appear from such examination that the claim ought to be expunged or diminished, the referee may order accordingly.

7. Every proof of debt filed in extension proceedings under section 74 of the Act shall, unless the court is satisfied from its other allegations that the claim is not based upon money loaned or upon any bond, note or other obligation, contain proof that the claim is free from usury as defined by the laws of the place where the debt is contracted.

8. The provisions of this general order shall not apply to proceedings under section 77 of the Act.

XXIV

LIST OF PROVED CLAIMS

The referee shall maintain open to inspection a list of the claims proved against an estate, with the names and addresses of the proving creditors.

XXVI

ACCOUNTS OF REFEREE

Every referee shall keep an accurate and itemized account showing, with respect to each case referred to him, his receipts and expenditures and their nature. Within sixty days after the expiration of each six months period ending January thirty-first and July thirty-first respectively, in each year, he shall submit to the district court (1) a transcript of such account, with proper vouchers when vouchers can be procured; (2) a statement showing the unexpended balance, if any, of moneys received as indemnity or charges for expenses; (3) if the referee devotes part time to his duties, a statement showing the extent to which and the method by which any overhead expenses have been allocated to and reimbursed out of the cases referred to him; (4) the particular rule

or method by which the amount of expense charges against individual estates is computed or fixed; (5) a statement of the cases referred to him which have remained open for more than eighteen months, giving the reasons in each instance why they have not been closed. The accounts and statements so submitted shall be in duplicate and verified; one copy shall be transmitted by the clerk, forthwith upon its receipt, to the Attorney General.

XXVIII

REDEMPTION OF PROPERTY AND COMPOUNDING OF CLAIMS

Whenever it may be deemed for the benefit of an estate to redeem and discharge any mortgage or other pledge, or deposit or lien, upon any property, real or personal, or to relieve said property from any conditional contract, and to tender performance of the conditions thereof, or to compound and settle any debts or other claims due or belonging to the estate, the trustee, or the bankrupt or debtor, or any creditor who has proved his debt, may file his petition therefor; and thereupon the court shall appoint a suitable time and place for the hearing thereof, notice of which shall be given as the court shall direct, so that all creditors and other persons interested may appear and show cause, if any they have, why an order should not be passed by the court upon the petition authorizing such act on the part of the trustee. This general order shall not apply to proceedings under section 77 of the Act.

XXIX

PAYMENT OF MONEYS DEPOSITED

No moneys deposited as required by the Act shall be drawn from the depository unless by check or warrant, signed by the clerk of the court, or by a trustee, and countersigned by the judge of the court, or by a referee designated for that purpose, or by the clerk or his assistant under an order made by the judge, stating the date,

the sum, and the account for which it is drawn; and an entry of the substance of such check or warrant, with the date thereof, the sum drawn for, and the account for which it is drawn, shall be forthwith made in a book kept for that purpose by the trustee or his clerk; and all checks and drafts shall be entered in the order of time in which they are drawn, and shall be numbered in the case of each estate. A copy of this general order shall be furnished to the depository, and also the name of any referee or clerk authorized to countersign said checks. This general order shall not apply to proceedings under section 77 of the Act.

XXX

IMPRISONED DEBTOR

If, at the time of the commencement of proceedings under this Act, the bankrupt or debtor shall be imprisoned, the court, upon application, may order him to be produced upon habeas corpus, by the jailer or any officer in whose custody he may be, before the court, for the purpose of testifying in any manner relating to said proceedings; and, if committed after the commencement of said proceedings upon process in any civil action founded upon a claim provable under the Act, the court may, upon like application, discharge him from such imprisonment. If the bankrupt or debtor, during the pendency of said proceedings be arrested or imprisoned upon process in any civil action, the district court, upon his application, may issue a writ of habeas corpus to bring him before the court to ascertain whether such process has been issued for the collection of any claim provable under the Act, and if so provable he shall be discharged; if not, he shall be remanded to the custody in which he may lawfully be. Before granting the order for discharge, the court shall cause notice to be served upon the creditor or his attorney, so as to give him an opportunity of appearing and being heard before the granting of the order.

XXXI

PETITION FOR DISCHARGE

The petition of a bankrupt or debtor for a discharge shall state concisely, in accordance with the provisions of the Act and the orders of the court, the proceedings in the case and the acts of the bankrupt or debtor.

XXXII

OPPOSITION TO DISCHARGE OR COMPOSITION OR EXTENSION

A creditor opposing an application for discharge, or for the confirmation of a composition or extension proposal, shall enter his appearance in opposition thereto on the day when the creditors are required to show cause, and shall at the same time file a specification in writing of the grounds of his opposition.

