# BANKRUPTCY RULES AND OFFICIAL BANKRUPTCY FORMS

## Effective August 1, 1975

The Bankruptcy Rules and Official Bankruptcy Forms were prescribed by the Supreme Court of the United States on April 28, 1975, pursuant to 28 U. S. C. § 2075, and were reported to the Congress by THE CHIEF JUSTICE on the same date. For letter of transmittal, see *post*, p. 1020. The Judicial Conference report referred to in that letter is not reproduced herein. These rules and forms became effective on August 1, 1975, as provided in paragraphs 2 of the Court's orders, *post*, pp. 1021 and 1022.

For earlier publication of Bankruptcy Rules and Forms, see, *e. g.*, 411 U. S. 989, 415 U. S. 1003.



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# LETTER OF TRANSMITTAL

SUPREME COURT OF THE UNITED STATES
WASHINGTON, D. C.

APRIL 28, 1975

*To the Senate and House of Representatives of the United States of America in Congress Assembled:*

By direction of the Supreme Court of the United States, I have the honor to submit to Congress the Rules and Official Forms governing proceedings under Chapters X and XII of the Bankruptcy Act prescribed pursuant to Title 28, United States Code, Section 2075. MR. JUSTICE DOUGLAS dissents from the action taken by the Court.

Accompanying these rules and forms is an excerpt from the Report of the Judicial Conference of the United States containing the Advisory Committee Notes which were submitted to the Court for its consideration pursuant to Title 28, United States Code, Section 331.

Respectfully,

(Signed) WARREN E. BURGER,
*Chief Justice of the United States*



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# SUPREME COURT OF THE UNITED STATES

MONDAY, APRIL 28, 1975

ORDERED:

1. That the rules and forms as approved by the Judicial Conference of the United States and annexed hereto, to be known as the Chapter X Rules and Official Chapter X Forms, be, and they hereby are, prescribed pursuant to Section 2075, Title 28, United States Code, to govern the forms of process, writs, pleadings, and motions, and the practice and procedure under Chapter X of the Bankruptcy Act, in the proceedings and to the extent set forth therein, in the United States district courts, the District Court for the District of the Canal Zone, and the District Courts of Guam and the Virgin Islands.

[See *infra*, pp. 1023–1087.]

2. That the aforementioned Chapter X Rules and Official Chapter X Forms shall take effect on August 1, 1975, and shall be applicable to proceedings then pending except to the extent that in the opinion of the court their application in a particular proceeding then pending would not be feasible or would work injustice, in which event the former procedure applies.

3. That General Order in Bankruptcy 52, heretofore prescribed by this Court be, and it hereby is, abrogated, effective August 1, 1975.

4. That THE CHIEF JUSTICE be, and he hereby is, authorized to transmit the aforementioned new Chapter X Rules and Official Chapter X Forms to the Congress in accordance with the provisions of Title 28, U. S. C. § 2075.

ORDERED:

1. That the rules and forms as approved by the Judicial Conference of the United States and annexed hereto,



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to be known as the Chapter XII Rules and Official Chapter XII Forms, be, and they hereby are, prescribed pursuant to Section 2075, Title 28, United States Code, to govern the forms of process, writs, pleadings, and motions, and the practice and procedure under Chapter XII of the Bankruptcy Act, in the proceedings and to the extent set forth therein, in the United States district courts, the District Court for the District of the Canal Zone, and the District Courts of Guam and the Virgin Islands.

[See *infra,* pp. 1089–1134.]

2. That the aforementioned Chapter XII Rules and Official Chapter XII Forms shall take effect on August 1, 1975, and shall be applicable to proceedings then pending except to the extent that in the opinion of the court their application in a particular proceeding then pending would not be feasible or would work injustice, in which event the former procedure applies.

3. That General Orders in Bankruptcy Nos. 41 and 54 and Official Forms in Bankruptcy Nos. 53 to 57 inclusive, heretofore prescribed by this Court be, and they hereby are, abrogated, effective August 1, 1975.

4. That THE CHIEF JUSTICE be, and he hereby is, authorized to transmit the aforementioned new Chapter XII Rules and Official Chapter XII Forms to the Congress in accordance with the provisions of Title 28, U. S. C. § 2075.

MR. JUSTICE DOUGLAS, dissenting.

As I have said before, "I cannot agree to the Court's submission of the proposed Bankruptcy Rules to the Congress." 411 U. S. 992 (1973). I once knew a good deal about bankruptcy law, but I no longer have the expertise to say whether the proposed rules are good or bad. Because this Court is no more than a "rubber stamp" I think it should not participate in the rule-making process. The Judicial Conference rather than this Court should send these rules to Congress if they are to be sent at all.

# RULES OF BANKRUPTCY PROCEDURE

## TITLE IV

## CHAPTER X RULES

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# TITLE IV

## CHAPTER X RULES

*Rule 10–1. Scope of Chapter X rules and forms; short title.*

The rules and forms in this Title IV govern the procedure in courts of bankruptcy in cases under Chapter X of the Bankruptcy Act. These rules may be known and cited as the Chapter X Rules. These forms may be known and cited as the Official Chapter X Forms.

*Rule 10–2. Meanings of words in the Bankruptcy Rules when applicable in a Chapter X case.*

The following words and phrases used in the bankruptcy rules made applicable in Chapter X cases by these rules have the meanings herein indicated, unless they are inconsistent with the context:

(1) "Bankrupt" means "debtor."

(2) "Bankruptcy" or "bankruptcy case" means "Chapter X case."

(3) "Receiver," "trustee," "receiver in bankruptcy," or "trustee in bankruptcy" means the "receiver," "trustee," or "debtor continued in possession" in the Chapter X case.

### PART I. PETITION AND PROCEEDINGS RELATING THERETO

*Rule 10–101. Commencement of Chapter X case.*

A Chapter X case is commenced by the filing with the court of a petition by or against a corporation, seeking relief under Chapter X of the Act.

*Rule 10–102. Chapter X cases originally commenced under another chapter of the Act.*

When a case commenced under another chapter of the Act proceeds under Chapter X, the Chapter X case shall be deemed to have been originally commenced as of the



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date of the filing of the first petition initiating a case under the Act.

*Rule 10–103. Reference of cases; withdrawal of reference and assignment.*

(*a*) *Reference.*—(1) On the filing of a petition, if a local rule so provides, the clerk shall refer the case forthwith to a referee or to more than one referee concurrently as bankruptcy judge or judges. Thereafter all proceedings in the case shall be before the referee except as otherwise provided by subdivision (b) of this rule, by Bankruptcy Rule 920, by § 2a (15) of the Act when a complaint seeks an injunction to restrain a court, by § 43c of the Act when the office of the referee is vacant, and by the provisions in the Act and Part VIII of the Bankruptcy Rules governing appeals from judgments of the referee.

(2) If a local rule does not provide for automatic reference of a Chapter X case by the clerk, the case shall be assigned to a district judge, who may act himself or may, at any time during its pendency, refer the case to a referee or to more than one referee concurrently as bankruptcy judge or judges generally or for any specified purpose.

(*b*) *Withdrawal of reference and assignment.*—The district judge may, at any time, for the convenience of parties or other cause, withdraw a case in whole or in part from a referee and either act himself or assign the case or part thereof to another referee in the district.

*Rule 10–104. Voluntary petition and stay.*

(*a*) *Form and number.*—A voluntary petition shall conform substantially to Official Form No. 10–1. If a bankruptcy case is pending by or against the debtor, any petition under this rule shall be filed therein and may be filed before or after adjudication. An original and 6 copies of the petition shall be filed, unless additional copies are required by local rule. The clerk of the district court or, when the petition is filed in a pending case,

the bankruptcy judge shall transmit one copy to the district director of internal revenue for the district in which the case is filed, one copy to the Secretary of the Treasury, and two copies to the Securities and Exchange Commission.

(*b*) *Stay.*—The filing of a petition in a pending bankruptcy case shall act as a stay of adjudication and of administration of an estate in bankruptcy.

*Rule 10–105. Involuntary petition and stay.*

(*a*) *Form and number.*—An involuntary petition shall conform substantially to Official Form No. 10–2. If a bankruptcy case is pending by or against the debtor, any petition under this rule shall be filed therein and may be filed before or after adjudication. The number and distribution of copies shall be as specified in Rule 10–104.

(*b*) *Transferor or transferee of claim.*—Bankruptcy Rule 104 (d) applies in Chapter X cases.

(*c*) *Joinder of petitioners after filing.*—Creditors other than the original petitioners may join in an involuntary petition at any time before its dismissal.