XXXIII

ARBITRATION

Whenever a trustee shall make application to the court for authority to submit a controversy arising in the settlement of a demand against an estate, or for a debt due to it, to the determination of arbitrators, or for authority to compound and settle such controversy by agreement with the other party, the application shall clearly and distinctly set forth the subject matter of the controversy, and the reasons why the trustee thinks it proper and most for the interest of the estate that the controversy should be settled by arbitration or otherwise.

XXXVI

APPEALS

Appeals shall be regulated, except as otherwise provided in the Act, by the rules governing appeals in equity in courts of the United States.

XXXVIII

FORMS

The several forms annexed to these general orders shall be observed and used, with such alterations as may be necessary to suit the circumstances of any particular case. In proceedings under any of the sections of Chapter VIII of the Bankruptcy Act, unless and until the debtor is adjudicated a bankrupt all forms used shall refer to him as a "debtor" and not a "bankrupt" and shall be captioned "In proceedings for a composition or extension" or "In proceedings for the reorganization of a railroad," as the case may be, and not "In bankruptcy."

XXXIX

REPRESENTATION OF CREDITORS BY RECEIVERS OR THEIR ATTORNEYS

Neither a receiver nor his attorney shall solicit any proof of debt, power of attorney, or other authority to act for, or represent, any creditor for any purpose in connection with the administration of an estate or the acceptance or rejection of any composition or extension proposal. The local bankruptcy court may, however, whenever a banking institution is under local rule or practice always appointed receiver in cases requiring the services of a receiver, by local rule approved by a majority of the circuit judges of the circuit, provide that notice may be given to the creditors of the availability of such institution to act as trustee if elected, and may provide means to facilitate the creditors in filing and voting their claims in favor of the election of such institution as trustee.

XLI

WAIVER OF RIGHT TO SHARE IN COMPOSITION DEPOSITS OR IN PAYMENTS UNDER AN EXTENSION

Before confirming a composition or extension proposal the court shall require all creditors and other persons who

may have waived their right to share in the distribution of the deposit or in payments under the extension, for claims, fees or otherwise, to set forth in writing and under oath all agreements with respect thereto with the bankrupt or debtor, his attorney or other person, and shall also require an affidavit by the bankrupt or debtor that he has not directly or indirectly paid or promised any consideration to any attorney, trustee, receiver, creditor, or other person in connection with the proceedings except as set forth in such affidavit or in the offer of composition or extension, and that he has no knowledge of any such payment or promise by any other party.

XLII

COMPENSATION OF ATTORNEYS, RECEIVERS, AND TRUSTEES

1. Every attorney, receiver, and trustee seeking an allowance of compensation from an estate for services rendered, or reimbursement for expenses incurred in the proceedings, shall file with the court a petition under oath, setting forth a full and detailed statement of such services and expenses and the amount claimed therefor, and, in the case of an attorney or receiver, the amount of the partial allowance, if any, theretofore made. And such petition shall be accompanied by an affidavit of the applicant stating that no agreement has been made, directly or indirectly, and that no understanding exists, for a division of fees between the applicant and the receiver, the trustee, the bankrupt, the debtor, or the attorney of any of them. In the absence of such petition and affidavit no allowance of compensation shall be made; and no allowance shall be made to any attorney for a receiver or trustee except for professional services.

2. Except in proceedings under section 77 of the Act, such petition shall be heard at a meeting of creditors, and the referee in sending the notice of such meeting prescribed by section 58 of the Act shall state by whom and

in what amount the allowance of the compensation or reimbursement for expenses is asked.

XLIII

FEES AND EXPENSES OF ATTORNEYS FOR PETITIONING CREDITORS

The court may deny the allowance of any fee to the attorney for petitioning creditors or the reimbursement of his expenses, or both, if it shall appear that the proceedings were instituted in collusion with the bankrupt or debtor or were not instituted in good faith.

XLIV

APPOINTMENT OF ATTORNEYS FOR RECEIVERS OR TRUSTEES

No attorney for a receiver or a trustee shall be appointed except upon the order of the court, which shall be granted only upon the verified petition of the receiver or trustee, stating the name of the counsel whom he wishes to employ, the reasons for his selection, the professional services he is to render, the necessity for employing counsel at all, and to the best of the petitioner's knowledge all of the attorney's connections with the bankrupt or debtor, the creditors or any other parties to the proceedings, and their respective attorneys. If satisfied that the attorney represents no interest adverse to the receiver, trustee, or any creditor in the matters upon which he is to be engaged, and that his employment would be to the best interests of the estate, the court may authorize his employment, and such employment shall be for specific purposes unless the court is satisfied that the case is one justifying a general retainer. If without disclosure any attorney acting for a receiver or trustee shall have represented any interest adverse to the receiver, trustee, or any creditor in any matter upon which he is employed for such receiver or trustee, the court may deny the allowance of any fee to such attorney, or the reimbursement of

his expenses, or both, and may also deny any allowance to the receiver or trustee if it shall appear that he failed to make diligent inquiry into the connections of said attorney.