(*d*) *Stay.*—The filing of a petition in a pending bankruptcy case shall act as a stay of adjudication and of administration of an estate in bankruptcy.

*Rule 10–106. Caption of petition.*

The caption of every petition shall comply with Bankruptcy Rule 904 (b). In addition the title of the case as set forth in the caption shall include the name of the debtor and such other names used by it as are necessary to assure adequate identification.

*Rule 10–107. Filing fees.*

Every petition shall be accompanied by the prescribed filing fees.

*Rule 10–108. List of creditors and stockholders; inventory.*

(*a*) *Lists required.*—The trustee shall, or if the debtor is retained in possession it shall, at the expense of the

estate, file with the court, within such time as the court may fix, a list of the debtor's creditors of each class, showing the amounts and character of their claims and securities and, so far as known, the name and address or place of business of each creditor and whether the claim is disputed, contingent, or unliquidated as to amount, and a list of the debtor's stockholders of each class showing the number and kind of shares registered in the name of each stockholder, and the last known address or place of business of each stockholder. If the debtor is retained in possession, it shall file an inventory of its property showing the location, quantity, and money value thereof within the time fixed by the court.

(*b*) *List of security holders or information in possession of another person.*—If it appears that a person, other than the debtor or trustee, has in his possession or under his control a list of security holders of the debtor or information in respect to their names, addresses, or the securities held by any of them, and such list or information is necessary in order to disclose the names and addresses of the beneficial owners of such securities, or to prepare or complete the lists required by this rule, the court may direct such person, after a hearing on notice to him, to produce such list or a true copy thereof, or to permit the inspection or use thereof, or to furnish such information.

(*c*) *Impounding of lists.*—The court may, on cause shown, direct the impounding of the lists filed under this rule, in which event—

(1) the debtor, or the trustee, or any indenture trustee, creditor or stockholder shall be permitted their inspection or use on such terms as the court may prescribe; and

(2) the court may refuse to permit such inspection by any creditor or stockholder who acquired his claim or stock within 3 months preceding the filing of a Chapter X petition or during the pendency of the Chapter X case.

*Rule 10–109. Verification of petitions, lists, and inventories.*

All lists, inventories, and amendments thereto filed by a debtor in possession and all petitions and amendments thereto shall be verified.

*Rule 10–110. Amendments of petitions, lists, and inventories.*

(*a*) *Petitions.*—A voluntary or an involuntary petition may be amended as a matter of course at any time before a responsive pleading is served or the petition is approved pursuant to Rule 10–113. An amendment at any other time may be made only by leave of court. Subdivisions (b), (c), and (d) of Rule 15 of the Federal Rules of Civil Procedure apply to amendments of petitions.

(*b*) *Lists and inventories.*—An inventory of property filed pursuant to Rule 10–108 may be amended as a matter of course at any time before confirmation of a plan. A list of creditors or stockholders filed pursuant to Rule 10–108 may be amended as a matter of course at any time before expiration of the time fixed for filing claims pursuant to Rule 10–401 (b). Thereafter such a list may be amended only with leave of court on such notice as the court may direct. The court may, on application or motion of any party in interest, or on its own initiative, order any list or inventory to be amended.

(*c*) *Number of copies; notice.*—Every amendment under this rule shall be filed in the same number as required of the original paper, and the court shall give notice of the amendment to such persons as it may designate.

*Rule 10–111. Service of petition and process.*

On the filing of an involuntary petition, the clerk of the district court, or, if filed in a pending bankruptcy case, the bankruptcy judge shall forthwith issue a summons for service on the debtor. The summons shall conform substantially to Official Form No. 10–3, and a

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copy shall be served with a copy of the petition in the manner provided for service of a summons, complaint, and notice of trial by Bankruptcy Rule 704 (b), (c), or (i). The summons and petition may be served anywhere. The provisions of Bankruptcy Rule 704 (e), (g), and (h) apply when service is made or attempted under this rule.

*Rule 10–112. Responsive pleading.*

(*a*) *Time for filing answer.*

(*1*) *By debtor.*—The debtor may serve and file an answer to an involuntary petition within 20 days after the issuance of the summons.

(*2*) *By other parties.*—Any creditor, indenture trustee, or stockholder may serve and file an answer to a voluntary or involuntary petition not later than 15 days before the first date set for the first meeting of creditors and stockholders provided for in Rule 10–212. A timely answer filed under this paragraph shall be deemed also to constitute a motion to vacate any prior order of approval of a petition.

(*b*) *Contents of answer.*—The answer to a petition shall contain all defenses and objections, including those which may be raised by separate motion under Rule 12 (b), (e), or (f) of the Federal Rules of Civil Procedure. Such answer may include the statement of a claim against a petitioning creditor only for the purpose of defeating the petition.

(*c*) *Other responsive pleadings.*—No other responsive pleadings shall be allowed, except that the court may order a reply to an answer and prescribe the time for it to be served and filed.

*Rule 10–113. Disposition of petition; preliminary approval; hearing.*

(*a*) *Voluntary petition.*—On the filing of a voluntary petition, the court shall enter an order approving the petition if satisfied that it complies with the requirements of Chapter X of the Act and has been filed in good faith.

If not so satisfied, the court shall enter an order permitting the petition to be amended or dismissing the case.

(*b*) *Involuntary petition.*—If an answer to an involuntary petition is not filed by a debtor within the time provided by Rule 10–112 (a)(1), and if no other party in interest has filed an answer within such time, or if any answer filed does not set forth any valid defense or objection to such petition, the court shall enter an order approving the petition if satisfied that it complies with the requirements of Chapter X of the Act and has been filed in good faith. If not so satisfied, the court shall enter an order permitting the petition to be amended or dismissing the case.

(*c*) *Hearing.*—(1) If no timely answer is filed the court may nevertheless hold a hearing on such notice as it may direct before approving or dismissing a petition pursuant to subdivision (a) or (b) of this rule.

(2) If a timely answer is filed, the court shall hold a hearing at the earliest practicable time on such notice as it may direct, and shall determine the issues and approve the petition, dismiss the case, or enter such other order as may be appropriate.

(*d*) *Award of costs.*—When a case commenced by the filing of an involuntary petition is dismissed pursuant to this rule, the court on reasonable notice to the petitioner or petitioners may award to the prevailing party the same costs that are allowed to a prevailing party in a civil action and reasonable counsel fees, and shall award any other sums required by the Act.

*Rule 10–114. Venue and transfer.*

(*a*) *Proper venue.*

(*1*) *Debtor.*—A petition filed pursuant to Rule 10–104 or 10–105 may be filed in the district (A) where the debtor has had its principal place of business or its principal assets for the preceding 6 months or for a longer portion thereof than in any other district; or (B) if there is no such district, in any district where the debtor has

property. If a bankruptcy case is pending by or against the debtor, the petition shall be filed with the court in which that case is pending.

(*2*) *Affiliate.*—Notwithstanding the foregoing, a petition commencing a Chapter X case may be filed by or against an affiliate of a debtor or bankrupt in a district where a petition under the Act by or against the debtor or bankrupt is pending.

(*b*) *Transfer of cases; dismissal or retention when venue improper.*

(*1*) *When venue proper.*—Although a petition is filed in accordance with subdivision (a) of this rule, the court may, after hearing on notice to the petitioner or petitioners and such other persons as it may direct, in the interest of justice and for the convenience of the parties, transfer the case to any other district. The transfer may be ordered at or before the first meeting of creditors and stockholders held pursuant to Rule 10–212 either on the court's own initiative or on motion of a party in interest but thereafter only on a timely motion.

(*2*) *When venue improper.*—If a petition is filed in a wrong district, the court may, after hearing on notice to the petitioner or petitioners and such other persons as it may direct, dismiss the case or, in the interest of justice and for the convenience of the parties, retain the case or transfer it to any other district. Such an order may be made at or before the first meeting of creditors and stockholders held pursuant to Rule 10–212 either on the court's own initiative or on motion of a party in interest but thereafter only on a timely motion. Notwithstanding the foregoing, the court may without a hearing retain a case filed in a wrong district if no objection is raised.

(*c*) *Procedure when petitions involving the same debtor or related debtors are filed in different courts.*—If petitions commencing Chapter X cases or a Chapter X case and any other case under the Act are filed in different districts by or against (1) the same debtor, or (2) a

debtor and an affiliate, the court in which the first petition is filed shall, after hearing on motion and notice to the petitioners and such other persons as the court may designate, determine the court or courts in which the case or cases should proceed in the interest of justice and for the convenience of the parties. The proceedings on the other petitions shall be stayed by the courts in which such petitions have been filed until such determination is made. Thereafter all the courts in which petitions have been filed shall proceed in accordance with the determination.

(*d*) *Reference of transferred cases.*—A case transferred under this rule shall, in accordance with Rule 10–103, be referred by the clerk of the district court to which it has been transferred.

*Rule 10–115. Joint administration of cases pending in same court.*

(*a*) *Cases involving 2 or more related debtors.*—If 2 or more petitions are pending in the same court by or against a debtor and an affiliate, the court may order a joint administration of the estates. Before making such an order, the court shall give due consideration to the protection of creditors and stockholders of the different estates against potential conflicts of interest.

(*b*) *Expediting and protective orders.*—When an order for joint administration of 2 or more cases is entered pursuant to this rule, the court, while protecting the rights of the parties under the Act, may make such orders as may tend to avoid unnecessary costs and delay.

*Rule 10–116. Debtor involved in foreign proceeding.*

Bankruptcy Rule 119 applies in Chapter X cases.

*Rule 10–117. Conversion to Chapter XI.*

Whenever, after hearing on such notice as the court may direct, the court finds that adequate relief can be obtained under Chapter XI of the Act, the court may dismiss the Chapter X case or, with the consent of the debtor, direct that the case proceed under Chapter XI.

*Rule 10–118. Applicability of rules in Part VII of the Bankruptcy Rules.*

Except as otherwise provided in Part I of these rules and unless the court otherwise directs, the following rules in Part VII of the Bankruptcy Rules apply in all proceedings relating to a contested petition: Rules: 705, 708–710, 716, 724–726, 728–737, 744.1, 752, 756, and 762. The court may direct that one or more of the other rules in Part VII shall also apply in such a proceeding. For the purposes of this rule a reference in the rules in Part VII to adversary proceedings shall be read as a reference to proceedings relating to a contested petition, and a reference in the Federal Rules of Civil Procedure to the complaint shall be read as a reference to the petition.

PART II. OFFICERS FOR ADMINISTERING THE ESTATE; NOTICES; MEETINGS; EXAMINATIONS; COMMITTEES; ATTORNEYS AND ACCOUNTANTS

*Rule 10–201. Appointment and duties of receivers.*

(*a*) *When receiver may be appointed.*—The court may appoint a receiver only before approval of a petition and, subject to the provisions of this rule, when necessary in the best interest of the estate (1) to take charge of the property of a debtor; (2) to conduct the business of the debtor; or (3) to afford representation to the estate in an action, adversary proceeding, or contested matter.

(*b*) *Application for appointment.*—An application for appointment of a receiver shall state the specific facts showing the necessity for the appointment.

(*c*) *Appointment.*

(1) When an involuntary petition is filed, appointment of a receiver may be made only on application. The application may be granted only after hearing on notice to the debtor and such other parties in interest as the court may designate, except that a receiver may be appointed without notice if irreparable loss to the estate may otherwise result. An application for appointment

of a receiver without notice and any order of appointment made without notice shall state what loss may result and why it would be irreparable.

(2) When a voluntary petition is filed, the court may appoint a receiver on application or on its own initiative. Such appointment shall be made only after notice to such persons as the court may designate, unless it clearly appears that notice is impracticable or unnecessary.

(*d*) *Bond of applicant.*—No receiver may be appointed under subdivision (c)(1) of this rule unless the applicant furnishes a bond in such amount and with such surety as the court shall approve, conditioned to indemnify the debtor for the costs, counsel fees, expenses, and damages occasioned by the appointment and action of the receiver in the event the petition is dismissed. The property of the debtor shall be released, however, if it files a counterbond in such amount and with such surety as the court shall approve, conditioned that the debtor account for and turn over such property or pay to the trustee or estate the value thereof in money at the time of release, in the event the petition is approved.

(*e*) *Eligibility.*—Only a person eligible to be a trustee under Bankruptcy Rule 209 (d) may be appointed a receiver.

(*f*) *Order of appointment.*—An order appointing a receiver shall state why the appointment is necessary and shall specify his duties. A copy of every order appointing a receiver shall forthwith be delivered to the debtor, or mailed to it at its last known address, and to such other persons as the court may designate.

(*g*) *Notice of appointment; qualification.*—The court shall immediately notify the receiver of his appointment, inform him of how he may qualify, and require him forthwith to notify the court of his acceptance or rejection of the office. A receiver shall qualify as provided in Rule 10–204.

(*h*) *Termination of appointment.*—The appointment

of a receiver shall be terminated when the trustee qualifies, the debtor is continued in possession, or there is no further need for a receiver. On termination of his appointment and unless otherwise ordered, the receiver shall forthwith turn over to the trustee or debtor in possession all the records and property of the estate in his possession or subject to his control as receiver and file his final report and account within 30 days.

(*i*) *Removal.*—The court may at any time, without or on cause shown, remove a receiver.

*Rule 10–202. Appointment of trustee.*

(*a*) *Appointment.*—On approval of a petition, the court shall, if the indebtedness of a debtor, liquidated as to amount and not contingent as to liability, is $250,000 or over, promptly and on its own initiative, appoint one or more trustees; if such indebtedness is less than $250,000, the court may appoint one or more trustees or continue the debtor in possession.

(*b*) *Notice of appointment; qualification.*—The court shall immediately notify the trustee of his appointment, inform him of how he may qualify, and shall require him forthwith to notify the court of his acceptance or rejection of the office. A trustee shall qualify as provided in Rule 10–204.

(*c*) *Eligibility.*—(1) A trustee shall be disinterested and shall be competent to perform the duties of his office. If a corporation, it shall be authorized by its charter to act as trustee.

(2) A person shall not be deemed disinterested if (A) he is a creditor or stockholder of the debtor; (B) he is or was an underwriter of any of the outstanding securities of the debtor or within 5 years prior to the date of the filing of the petition was the underwriter of any securities of the debtor; (C) he is, or was within 2 years prior to the date of the filing of the petition, a director, officer, or employee of the debtor or any such underwriter, or an attorney for the debtor or such underwriter; or

(D) it appears that he has, by reason of any other direct or indirect relationship to, connection with, or interest in the debtor or such underwriter, or for any reason an interest materially adverse to the interests of any class of creditors or stockholders. Representation of a creditor or stockholder of the debtor in a matter other than one which may become involved in the Chapter X case need not be deemed of itself to affect the disinterestedness of an attorney.

(*d*) *Appointment of co-trustees or substitute trustees; removal; hearing.*—(1) The court may, at any time, appoint co-trustees, remove trustees and appoint substitute trustees, or terminate the debtor's possession and appoint a trustee or trustees.

(2) When the indebtedness of a debtor as specified in subdivision (a) of this rule is less than $250,000, the court may, at any time, terminate the appointment of a trustee or trustees and restore the debtor to possession.

(3) Within 90 days after each appointment or restoration of the debtor to possession under paragraph (1) or (2) of this subdivision, the court shall hold a hearing on at least 10 days' notice to the persons entitled to receive notices under Rule 10–209 to consider objections to the retention in office of the trustee or continuance of the debtor in possession.

(*e*) *Majority vote.*—Whenever there are 2 or more trustees, they may act by majority vote.

*Rule 10–203. Trustees for estates when joint administration ordered.*

(*a*) *Appointment of trustees for estates being jointly administered.*—If the court orders a joint administration of 2 or more estates pursuant to Rule 10–115 (a), it may appoint one or more common trustees or separate trustees for the estates being jointly administered. Common trustees shall not be appointed unless the court is satisfied that parties in interest in the different estates will not be prejudiced by conflicts of interest of such trustees.

(*b*) *Separate accounts.*—The trustee or trustees of estates being jointly administered shall nevertheless keep separate accounts of the property of each estate.

*Rule 10–204. Qualification by trustee and receiver.*

(*a*) *Qualifying bond or security.*—Except as provided hereinafter, every trustee and every receiver shall, before entering on the performance of his official duties and within 5 days after his appointment, qualify by filing a bond in favor of the United States conditioned on the faithful performance of his official duties or by giving such other security as may be approved by the court.

(*b*) *Amount of bond and sufficiency of surety.*—The court shall determine the amount of the bond and the sufficiency of the surety for each bond filed under this rule.

(*c*) *Filing of bond; proceeding on bond.*—Unless otherwise provided by local rule, a bond given under this rule shall be filed with the court. A proceeding on the bond of a trustee or receiver may be brought by any party in interest in the name of the United States for the use of the person injured by the breach of the condition. No proceeding shall be brought on a trustee's or receiver's bond more than 2 years after his discharge.