Nothing herein contained shall prevent the court, in proceedings under section 77 of the Act, from authorizing the employment of attorneys who are attorneys of the railroad corporation, or associated with its legal department, in connection with the operation of the business of the corporation by a trustee or trustees under paragraph (c) of section 77, when such employment is found by the court to be in the public interest in relation to such operation and is not adverse to the interests of the trustee or trustees or of the creditors of the corporation.

XLVII

REPORTS OF REFEREES

The reports of referees in all proceedings under the Act, and of special masters in proceedings under section 77 of the Act, shall be deemed presumptively correct, but shall be subject to review by the court, and the court may adopt the same, or may modify or reject the same in whole or in part when the court in the exercise of its judgment is fully satisfied that error has been committed: PROVIDED, That when any matter is referred by consent of all parties in interest and the intention is plainly expressed in the consent order that the submission is to the referee or master as an arbitrator, the court may review the same only in accordance with the principles governing a review of an award and decision by an arbitrator.

IT IS FURTHER ORDERED that the following Rules, XLVIII, XLIX, and L, are adopted and established, effective April 24, 1933, as additions to the General Orders in Bankruptcy:

XLVIII

PROCEEDINGS UNDER SECTION 74 OF THE ACT

The following additional rules shall apply to proceedings under section 74 of the Act:

1. Notice to creditors of the proposed appointment of a custodian or receiver may, in the interests of expedition, be given by publication instead of in writing, if the court so directs.

2. If a custodian or receiver is appointed, the notice of the first meeting which he is required to prepare shall be in form approved by the referee and the date of the meeting shall be fixed by the referee.

3. If the debtor is a wage-earner or a person engaged chiefly in farming or the tillage of the soil, and any happenings occur which under the provisions of subdivision (l) of said section would otherwise be followed by an order of liquidation, and the debtor does not consent to liquidation, the court shall dismiss the proceedings and notify the creditors accordingly. If a composition or extension proposal is set aside for fraud as provided in subdivision (k) of said section, the case shall be reinstated and such proceedings shall be had as upon denial of confirmation under subdivision (l).

4. For the purposes of computing the commissions of the referee and of the custodian or receiver the term "composition" as used in sections 40 and 48 of the Act shall be deemed to include an extension proposal, and the amount of the debts whose maturity is to be extended thereunder and of the debts, if any, to be paid in full on the confirmation, shall be deemed to be "the amount to be paid creditors" within the meaning of said sections. If the estate is liquidated under the provisions of subdivision (l) of section 74 of the Act, the referee shall return to the estate any commissions previously received and shall be entitled to commissions on all moneys dis-

bursed to creditors by the trustee as provided in section 40 of the Act.

XLIX

PROCEEDINGS UNDER SECTION 77 OF THE ACT

The following additional rules shall apply to proceedings under section 77 of the Act:

1. Each Circuit Court of Appeals shall cause written notice to be given the judges of the district courts within the circuit of the names and addresses of the persons from time to time designated and qualified to act as special masters under the provisions of subdivision (c) of section 77.

2. The clerk of the district court in which proceedings under section 77 are brought shall forthwith transmit to the Interstate Commerce Commission copies of (a) the petition of a railroad corporation, or of creditors thereof, desiring to effect a plan of reorganization; (b) the answer, if any, of the corporation, upon receipt of which the commission shall file with the court its recommendations as to the disposition of the answer; (c) the order approving or dismissing the petition; (d) any order appointing or removing a temporary or permanent trustee; (e) the order fixing the date for a hearing on the appointment of permanent trustees; (f) any application by a trustee for authority to issue certificates, upon receipt of which the commission shall file with the court an order approving or disapproving such issuance; (g) any order authorizing such issuance; (h) such schedules and reports as may be submitted by the corporation with respect to the conduct of its affairs and the fairness of any proposed plan; (i) the lists of creditors and stockholders required to be filed by the trustee or the corporation, and the order determining the time within which the claims and interests of creditors and stockholders may be filed or evidenced, the manner in which such claims and interests may be filed or evidenced and allowed, and the

division of creditors and stockholders into classes, upon receipt of which papers the commission may hold a public hearing for the presentation of plans of reorganization as provided in subdivision (d) of section 77; (j) all orders allowing or rejecting such claims and interests, or extending the time within which they may be filed or evidenced; (k) any petition for the fixing of a reasonable time within which a plan of reorganization shall be proposed or accepted, upon receipt of which the commission shall recommend to the court what in its judgment a reasonable time would be; (l) any orders fixing or extending such time, or dismissing the proceedings for failure to comply with such orders; (m) any order issued upon the petition of the commission for the reference of particular matters to a special master, and the report of such master thereon; (n) all orders referring to the commission for its determination, under the fifth or sixth clauses of subdivision (g) of section 77, the fixing of an upset price or the appraisal of securities, upon receipt of which orders the commission shall make the necessary determinations and report thereon to the court; (o) any orders approving the special employment of assistants requested by the commission; (p) all applications for allowances of fees and expenses in the proceeding or in any prior receivership proceeding, upon receipt of which the commission shall determine the maximum limits of such allowances and file with the court its report thereon; (q) any order adjudging the corporation to be solvent or insolvent; (r) the order confirming or disapproving the plan and, if it is disapproved, the judge's opinion stating his reasons for such disapproval; (s) any orders issued to the trustee or trustees with respect to the operation of the corporation's business; (t) the order dismissing the proceedings, if the plan is disapproved, or if it is confirmed directing the transfer or other disposition of the property; (u) the final decree; and (v) such other papers filed in the proceedings as the commission may

request of the clerk or the court may direct him to transmit. All papers filed with the court shall have attached thereto such copies as the clerk may require in carrying out this general order.

3. The commission shall forthwith cause to be filed in the district court having jurisdiction of the proceedings, copies of (a) any order approving the filing of a petition by creditors under subdivision (a) of section 77; (b) each plan of reorganization presented at the hearing provided for in subdivision (d) of section 77; (c) each order or call for a hearing, with a statement of its purposes; (d) the plan subsequently recommended by the commission, together with the report and any supplemental report thereon; (e) in addition to the papers required to be submitted to the court under the provisions of subdivision (f) of said section, the written acceptances of any plan which is finally approved, together with a certificate of the commission that in its judgment the debtor and every other corporation issuing securities or acquiring property under the plan is authorized by its charter or by applicable State or Federal laws, upon confirmation of the plan, to carry out the plan; (f) any orders granting authority, subject to the confirmation of the plan, for the issuance of securities or other steps contemplated by the plan; (g) any orders issued to the trustee or trustees with respect to the operation of the corporation's business; and (h) such other papers filed in the proceedings as the court may direct or the commission deem pertinent. All proceedings before the commission under section 77 shall be conducted in accordance with its rules of practice.

4. Upon application of the commission prior to its approval of a plan of reorganization the court, after a hearing upon notice to the stockholders and to all parties who have appeared in the proceedings, shall determine whether or not the corporation is insolvent.

L

PROCEEDINGS UNDER SECTION 75 OF THE ACT

The following rules shall apply to proceedings under section 75 of the Act:

1. A petition for the appointment within a particular county of a conciliation commissioner must show to the satisfaction of the judge that each petitioner, within the meaning of subdivision (r) of section 75 is a farmer and a resident of the county, and must allege that each petitioner is insolvent or unable to meet his debts as they mature, and that he intends to file a petition for relief under said section. Having granted the petition and appointed a conciliation commissioner for such county, the judge may, without further petition, reappoint him or appoint other or additional conciliation commissioners for such county.

2. Every petition for relief filed under subdivision (b) of section 75 shall specify the county or counties in which any land used in the petitioner's farming operations is situated, and shall not be granted unless a conciliation commissioner for such county, or for one of such counties, has previously been appointed. The clerk shall not accept the petition unless it is accompanied by the filing fee and the schedules, which shall be in duplicate. Upon the filing of the petition the judge shall enter an order either approving it as properly filed under the section, or dismissing it for want of jurisdiction. If the petition is approved, the case shall be referred, and one of the duplicate schedules delivered, to a conciliation commissioner appointed for service in said county or in one of said counties.

3. Within ten days after the approval of the petition, or within such further time as the judge for cause shown may allow, the farmer shall file with the conciliation commissioner an inventory of his estate, and the commissioner

shall thereupon call the first meeting of creditors, to be held before him at such place as he deems most convenient for the parties in interest, upon written and published notice as provided in section 58 of the Act. Prior to the meeting he shall set off to the farmer the exemptions to which the farmer is entitled.

4. If the farmer has not applied for confirmation within such reasonable time as has been finally fixed therefor, which shall be not later than three months after the date of the first meeting the conciliation commissioner shall, unless the judge for cause shown shall have permitted a further extension, forthwith report the facts to the judge, who shall thereupon dismiss the proceedings.