(*d*) *Evidence of qualification; debtor continued in possession.*—A certified copy of the order approving the bond or other security given by a trustee or receiver under subdivision (a) of this rule shall constitute conclusive evidence of his appointment and qualification. Whenever evidence is required that a debtor is a debtor in possession, the court may so certify and the certificate shall constitute conclusive evidence of that fact.

*Rule 10–205. Substitution of successor trustee or receiver.*

When a trustee or receiver dies, resigns, is removed, or otherwise ceases to hold office during the pendency of a Chapter X case, his successor is automatically substituted as a party in any pending action, proceeding, or matter without abatement.

*Rule 10–206. Employment of attorneys and accountants.*

(*a*) *Conditions of employment of attorneys and accountants.*—Bankruptcy Rule 215 applies to the employment, in Chapter X cases, of attorneys and accountants by a trustee, receiver, or debtor in possession. In addition, an attorney appointed to represent a trustee shall be disinterested as specified in Rule 10–202 (c)(2). Notwithstanding the foregoing, the court may, when it is in the best interest of the estate, authorize the employment for special purposes to be set out in the order, other than to represent the trustee in conducting the case, of an attorney who is not disinterested provided that such attorney represents or holds no interest adverse to the estate in the matters upon which he is to be engaged.

(*b*) *Employment of attorney not disinterested.*—Any attorney who was not disinterested as required by subdivision (a) of this rule and who failed to disclose any material fact on the question of his disinterestedness may be denied the allowance of compensation or reimbursement of expenses, or both, and any allowance to the trustee may also be denied if it shall appear that he failed to make diligent inquiry into the connections of such attorney.

*Rule 10–207. Authorization of trustee, receiver, or debtor in possession to conduct business of debtor.*

The court may authorize the trustee, receiver, or debtor in possession to conduct the business and manage the property of the debtor for such time and on such conditions as may be in the best interest of the estate.

*Rule 10–208. Duty of trustee and debtor in possession to investigate, make reports, furnish information, and prepare plans; examiners.*

(*a*) *Trustee.*—A trustee shall (1) file the lists as required by Rule 10–108; (2) unless otherwise ordered, make a report at the meeting provided for in Rule 10–212 which shall include a summary of his operations of the

business and management of the property; (3) file with the court within the times fixed by the court, periodic reports and summaries of the operations of the business and such other information as may be required by the court; (4) investigate the acts, conduct, liabilities and financial condition of the debtor, the operation of its business and the desirability of the continuance thereof, and any other matter relevant to the case or to the formulation of a plan; (5) file a report with the court concerning any facts ascertained by him pertaining to fraud, misconduct, mismanagement, and irregularities, and to any causes of action available to the estate; (6) if the court so authorizes, examine the directors and officers of the debtor and any other witnesses concerning the foregoing matters; (7) as soon as practicable, file a statement of his investigations, and cause copies or a summary thereof to be mailed to the creditors, stockholders, indenture trustees, the Securities and Exchange Commission, and such other persons as the court may designate; (8) notify creditors and stockholders that they may submit to him plans or suggestions for the formulation of a plan, within a time fixed by him in such notice; (9) file a plan or report as required by Rule 10–301 (c)(1); (10) within 30 days after the date of the order confirming the plan or within such other time as the court may fix, file a report with the court concerning the action taken by him and the progress made in the consummation of the plan and file such further reports as the court may direct until the plan has been consummated; and (11) after consummation of a plan, file an application for a final decree showing that the plan has been consummated, and the names and addresses, if known, of the holders of claims or interests which have not been surrendered or released in accordance with the provisions of the plan and the nature and amounts of such claims or interests, and such other facts as may be necessary to enable the court to pass upon the provisions to be included in the final decree.

(*b*) *Debtor in possession; examiner.*—If a debtor is continued in possession it shall perform the duties specified in subdivision (a)(9) and such other duties specified in subdivision (a) of this rule as directed by the court or the court may appoint a disinterested person as specified in Rule 10–202 (c) as examiner to perform all or any of such duties.

(*c*) *Transmission of reports; form.*—The court shall direct copies or summaries of annual reports, and may direct copies or summaries of other reports, to be mailed to the creditors, stockholders, and indenture trustees, and may also direct the publication of summaries of any such reports. The Securities and Exchange Commission may recommend the form of such reports and summaries.

*Rule 10–209. Notices to creditors, stockholders, and United States.*

(*a*) *Notice of first meeting of creditors and stockholders.*—The trustee, receiver, or debtor in possession shall give all creditors, stockholders, indenture trustees, and such other persons as the court may designate, at least 30 days' notice by mail of the meeting held pursuant to Rule 10–212. Such notice shall conform substantially to Official Form No. 10–5.

(*b*) *Twenty-day notice to all creditors and parties in interest.*—Except as provided in subdivision (f) of this rule, the trustee or debtor in possession shall give all creditors, stockholders, and indenture trustees, at least 20 days' notice by mail of (1) the hearing on the retention in office of a trustee or trustees appointed at the meeting held pursuant to Rule 10–212; (2) the hearing on approval of a compromise or settlement of a controversy, unless the court for cause shown directs that notice not be sent; (3) the hearing on the dismissal or conversion to bankruptcy of a case when notice is required by Rule 10–308; (4) any proposed sale of property, other than in the ordinary course of business, including the time and place of any public sale, unless the court for

cause shown shortens the time or orders a sale without notice; (5) the time fixed for filing objections to confirmation of a plan; (6) the hearing on applications for allowances of compensation and reimbursement of expenses; and (7) the time fixed for submitting plans or suggestions for the formulation of a plan to the trustee. The notice of a proposed sale of property, including real estate, is sufficient if it generally describes the property to be sold. The notice of a hearing on an application for compensation or reimbursement of expenses shall specify the applicant and the amount requested.

(*c*) *Other notices to all creditors and parties in interest.*—Except as provided in subdivision (f) of this rule, the trustee, receiver, or debtor in possession shall give notice by mail to the debtor, all creditors, stockholders, and indenture trustees of (1) dismissal of the case pursuant to Rule 10–308; (2) except as to stockholders, the time fixed for filing proofs of claim pursuant to Rule 10–401 (b)(1); (3) the hearing on approval of a plan pursuant to Rule 10–303 (a); (4) the time fixed for accepting a plan pursuant to Rule 10–303 (d); (5) the time fixed to reject a modification of a plan pursuant to Rule 10–306 (b); (6) the hearing on approval of a modification of a plan pursuant to Rule 10–306 (b); (7) the hearing on confirmation of a plan pursuant to Rule 10–307 (a)(2); and (8) confirmation of a plan pursuant to Rule 10–307 (a)(2).

(*d*) *Addresses of notices.*—All notices to which a creditor, stockholder, or indenture trustee is entitled under these rules shall be addressed to such person as he or his authorized agent may direct in a request filed with the court; otherwise, to his address shown in the lists or, if a different address is stated in a proof of claim duly filed, then at the address so stated.

(*e*) *Notices to the United States.*—Copies of notices required to be mailed to all creditors under these rules shall be mailed (1) to the Securities and Exchange Com-

mission at Washington, District of Columbia, and at such other place as it shall designate in writing filed with the court; (2) to the district director of internal revenue for the district in which the case is pending; (3) to the Secretary of the Treasury if the filed papers disclose a stock interest of the United States; and (4) whenever the lists or any other paper filed in the case discloses a debt to the United States other than one for taxes, to the United States attorney for the district in which the case is pending and, if disclosed by the filed papers, to the department, agency, or instrumentality of the United States through which the debtor became so indebted.

(*f*) *Notice by publication.*—If the court finds that notice to creditors and stockholders by mail as provided in this rule cannot be given or that it is desirable to supplement such notice, the court may order publication thereof.

(*g*) *Orders designating matter of notices.*—Except as otherwise provided by these rules, the court may from time to time enter orders designating the matters in respect to which, the persons to whom, and the form and manner in which notices shall be sent.

(*h*) *Caption.*—The caption of every notice given under this rule shall comply with Rule 10–106.

*Rule 10–210. Standing to be heard; intervention.*

(*a*) *Standing to be heard.*

(1) The debtor, the indenture trustees, and any creditor or stockholder of the debtor shall have the right to be heard on all matters arising in a Chapter X case.

(2) A labor union or employees' association, representative of employees of the debtor, shall have the right to be heard on the economic soundness of a plan affecting the interests of the employees.

(*b*) *Intervention.*—The court may for cause shown permit any interested person to intervene generally or with respect to any specified matter in the Chapter X case.

(*c*) *Securities and Exchange Commission.*—The Securities and Exchange Commission may, or if requested by the court shall, intervene in a Chapter X case. On the filing of a notice of intervention, the Commission shall be deemed a party in interest with the right to be heard on all matters in the case except that it may not appeal to the court of appeals from any order of the district court.