5. The deposit required by subdivision (g) of section 75 shall be made in any one of the designated depositories, subject to withdrawal by the depositor upon the countersignature of the conciliation commissioner. The judge shall furnish a copy of this general order to the depositories and also the name of any conciliation commissioner whose countersignature is authorized.

6. Application for confirmation shall be filed with the conciliation commissioner who shall forthwith transmit it to the judge with (a) the acceptances, (b) the proofs of claims which have been allowed and those which have been disallowed, (c) a list of the debts having priority, (d) a list of the secured debts, with a description of the security of each, (e) the final inventory, with a list of the exemptions, (f) a certificate of the depository showing that the required deposit has been made, and (g) a report of the commissioner recommending or opposing confirmation and, in the case of an extension, stating to what extent, if any, it would be desirable for the court after confirmation to retain jurisdiction of the farmer and his property.

7. The judge shall fix a date and place for a hearing before him upon the application for confirmation. At the hearing any creditor opposing confirmation shall file a

written specification of the grounds of his opposition. If the judge does not confirm the proposal he may dismiss the proceedings, or refer the specifications to the commissioner for testimony and report and thereafter confirm the proposal or dismiss the proceedings.

8. If a composition or extension proposal is set aside for fraud under the provisions of subdivision (m) of section 75 the case may be dismissed and the clerk shall notify the creditors accordingly. Whenever the terms of the proposal are modified under the provisions of subdivision (l) of said section, the clerk shall send a written notice of the modifications to the creditors.

9. The personal representative of a deceased farmer who desires in his representative capacity to effect, under section 75, a composition or extension of the debts of the estate, shall attach to his petition, in lieu of schedules, the following papers, certified as correct by the court which appointed him (hereinafter referred to as the probate court): (a) a copy of the order of his appointment, (b) a copy of an order of the probate court authorizing him to file the petition, (c) a detailed inventory of so much of the property constituting the estate as under the laws of the State of which the decedent died a resident would be available for creditors, and (d) a list of the names and addresses of the creditors, showing the amounts allowed or apparently owing to each, the nature of the securities or liens, if any, held by each, and the claims which are entitled to priority. The petition shall show to the satisfaction of the district court that the decedent at the time of his death was a farmer within the meaning of subdivision (r) of section 75, and shall specify the county or counties in which at the time of the decedent's death his farming operations occurred. If the petition is approved by the district court as properly filed under section 75, the clerk shall file a certified copy of the order of approval with the probate court, and from the date of such order until the case is dismissed the district court shall exercise

exclusive jurisdiction over the property required to be listed in the inventory as above provided.

10. Upon the approval of a personal representative's petition the case shall be referred to a conciliation commissioner and proceeded with as in all other cases under section 75 and this general order, except that (a) the original and any amended or supplementary inventory filed by the petitioner with the approval of the probate court shall be deemed to be correct, and no inventory shall be made by the commissioner; (b) all claims allowed by the probate court, and only such claims, shall be allowed by the commissioner or the district court; (c) the petitioner shall file with the application for confirmation a completed list of the claims allowed up to the date of the application, certified as correct by the probate court; and (d) the clerk shall file with the probate court certified copies of all orders of the judge confirming or denying the proposal, modifying its terms, or dismissing the proceedings before or after confirmation.

11. Insofar as is consistent with the provisions of section 75 and of this general order, the conciliation commissioner shall have all the powers and duties of a referee in bankruptcy and the general orders in bankruptcy shall apply to proceedings under said section. A supervisory conciliation commissioner, if appointed, shall exercise such supervision and control over the conduct of proceedings by conciliation commissioners as the judge may from time to time direct.

12. The ten dollar fees of the conciliation commissioner, and the fees and expenses of the supervisory conciliation commissioner, shall be payable out of appropriated funds in accordance with such instructions as may be issued from time to time by the Attorney General.

IT IS FURTHER ORDERED that the following forms, numbered 64 to 75, inclusive, are approved.

FORM No. 64

DEBTOR'S PETITION IN PROCEEDINGS UNDER SECTION 74 OF THE BANKRUPTCY ACT

To the Honorable .....,

Judge of the District Court of the United States for the .....

District of .....:

The petition of ....., of ....., in the county of ....., and district and State of ....., ...[*state occupation*], respectfully represents:

That he has had his principal place of business [*or* has resided, *or* has had his domicile] for the greater portion of six months next immediately preceding the filing of this petition at ..... within said judicial district; that he is insolvent [*or* unable to meet his debts as they mature]; and that he desires to effect a composition or an extension of time to pay his debts under section 74 of the Bankruptcy Act.

That the schedule hereto annexed, marked "A", and verified by your petitioner's oath, contains a full and true statement of all his debts, and (so far as it is possible to ascertain) the names and places of residence of his creditors, and such further statements concerning said debts as are required by the provisions of said act.

That the schedule hereto annexed, marked "B", and verified by your petitioner's oath, contains an accurate inventory of all his property, both real and personal, and such further statements concerning said property as are required by the provisions of said act.

Wherefore your petitioner prays that his petition may be approved by the court and proceedings had in accordance with the provisions of said section.

.....

....., Attorney.

United States of America, District of ....., ss:

I, ..., the petitioning debtor mentioned and described in the foregoing petition, do hereby make solemn oath that the state-

ments contained therein are true according to the best of my knowledge, information, and belief.

....., Petitioner.

Subscribed and sworn to before me this .... day of ....., A.D. 19...

....., ...
[*Official character*]

FORM No. 65

DEBTOR'S PETITION IN PROCEEDINGS UNDER SECTION 75 OF THE BANKRUPTCY ACT

To the Honorable .....,
Judge of the District Court of the United States for the .....
District of .....:

The petition of ....., of ....., in the county of ....., and district and State of ....., respectfully represents:

That he is personally bona fide engaged primarily in farming operations [*or* that the principal part of his income is derived from farming operations] as follows .....
.....
.....
.....
.....;
that such farming operations occur in the county [*or* counties] of ....., within said judicial district; that he is insolvent [*or* unable to meet his debts as they mature]; and that he desires to effect a composition or extension of time to pay his debts under section 75 of the Bankruptcy Act.

That the schedule hereto annexed, marked "A", and verified by your petitioner's oath, contains a full and true statement of all his debts, and (so far as it is possible to ascertain) the names and places of residence of his creditors, and such further statements concerning said debts as are required by the provisions of said act.

That the schedule hereto annexed, marked "B", and verified by your petitioner's oath, contains an accurate inventory of all his prop-

erty, both real and personal, and such further statements concerning said property as are required by the provisions of said act.

Wherefore your petitioner prays that his petition may be approved by the court and proceedings had in accordance with the provisions of said section.

.....

....., Attorney.

United States of America, District of ....., ss:

I, ..., the petitioning debtor mentioned and described in the foregoing petition, do hereby make solemn oath that the statements contained therein are true according to the best of my knowledge, information, and belief.

.....,

Petitioner.

Subscribed and sworn to before me this .... day of ....., A.D. 19...

.....,

.....

[*Official character*]

FORM No. 66

ANSWER UNDER SECTION 74 TO INVOLUNTARY PETITION

In the District Court of the United States for the ..... District of .....

In the Matter of ..... *Debtor*	In Proceedings for a Composition or Extension

At ....., in said district, on the .... day of ..... A.D. 19...

And now the said ..... appears, and in answer to the involuntary petition filed against him asserts that he is insolvent [*or* unable to meet his debts as they mature] and that he desires to effect a composition or an extension of time to pay his debts under section 74 of the Bankruptcy Act; wherefore he prays that the petition for his adjudication be not granted, that his answer be approved, and that the proceedings be thenceforth had under said section.

Subscribed and sworn to before me, this .... day of ....., A.D. 19...

.....

[*Official character*]

FORM No. 67

ORDER APPROVING DEBTOR'S PETITION OR ANSWER IN PROCEEDINGS UNDER SECTION 74, OR HIS PETITION IN PROCEEDINGS UNDER SECTION 75

In the District Court of the United States for the .....
District of .....

In the Matter of .....
Debtor | In Proceedings for a Composition or Extension

At ....., in said district, on the ..... day of ..... A.D. 19.., before the Honorable ..... judge of said court, the petition [*or* answer] of ..... praying that he be afforded an opportunity to effect a composition or an extension of time to pay his debts under section 74 [*or* 75] of the Bankruptcy Act, having been heard and duly considered, is approved as properly filed under said section.

Witness the Honorable ....., judge of said court, and the seal thereof, at ....., in said district, on the ..... day of ..... A.D. 19...

[Seal of the court] .....,
Clerk.

FORM No. 68

ORDER OF REFERENCE IN PROCEEDINGS UNDER SECTION 74 OR SECTION 75

In the District Court of the United States for the.....
District of .....