(*d*) *Notices to the Securities and Exchange Commission.*—In addition to the notices and papers required by these rules, the court shall transmit to the Securities and Exchange Commission at Washington, District of Columbia, and at such other place as it shall designate in writing filed with the court (1) notice of all other steps taken in connection with the case, (2) answers, if any, to a petition commencing a Chapter X case, (3) orders approving or dismissing petitions, (4) orders determining the division of creditors and stockholders into classes, (5) orders approving a plan or plans or modifications of plans, (6) orders confirming plans together with copies of such plans, (7) orders making or refusing allowances for compensation and expenses, (8) the order determining the debtor to be solvent or insolvent, (9) orders directing that the case be converted to bankruptcy or dismissing the case, and (10) such other papers filed in the case as the Securities and Exchange Commission may request or which the court may direct be transmitted to it. Copies of opinions or reports, if any, with respect to the matters enumerated above shall also be transmitted to the Securities and Exchange Commission.

*Rule 10–211. Representation of creditors and stockholders.*

(*a*) *Data required.*—Every person or committee representing more than one creditor or stockholder, and every indenture trustee, shall file a signed statement with the court setting forth (1) the names and addresses of such creditors or stockholders; (2) the nature and amounts

of their claims or stock and the time of acquisition thereof unless they are alleged to have been acquired more than one year prior to the filing of the petition; (3) a recital of the pertinent facts and circumstances in connection with the employment of such person or indenture trustee, and, in the case of a committee, the name or names of the person or persons at whose instance, directly or indirectly, such employment was arranged or the committee was organized or agreed to act; and (4) with reference to the time of the employment of such person, or the organization or formation of such committee, or the appearance in the case of any indenture trustee, a showing of the amounts of claims or stock owned by such person, the members of such committee or such indenture trustee, the times when acquired, the amounts paid therefor, and any sales or other disposition thereof. The statement shall include a copy of the instrument, if any, whereby such person, committee, or indenture trustee is empowered to act on behalf of creditors or stockholders. A supplemental statement shall be filed promptly, setting forth any material changes in the facts contained in the statement filed pursuant to this subdivision.

(*b*) *Failure to comply; effect.*—The court on its own initiative or on application or motion of any party in interest (1) may determine whether there has been a failure to comply with the provisions of this rule or with any other applicable law regulating the activities and personnel of any person, committee, or indenture trustee or any other impropriety in connection with any solicitation and, if it so determines, the court may refuse to permit any such person, committee, or indenture trustee to be heard further or to intervene in the case; (2) may examine any representation provision of a deposit agreement, proxy, trust mortgage, trust indenture, or deed of trust, or committee or other authorization, and any claim or stock acquired by any person or committee in contemplation or in the course of a case under the Act and grant

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appropriate relief pursuant to the Act; and (3) may hold invalid any authority or acceptance given, procured, or received by a person or committee who has not complied with subdivision (a) of this rule or with Rule 10–304.

*Rule 10–212. Meeting of creditors and stockholders.*

(*a*) *Date and place.*—A meeting of creditors and stockholders shall be held not less than 30 nor more than 90 days after the approval of a petition commencing a Chapter X case. The meeting may be held at a regular place for holding court or at any other place within the district more convenient for the parties in interest.

(*b*) *Agenda.*—At the meeting of creditors and stockholders, the bankruptcy judge shall (1) preside over the transaction of such business as is proper under Chapter X of the Act, including the examination of the debtor, (2) hear objections to the retention of the trustee or trustees or continuing the debtor in possession, (3) appoint a trustee or trustees if none has previously been appointed and the debtor is not continued in possession and fix a date for the hearing of objections to the retention of such trustee or trustees, and (4) receive the trustee's report, if any.

*Rule 10–213. Examination.*

(*a*) *Examination on application.*—On application of any party in interest, the court may order the examination of any person. The application shall be in writing unless made during a hearing or examination or unless local rules otherwise provide.

(*b*) *Examination by trustee, examiner, or other persons.*—The trustee or examiner shall, if the court so directs, and any other person may, with the permission of court, examine the directors and officers of the debtor and any other witnesses.

(*c*) *Scope of examination.*—The examination under this rule or Rule 10–212 (b) may relate to acts, conduct, property, liabilities, and financial condition of the debtor, the operation of its business and the desirability of the

continuance thereof, and any other matter relevant to the case or to the formulation of a plan.

(*d*) *Compelling attendance for examination and production of documentary evidence.*—The attendance of any person for examination and the production of documentary evidence may be compelled in accordance with the provisions of Bankruptcy Rule 916 by the use of a subpoena for a hearing or trial.

(*e*) *Place of examination of debtor.*—Without issuing a subpoena, the court may for cause shown and on such terms as it may impose order an officer, a member of the board of directors or trustees or of a similar controlling body, a controlling stockholder or member, or any other person in control of the debtor to be examined under this rule at any place it designates, whether within or without the district wherein the case is pending.

(*f*) *Mileage.*—A person other than an officer, a member of the board of directors or trustees or of a similar controlling body, a controlling stockholder or member, or any other person in control of the debtor shall not be required to attend as a witness before a bankruptcy judge unless his lawful mileage and fee for one day's attendance shall be first tendered to him. If an officer, a member of the board of directors or trustees or of a similar controlling body, a controlling stockholder or member, or any other person in control of the debtor resides over 100 miles from the place of examination when he is required to appear for an examination under this rule, he shall be tendered mileage allowed by law to a witness for any distance over 100 miles from his residence at the date of the filing of the first petition commencing a case under the Act or his residence at the time he is required to appear for such examination, whichever is the lesser.

*Rule 10–214. Apprehension and removal of debtor to compel attendance for examination.*

Bankruptcy Rule 206 applies in Chapter X cases to an officer, a member of the board of directors or trustees or

of a similar controlling body, a controlling stockholder or member, or any other person in control of the debtor.

*Rule 10–215. Compensation for services and reimbursement of expenses.*

(*a*) *Application for compensation and reimbursement.*—A person seeking compensation from the estate for services or reimbursement of necessary expenses shall file with the court an application setting forth a detailed statement of (1) the services rendered and expenses incurred; (2) the amounts requested; and (3) the claims against, or stock of, the debtor, if any, in which a beneficial interest, direct or indirect, has been acquired or transferred by him or for his account, after the filing of a petition commencing a case under the Act. An application for compensation shall include a statement by the applicant as to what payments have theretofore been made or promised to him for services rendered or to be rendered in any capacity whatsoever in connection with the case, the source of the compensation so paid or promised, whether any compensation he has previously received has been shared and whether an agreement or understanding exists between the applicant and any other person for the sharing of compensation received or to be received for services rendered in or in connection with the case, and the particulars of any such sharing of compensation or agreement or understanding therefor, except that the details of any agreement by the applicant for the sharing of his compensation as a member or regular associate of a firm of lawyers or accountants shall not be required. The requirements of this subdivision shall apply to an application for compensation for services rendered by an attorney or accountant even though the application is filed by a creditor or other person.

(*b*) *Disclosure of compensation paid or promised to attorney for debtor.*—Every attorney for a debtor, whether or not he applies for compensation, shall file

with the court on or before the first date set for the meeting held pursuant to Rule 10–212, or at such other time as the court may direct, a statement setting forth the compensation paid or promised him for the services rendered or to be rendered in connection with the case, the source of the compensation so paid or promised, and whether the attorney has shared or agreed to share such compensation with any other person. The statement shall include the particulars of any such sharing or agreement to share by the attorney, but the details of any agreement for the sharing of his compensation with a member or regular associate of his law firm shall not be required.

(*c*) *Factors in allowing compensation and reimbursement of expenses.*

(*1*) *General.*—(A) Reasonable compensation for necessary services and reimbursement of necessary expenses incurred in a Chapter X case may be allowed by the court to the trustee, receiver, examiner, and their attorneys, the attorney for the debtor in possession, the attorney for the debtor, and such other persons as may be authorized to assist the trustee, receiver, examiner, or debtor in possession. (B) Reasonable compensation and reimbursement of expenses may be allowed by the court to creditors and stockholders, committees or representatives of creditors or stockholders, indenture trustees, depositaries, reorganization managers, and any other parties in interest, and the attorneys or agents for any of them, except the Securities and Exchange Commission, for services which are beneficial in the administration of the estate, for services which contribute to a plan which is approved or to the approval of a plan whether or not such plan is confirmed, for services which contribute to a plan which is confirmed or to the confirmation of a plan, and for services rendered in opposing a plan confirmation of which has been refused. (C) Reimbursement of expenses, including reasonable attorney's fees,

incurred by the petitioning creditors may be allowed by the court.