In the Matter of .....
Debtor | In Proceedings for a Composition or Extension

Whereas the petition [*or* answer] of ....., filed in this court on the ..... day of ....., A.D. 19.., praying that he be afforded an opportunity to effect a composition or an extension of time to pay his debts under section 74 [*or* 75] of the Bankruptcy Act, having been duly approved by order of this court on the ..... day of ....., A.D. 19.., it is thereupon ordered, that said matter be referred to ....., one of the referees in bankruptcy [*or* one of the conciliation commissioners] of this court, to take such further proceedings therein as are required by said section; and that the said ..... shall attend before said referee [*or* conciliation commissioner] on

the ..... day of ..... at ....., and thenceforth shall submit to such orders as may be made by said referee [*or* conciliation commissioner] or by this court relating to the proceedings under said section.

Witness the Honorable ....., judge of the said court, and the seal thereof, at ..... in said district, on the ..... day of ....., A.D. 19...

....., *Clerk.*

[Seal of the court.]

FORM No. 69

BOND OF CONCILIATION COMMISSIONER

Know all men by these presents: That we ....., of ....., as principal, and ....., of ..... and ....., of ....., as sureties, are held and firmly bound to the United States of America in the sum of ..... dollars, lawful money of the United States, to be paid to the said United States, for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Signed and sealed this ..... day of ....., A.D. 19...

The condition of this obligation is such that whereas the said ..... has been on the ..... day of ....., A.D. 19.., appointed by the Honorable ....., judge of the District Court of the United States for the ..... District of ....., a conciliation commissioner under section 75 of the Bankruptcy Act, in and for the county of ....., in said district:

Now, therefore, if the said ..... shall well and faithfully discharge and perform all the duties pertaining to the said office of conciliation commissioner, then this obligation to be void; otherwise to remain in full force and virtue.

Signed and sealed in the presence of—

..... [L.S.]
..... [L.S.]
..... [L.S.]

Approved this ..... day of .....

....., *District Judge.*

FORM No. 70

NOTICE OF FIRST MEETING OF CREDITORS IN PROCEEDINGS UNDER SECTION 74

In the District Court of the United States for the .....
District of .....

In the Matter of .....
Debtor | In Proceedings for a Composition or Extension

To the creditors of ....., of .....,
in the county of ....., and district aforesaid.

Notice is hereby given that on the ..... day of .....
....., A.D., 19.., the petition [*or* answer] of the said.....
....., praying that he be afforded an opportunity to effect a composition or an extension of time to pay his debts under section 74 of the Bankruptcy Act, was approved by this court as properly filed under said section; and that the first meeting of his creditors will be held at ..... in ....., on the ..... day of ....., A.D., 19.., at .... o'clock in the ..... noon, at which time the said creditors may attend, prove their claims, nominate a trustee, examine the debtor, and transact such other business as may properly come before said meeting.

.....,
Referee in Bankruptcy.

..... 19...

FORM No. 71

NOTICE OF FIRST MEETING OF CREDITORS IN PROCEEDINGS UNDER SECTION 75

In the District Court of the United States for the .....
District of .....

In the Matter of .....
Debtor | In Proceedings for a Composition or Extension

To the creditors of ....., of .....,
in the county of ....., and district aforesaid.

Notice is hereby given that on the ..... day of .....
....., A.D. 19.., the petition of the said .....,
praying that he be afforded an opportunity to effect a composition or an extension of time to pay his debts under section 75 of the

Bankruptcy Act, was approved by this court as properly filed under said section; and that the first meeting of his creditors will be held at ..... in ....., on the ..... day of ....., A.D. 19.., at ..... o'clock in the ..... noon, at which time the said creditors may attend, prove their claims, examine the debtor, and transact such other business as may properly come before said meeting.

....., *Conciliation Commissioner.*

....., 19...

FORM No. 72

APPLICATION FOR CONFIRMATION OF A COMPOSITION OR EXTENSION PROPOSAL UNDER SECTION 74 OR SECTION 75

In the District Court of the United States for the ..... District of .....

In the Matter of ..... *Debtor*	In Proceedings for a Composition or Extension

To the Honorable ....., Referee in Bankruptcy [*or* Judge] of the District Court of the United States for the ..... District of .....:

At ....., in said district, on the ..... day of ....., A.D. 19.., now comes ....., the above-named debtor, and respectfully represents to the court that, after he had filed in court a schedule of his property and a list of his creditors, as required by law, he offered a proposal for a composition or an extension to his creditors, which proposal has been accepted in writing by a majority in number of all creditors whose claims have been allowed, including secured creditors whose claims are to be affected by the proposal, which number represents a majority in amount of such claims; that the consideration to be paid to the creditors, the money necessary to pay all debts which have priority, and the costs of the proceedings, amounting in all to the sum of ..... dollars, has been deposited, subject to the order of the court, in the ..... Bank, of ....., a designated depository.

Wherefore the said ..... respectfully asks that the said proposal be confirmed by the court.