(*2*) *Superseded case.*—If the Chapter X petition was filed in a pending bankruptcy case or the Chapter X case was originally commenced under Chapter XI, the court may allow, if not already allowed, reasonable compensation for services rendered and reimbursement of expenses to a marshal, receiver, or trustee as allowed by the Act, to the attorney for petitioning creditors, to the attorney for the bankrupt or debtor, to the attorney for the debtor in possession, and to any other persons and their attorneys entitled to compensation under the Act or Rules in such bankruptcy or Chapter XI case.

(*3*) *Attorney or accountant.*—Compensation may be allowed an attorney or an accountant only for professional services.

(*4*) *Denial of allowances.*—No compensation or reimbursement shall be allowed to any committee or attorney, or other person acting in the case in a representative or fiduciary capacity who, at any time after assuming to act in such capacity has, without the approval of the court, purchased or sold claims against, or stock of, the debtor, or beneficial interests direct or indirect in such claims or stock, or by whom or for whose account such claims, stock, or beneficial interests therein, have been otherwise acquired or transferred.

(*5*) *Dismissal or conversion to bankruptcy.*—On the dismissal or conversion of a case to bankruptcy pursuant to Rule 10–308, the court may allow reasonable compensation for services rendered and reimbursement of expenses incurred in the Chapter X case by any persons entitled thereto under this rule.

(*d*) *Restriction on sharing of compensation.*—Except as herein provided, a person rendering services in a Chapter X case or in connection with such a case shall not in any form or guise share or agree to share the compensation paid or allowed him from the estate for such serv-

ices with any other person, nor shall he share or agree to share in the compensation of any other person rendering services in a case under the Act or in connection with such a case. This rule does not prohibit an attorney or accountant from sharing his compensation as a trustee, receiver, attorney, or accountant with a member or regular associate of his firm, or from sharing in the compensation received by his firm or by any other member or regular associate thereof, and does not prohibit an attorney, other than one employed pursuant to Rule 10–206, from sharing his compensation for services rendered with any other attorney contributing thereto. If a person violates this subdivision, the court may deny him compensation, may hold invalid any transaction subject to examination under Rule 10–217 to which he is a party, or may enter such other order as may be appropriate.

*Rule 10–216. Hearing on applications for compensation and reimbursement.*

The court shall fix a time of hearing applications for allowances for services rendered or reimbursement of expenses in the Chapter X case or any other case or proceeding superseded thereby. Notice of such hearing shall be given to the applicants, the trustee, the debtor, the creditors, stockholders, indenture trustees, the Securities and Exchange Commission, and such other persons as the court may direct as provided in Rule 10–209 (b). Such notice need not be given to any class of creditors or stockholders which has no interest in the reorganized debtor under a plan for which the order of confirmation has become final.

*Rule 10–217. Examination of debtor's transactions with its attorney.*

(*a*) *Payment or transfer to attorney in contemplation of the filing of a petition under the Act.*—On motion by any party in interest or on the court's own initiative, the court may examine any payment of money or any trans-

fer of property by the debtor, made directly or indirectly and in contemplation of the filing of a petition under the Act by or against it, to an attorney for services rendered or to be rendered.

(*b*) *Invalidation of unreasonable payment or transfer.*—Any payment or transfer examined under this rule shall be held valid only to the extent of a reasonable amount as determined by the court. The court may enter an order in favor of the estate in the amount of any excess found to have been paid or transferred.

## Part III. Proceedings Relating to Plan; Dismissal and Conversion to Bankruptcy; Consummation of Plan

*Rule 10–301. Formulation and filing of plan.*

(*a*) *Suggestions for plan.*—Within the time fixed by the trustee pursuant to Rule 10–208 (a), the debtor, creditors, and stockholders may submit to the trustee plans or suggestions for the formulation of a plan.

(*b*) *Time for filing plan or report.*—The court shall fix a time for the trustee, debtor in possession, or examiner to file a plan or report of the reasons why a plan cannot be formulated.

(*c*) *Filing of plan.*

(*1*) *When trustee appointed.*—Within the time fixed by the court under subdivision (b) of this rule, the trustee shall file a plan or a report of his reasons why a plan cannot be formulated. After the expiration of the time so fixed and before the conclusion of the hearing held pursuant to Rule 10–303, the debtor, any creditor, stockholder, or indenture trustee may file a plan.

(*2*) *When debtor retained in possession.*—Within the time fixed by the court under subdivision (b) of this rule, the debtor in possession or the examiner, if one is appointed pursuant to Rule 10–208 (b) and he is so directed by the court, shall file a plan or a report of the reasons why a plan cannot be formulated. A plan may

also be filed by any creditor, stockholder, or indenture trustee at any time before the conclusion of the hearing held pursuant to Rule 10–303.

(*d*) *Form of plan.*—Every proposed plan and any modification thereof shall be dated and identified with the name of the person or persons submitting or filing it.

*Rule 10–302. Classification of claims; valuation of security.*

(*a*) *Classification of claims.*—For the purposes of the plan and its acceptance, the court may fix, after hearing on such notice as it may direct, the division of creditors and stockholders into classes according to the nature of their respective claims and stock.

(*b*) *Valuation of security.*—For the purposes of classification under subdivision (a) of this rule, of claims which may be secured in whole or in part, the court shall, if necessary, on application of any party in interest, hold a hearing on such notice as the court may direct, to determine the value of the security interest and allow the claim as unsecured to the extent it is enforceable for any excess of the claim over such value.

*Rule 10–303. Approval of plan by court.*

(*a*) *Hearing on plan and objections thereto.*—After the filing of a plan or plans or a report of reasons why a plan cannot be formulated, as provided in Rule 10–301, the court shall hold a hearing on at least 20 days' notice to the debtor, creditors, stockholders and other parties in interest as provided in Rule 10–209, to consider such report or such plans, and any objections or modifications thereto, or substitute plans. When the court orders that a plan be submitted to the Securities and Exchange Commission for advisory report pursuant to subdivision (b) of this rule, it shall adjourn the hearing to a date subsequent to the time fixed for the filing of such report.

(*b*) *Submission of plan to Securities and Exchange Commission.*—If the indebtedness of the debtor is $3,-

000,000 or more, the court shall submit such plans as it deems worthy of consideration to the Securities and Exchange Commission for examination and advisory report and summary of such report. If the indebtedness is less than $3,000,000, the court may so submit any such plans. On submission of any plan to the Securities and Exchange Commission, the court shall fix a reasonable time within which the report of the Commission, if any, and summary thereof is to be filed with the court.

(*c*) *Approval of plan.*—The court shall rule on approval of the plan or plans at the hearing provided for under subdivision (a) of this rule or thereafter, unless there was a submission to the Securities and Exchange Commission pursuant to subdivision (b) of this rule. If there was such a submission, the court shall resume the hearing and rule on approval after the filing of the Commission's report, or notification to the court by the Commission that no report will be filed, or expiration of the time fixed for the filing of such report, whichever first occurs. If additional evidence is received, the court may resubmit the plan or plans to the Securities and Exchange Commission for supplemental report.

(*d*) *Dates fixed for acceptance and confirmation.*—On approval of the plan or plans, the court shall fix a time within which creditors and stockholders may accept or reject such plan or plans and may fix a date for the hearing on confirmation.

(*e*) *Transmission and notice to creditors and stockholders.*—On approval of a plan or plans, the trustee, debtor in possession, or examiner shall mail to all creditors and stockholders (1) the plan or plans and a summary thereof approved by the court unless the court directs that only such summary be mailed; (2) a summary of the opinion of the court, if any, approving the plan or plans which summary shall be approved by the court; (3) the summary of the report, prepared by the Securities and Exchange Commission, if any; (4) notice

of the date fixed, if any, for the hearing on confirmation; and (5) such other information as the court may direct. In addition, notice of the time within which acceptances and rejections of such plan or plans may be filed, and a form of ballot conforming substantially to Official Form No. 10–7 shall be mailed to creditors and stockholders entitled to vote on the plan or plans. The court may direct that the opinion of the court or report of the Securities and Exchange Commission be transmitted in place of, or in addition to, the summary thereof specified in clause (2) or (3) of this subdivision. In the event only summaries are transmitted, the plan, opinion of the court and report of the Securities and Exchange Commission shall be provided on request without charge. For the purposes of this subdivision, creditors and stockholders shall include holders of stock, bonds, debentures, notes, and other securities of record at the date the order approving the plan or plans is entered.

(*f*) *Limitation on solicitation before approval.*—No person shall solicit any acceptance of a plan or plans except as provided in Rule 10–304.

(*g*) *Public utility corporations.*

(1) If a debtor is a public utility corporation subject to the jurisdiction of a commission having regulatory jurisdiction over the debtor, a plan shall not be approved under subdivision (c) of this rule, until (A) it shall have been submitted to each such commission; (B) an opportunity shall have been afforded each such commission to suggest amendments or offer objections to the plan; and (C) the court shall have considered such amendments or objections at a hearing at which such commission may be heard.

(2) If a debtor is a public utility corporation, wholly intrastate, subject to the jurisdiction of a State commission having regulatory jurisdiction over such debtor, a plan shall not be approved, under subdivision (c) of this rule, unless such State commission shall have first certi-

fied its approval of such plan as to the public interest therein and the fairness thereof. On its failure to certify its approval or disapproval within 30 days, or such further time as the court may prescribe, after the submission of the plan to it, as provided in this subdivision, the public interest shall, for the purposes of such approval and of the confirmation of the plan, not be deemed to be affected by the plan.

(*h*) *Objections after approval.*—The order of the court approving a plan or plans pursuant to subdivision (c) of this rule shall not affect the right of any party in interest, including the Securities and Exchange Commission, to object to confirmation.

*Rule 10–304. Solicitation of acceptances.*

No person shall, without the consent of the court, solicit any acceptance or rejection, conditional or unconditional, of any plan, whether by proxy, deposit, power of attorney or otherwise, until after the entry of an order approving such plan pursuant to Rule 10–303 (c) and the transmittal thereof to creditors and stockholders pursuant to Rule 10–303 (e). Rule 10–211 (b) applies to any violation of this rule.

*Rule 10–305. Acceptance or rejection of plans.*

(*a*) *Persons entitled to accept or reject plan; time for acceptance or rejection.*—Any creditor whose claim is deemed allowed pursuant to Rule 10–401 (e) or has been allowed by the court and any creditor who is a security holder of record at the date the order approving a plan or plans is entered whose claim has not been disallowed and any stockholder of record at the date the order approving a plan or plans is entered whose stock interest has not been disallowed may accept or reject a plan or plans within the time fixed by the court pursuant to Rule 10–303 (d). For cause shown and within such time, the court may permit a creditor or stockholder to change or withdraw his acceptance or rejection. Notwithstand-

ing objection to a claim or stock interest, the court may temporarily allow it to such extent as to the court seems proper for the purpose of accepting or rejecting a plan.

(*b*) *Form of acceptance or rejection.*—An acceptance or rejection may be on Official Form No. 10–7, shall be in writing, shall identify the plan or plans accepted or rejected, and shall be signed by the creditor or stockholder or his authorized agent. If more than one plan is transmitted pursuant to Rule 10–303 (e), an acceptance or rejection may be filed by each creditor or stockholder for any number of such plans and if acceptances are filed for more than one plan, the creditor or stockholder may indicate his preferences among the plans so accepted.

(*c*) *Acceptance or rejection by partially secured creditors.*—A creditor whose claim has been allowed in part as a secured claim and in part as an unsecured claim shall be entitled to accept or reject a plan or plans in both capacities.

(*d*) *Disqualification of acceptance or rejection.*—For the purpose of determining the requisite number of acceptances, the court after hearing on notice to the creditor or stockholder may disqualify any acceptance or rejection of a plan or modification of a plan if such acceptance or rejection was not in good faith in the light of or irrespective of the time of the acquisition of the claim or stock by such creditor or stockholder.

(*e*) *Computing requisite majorities.*—The requisite majorities necessary for the acceptance of a plan shall be computed on the basis of the claims and stock interests of creditors and stockholders affected by the plan who file an acceptance or rejection of the plan within the time prescribed, which in no event shall be less than the requisite majorities of the filed and allowed claims and stock interests. The filing of an acceptance or rejection of a plan by a creditor or stockholder shall be deemed to constitute the filing of a proof of claim or proof of stock

interest for the purpose of computing the majorities required by the Act.

*Rule 10–306. Modification of plan before or after approval.*

(*a*) *Modification prior to approval of plan.*—At any time prior to the approval of a plan, a party filing a plan pursuant to Rule 10–301 may file a modification thereof. At the hearing on approval or within such further time as the court may allow, any party in interest may file a modification of a plan or a substitute plan therefor.

(*b*) *Modification after approval of plan either before or after confirmation.*—After a plan has been approved, a party in interest may propose a modification of the plan only with leave of court for cause shown and subject to the provisions of subdivision (c)(1) of this rule. No acceptance of such a modification may be solicited before its approval without the consent of the court. If the court finds that the proposed modification does not materially and adversely affect the interest of any creditor or stockholder who has not in writing accepted it, the court may approve the modification and it shall be deemed accepted by all creditors and stockholders who have previously accepted the plan. If the court finds that the proposed modification does so affect the interest of any creditor or stockholder who has not in writing accepted it, the court shall (1) fix a date for a hearing to consider the approval of such modification, (2) enter an order that any creditor or stockholder who accepted the plan and who fails to file with the court, within such reasonable time as shall be fixed in the order, a written rejection of the modification, shall be deemed to have accepted the plan as modified, (3) order the mailing of notice of such order and the date fixed for the hearing on approval of the modification, accompanied by a copy or summary of the proposed modification, to creditors, stockholders, and other parties in interest at least 20

days before the date fixed for filing rejections of the modification, and (4) transmit, at least 20 days before the date fixed for such hearing, a copy of the proposed modification to the Securities and Exchange Commission with notice that the Commission may file a supplementary advisory report at or before the hearing on approval of the modification. The requirements of Rule 10–307 with respect to confirmation of a plan shall apply to such proposed modification except that the court may rule on confirmation at the hearing on approval and the notice transmitted under this subdivision shall so indicate.

(*c*) *Modification of plan after consummation.*

(1) After a plan has been substantially consummated, whether or not an order has been entered under this subdivision to that effect, the plan may not be modified if the proposed modification materially and adversely affects the participation provided for any class of creditors or stockholders by the plan.

(2) A plan shall be deemed to have been substantially consummated if, insofar as applicable, each of the following events has occurred: (A) transfer, sale or other disposition of all or substantially all of the property dealt with by the plan pursuant to its provisions; (B) assumption of operation of the business and management of all or substantially all of the property dealt with by the plan by the debtor or by the corporation used for the purpose of carrying out the plan; and (C) commencement of distribution to creditors and stockholders as provided in Rule 10–405 (a).

(3) On notice to the trustee, debtor, Securities and Exchange Commission, and such other persons as the court may direct, the trustee, debtor in possession, the corporation to which the assets of the debtor have been or are to be transferred under the plan, or any other party in interest may file an application with the court for an order declaring the plan to have been consummated or substantially consummated pursuant to this subdivision.

*Rule 10–307. Confirmation of plan.*

(*a*) *Objections to and hearing on confirmation.*

(*1*) *Objections.*—Objections to confirmation shall be filed at least 10 days before the hearing held under this subdivision, unless the court extends such time. A copy of any objection shall be mailed or delivered promptly to the trustee or debtor in possession, and to such other persons as may be designated by the court. An objection to confirmation is governed by Bankruptcy Rule 914.

(*2*) *Hearing.*—The court shall hold a hearing to rule on confirmation of a plan on at least 20 days' notice to the debtor, creditors, and stockholders, and other parties in interest as provided in Rule 10–209, whether or not any objections are timely filed. If more than one plan has received the requisite number of acceptances, the court shall consider the preferences indicated by the creditors and stockholders pursuant to Rule 10–305 (b) in determining which plan to confirm.

(*b*) *Order of confirmation.*—The order of confirmation shall conform substantially to Official Form No. 10–9 and notice of entry of the order of confirmation shall be mailed promptly to all parties in interest as provided in Rule 10–209.

*Rule 10–308. Dismissal or conversion to bankruptcy or Chapter XI after approval of the petition.*

(*a*) *Dismissal or conversion to bankruptcy or Chapter XI.*—The court shall enter an order, after hearing on notice as provided in Rule 10–209 (b), dismissing the case, or adjudicating the debtor a bankrupt if it has not been previously so adjudged, or directing that the bankruptcy case proceed, or, with the consent of the debtor, directing that the case proceed under Chapter XI of the Act, whichever may be in the best interest of the estate and appropriate under the Act—

(1) if no plan is proposed within the time fixed or extended by the court; or

(2) if no proposed plan is approved by the court and no further time is granted for the proposal of a plan; or

(3) if no approved plan is accepted within the time fixed or extended by the court; or

(4) if confirmation is refused and no further time is granted for the proposal of other plans; or

(5) if a confirmed plan is not consummated.