....., *Debtor.*

FORM No. 73

ORDER CONFIRMING A COMPOSITION OR EXTENSION PROPOSAL UNDER SECTION 74

In the District Court of the United States for the .....
District of .....

In the Matter of
..... } In Proceedings for a Composition or Extension
Debtor

An application for the confirmation of the proposal offered by the debtor under section 74 of the Bankruptcy Act having been filed in court, and it appearing that the proposal has been accepted by a majority in number of creditors whose claims have been allowed, including secured creditors whose claims are to be affected by the proposal, which number represents a majority in amount of such claims; and the consideration and the money required by law to be deposited, having been deposited as ordered, in such place as was designated by the said court, and subject to its order; and it also appearing that the proposal includes an equitable and feasible method of liquidation for secured creditors whose claims are affected and of financial rehabilitation for the debtor; that it is for the best interests of all creditors; that the debtor has not been guilty of any of the acts or failed to perform any of the duties which would be a ground for denying his discharge; and that the offer and its acceptance are in good faith and have not been made or procured by any means, promises, or acts contrary to the acts of Congress relating to bankruptcy: It is therefore hereby ordered that the said proposal be, and it hereby is, confirmed.

Witness my hand, this ..... day of ....., A.D. 19...

.....,
Referee in Bankruptcy.

FORM No. 74

ORDER CONFIRMING A COMPOSITION OR EXTENSION PROPOSAL UNDER SECTION 75

In the District Court of the United States for the .....
District of .....

In the Matter of
..... } In Proceedings for a Composition or Extension
Debtor

An application for the confirmation of the proposal offered by the debtor under section 75 of the Bankruptcy Act having been filed in

court, and it appearing that the proposal has been accepted by a majority in number of creditors whose claims have been allowed, including secured creditors whose claims are to be affected by the proposal, which number represents a majority in amount of such claims; and the consideration and the money required by law to be deposited, having been deposited as ordered, in such place as was designated by the said court, and subject to its order; and it also appearing that the proposal includes an equitable and feasible method of liquidation for secured creditors whose claims are affected and of financial rehabilitation for the debtor; that it is for the best interests of all creditors; and that the offer and its acceptance are in good faith and have not been made or procured by any means, promises, or acts contrary to the acts of Congress relating to bankruptcy: It is therefore hereby ordered that the said proposal be, and it hereby is, confirmed.

Witness the Honorable ....., judge of said court, and the seal thereof, this ..... day of ....., A.D. 19...

....., *Clerk.*

[Seal of the court]

FORM NO. 75

PETITION OF FARMERS FOR THE APPOINTMENT OF A CONCILIATION COMMISSIONER

To the Honorable .....,
Judge of the District Court of the United States for the ..... District of .....:

The petition of ....., ..., ..., ..., ..., ..., ..., ..., ..., ..., ..., ..., ..., ..., ..., ..., respectfully represents:

That each of your petitioners is personally bona fide engaged in farming operations, or derives the principal part of his income from farming operations, as more fully set forth with respect to each petitioner in the schedules hereto annexed and made a part hereof marked exhibits ..... respectively;

That the farming operations of each of your petitioners occur in the county of ..... in said district; that each of your petitioners is insolvent or unable to meet his debts as they mature,

and that each intends, if a conciliation commissioner for said county is appointed, to file a petition for relief under section 75 of the Bankruptcy Act.

Wherefore your petitioners pray that a conciliation commissioner for said county be appointed as provided in said section.

..... Address.....
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..... Address.....
..... Address.....
..... Address.....

[*Form of verification to be signed by each petitioner:*]

United States of America, District of ....., ss:

I [*or* we], ...
....., who executed the foregoing petition, do hereby make solemn oath that the statements contained therein are true to the best of my [*or* our] knowledge, information, and belief.

[*Signatures:*]

Subscribed and sworn to before me this ..... day of .....
....., A.D. 19..

.....

.....

[*Official character*]

ORDER OF MAY 15, 1933.

The General Orders in Bankruptcy heretofore promulgated by this Court are amended by including therein a new order, numbered LI, to be immediately effective, and reading as follows:

"No ancillary receiver shall be appointed in any District Court of the United States in any bankruptcy proceeding pending in any other District of the United States except (1) upon the application of the primary receiver, or (2) upon the application of any party in interest with the consent of the primary receiver, or by leave of the court of original jurisdiction, or a judge thereof. No application for the appointment of such an ancillary receiver shall be granted unless the petition contains a detailed statement of the facts showing the necessity for such appointment, which petition shall be verified by the party in interest, or the primary receiver, or by an agent of the party in interest or primary receiver specifically authorized in writing for that purpose and having knowledge of the facts. Such authorization shall be attached to the petition."