(*b*) *Notice of dismissal to creditors.*—Promptly after entry of an order of dismissal under this rule, notice thereof shall be given to creditors and stockholders in the manner provided in Rule 10–209 (c).

(*c*) *Revesting of title.*—A certified copy of the order of dismissal under this rule shall constitute conclusive evidence of the revesting of the debtor's title to its property.

*Rule 10–309. Consummation; final decree.*

(*a*) *Orders in aid of consummation.*—The court may make such orders as may be necessary or useful in aid of consummation of a plan including fixing the time and manner for the deposit and distribution of the cash or other consideration under the plan, directing the debtor, trustee, mortgagees, indenture trustees, and other necessary parties to execute and deliver such instruments as may be necessary to effect a retention or transfer of property dealt with by the confirmed plan, and to perform other acts, including the satisfaction of liens.

(*b*) *Final decree.*—On consummation of the plan, the court shall enter a final decree which shall contain provisions (1) stating the effect of confirmation and consummation on the creditors and stockholders of the debtor; (2) discharging the trustee, if any; (3) making such provisions by way of injunction or otherwise as may be equitable; and (4) closing the estate.

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## Part IV. Claims and Distribution to Creditors and Stockholders

*Rule 10–401. Proof of claim or interest.*

(*a*) *List of creditors and stockholders.*—The list of creditors and stockholders prepared and filed with the court pursuant to Rule 10–108 shall constitute prima facie evidence of the validity and amount of claims of creditors which are not listed as disputed, contingent, or unliquidated as to amount, and of stock interests and, except as provided in subdivision (b)(3) of this rule with respect to claims, it shall not be necessary for the holder of such claim or stock interest to file a proof of claim or interest.

(*b*) *Filing proof of claim.*

(*1*) *Time for filing.*—A proof of claim may be filed at any time prior to the approval of a plan except that the court may fix a different bar date for the filing of claims on notice as provided in Rule 10–209.

(*2*) *Who may file.*—Any creditor or indenture trustee may file a proof of claim within the time prescribed by subdivision (b)(1) of this rule.

(*3*) *Who must file.*—(A) Any creditor, including the United States, a state, or any subdivision thereof, whose claim is listed as disputed, contingent, or unliquidated as to amount, shall file a proof of claim within the time prescribed by subdivision (b)(1) of this rule; any such creditor who fails to do so shall not, with respect to such claim, be treated as a creditor for the purposes of voting and distribution.

(B) Notwithstanding the foregoing, the court may, at any time, require the filing of a proof of claim within such time as it may fix. Any person required under this paragraph to file a proof of claim who fails to do so shall not, with respect to such claim, be treated as a creditor for the purposes of voting and distribution.

(*4*) *Evidentiary effect.*—A proof of claim executed and filed in accordance with these rules shall constitute prima

facie evidence of the validity and amount of such claim. Such a proof of claim shall supersede any listing of that claim made pursuant to Rule 10–108.

(5) *Form and place of filing.*—A proof of claim shall consist of a statement in writing setting forth a creditor's claim and, except as provided in Rule 10–402, shall be executed by the creditor or by his authorized agent. Subdivisions (b) and (c) of Bankruptcy Rule 302 apply in Chapter X cases except that subdivision (c) shall not apply to claims founded on bonds or debentures.

(6) *Filing by indenture trustee.*—An indenture trustee may file claims for all holders, known or unknown, of securities issued pursuant to the instrument under which he is trustee.

(c) *Transfer of claim.*—If a claim other than one founded on a bond or debenture has been assigned, a statement setting forth the terms of the assignment shall be filed with the court and a copy thereof delivered to the trustee or the debtor in possession.

(d) *Duty to examine and object to claims.*—The trustee or debtor in possession shall examine listed claims and proofs of claims and, unless no purpose would be served thereby, object to the allowance of improper claims.

(e) *Allowance when no objection made.*—Subject to the provisions of subdivision (b)(3) of this rule and Rule 10–302 (b), a claim filed or listed in accordance with this rule, or Rule 10–402 or listed in accordance with Rule 10–108, shall be deemed allowed unless objection is made by a party in interest.

(f) *Objection to allowance.*—An objection to the allowance of a claim shall be in writing. A copy of the objection and notice of a hearing thereon shall be mailed or delivered to the claimant, the debtor and the trustee, or debtor in possession. If an objection is joined with a demand for relief of the kind specified in

Rule 10–701, the proceeding thereby becomes an adversary proceeding.

(*g*) *Reconsideration of claims.*—Bankruptcy Rule 307 applies in Chapter X cases.

(*h*) *Proof of right to record status.*—For the purposes of Rules 10–305 and 10–405 and for the purpose of receiving notices, a person who is not the record holder of a security may show that he is nevertheless entitled to be treated as such holder of record by filing with the court proof thereof. An objection to such proof may be filed by any party in interest.

*Rule 10–402. Claim by codebtor.*

(*a*) *Filing of claim.*—If a creditor has not filed his proof of claim pursuant to Rule 10–401 (b), a person who is or may be liable with the debtor to that creditor, or who has secured that creditor, may, during the time for filing claims prescribed by Rule 10–401 (b), execute and file a proof of claim pursuant to this rule in the name of the creditor, if known or if unknown, in his own name. No distribution shall be made on the claim except on satisfactory proof that the original debt will be diminished by the amount of distribution. The creditor may nonetheless file a proof of claim pursuant to Rule 10–401 (b) and it shall supersede the proof of claim filed pursuant to the first sentence of this subdivision.

(*b*) *Filing of acceptance; substitution of creditor.*—A person who has filed a claim pursuant to the first sentence of subdivision (a) of this rule may file an acceptance or rejection of a plan in the name of the creditor, if known or if unknown, in his own name but if the creditor files a proof of claim within the time permitted by Rule 10–401 (b), or files a notice with the court of his intention to act in his own behalf prior to confirmation, he shall be substituted for such other person, with respect to that claim, for all purposes of the Chapter X case.

*Rule 10–403. Post-petition tax claims.*

Notwithstanding Rule 10–401 (b), the court may, at any time while a case is pending, permit the filing of a proof of claim for the following:

(1) Claims for taxes owing to the United States, a state, or any subdivision thereof, at the time of the filing of the petition under Rule 10–104 or 10–105 which had not been assessed prior to the date of confirmation of the plan, but which are assessed within one year after the date of the filing of the petition.

(2) Claims for taxes owing to the United States, a state, or any subdivision thereof, after the filing of a petition under Rule 10–104 or 10–105 and which are assessed while the case is pending.

*Rule 10–404. Withdrawal of claim.*

A creditor may withdraw a claim as of right by filing a notice of withdrawal, except as provided in this rule. If, after a creditor has filed a proof of claim, an objection is filed thereto or a complaint is filed against him in an adversary proceeding, or the creditor has accepted or rejected the plan or otherwise has participated significantly in the case, he may not withdraw the claim save on application or motion with notice to the trustee, receiver, or debtor in possession, and on order of the court containing such terms and conditions as the court deems proper.

*Rule 10–405. Participation and distribution under plan.*

(*a*) *Distribution.*—Subject to the provisions of subdivision (b) of this rule, after confirmation of a plan distribution shall be made, in accordance with the provisions of the plan, to holders of stock, bonds, debentures, notes, and other securities of record at the date the order confirming the plan becomes final whose claims or stock interests have not been disallowed and to other creditors whose claims have been allowed, and to indenture

trustees who have filed claims pursuant to Rule 10–401 (b)(6) and which are allowed.

(*b*) *Bar date for participation in distribution.*—When a plan requires presentment or surrender of securities or the performance of any other act as a condition to participation in distribution under the plan, the court shall, on the confirmation of the plan, enter an order on such notice to all affected persons as it may direct, fixing a time not less than 5 years after the final decree closing the estate within which such action shall be taken. Persons who have not within such time presented or surrendered their securities or who have not taken such other action required by the plan shall not participate in distribution thereunder.

*Rule 10–406. Distributions; unclaimed money and securities.*

(*a*) *Distributions.*—Except as otherwise provided in the plan and except with respect to an indenture trustee authorized by the indenture under which he is trustee to receive distributions, Bankruptcy Rule 308 applies in Chapter X cases to cash distributions made under a plan. Except as otherwise provided in the plan or ordered by the court, consideration other than cash distributed under the plan shall be issued in the name of the creditor or stockholder entitled thereto and if a power of attorney authorizing another person to receive dividends has been executed and filed in acccordance with Bankruptcy Rule 910, such consideration shall be transmitted to such other person.

(*b*) *Unclaimed money and securities.*—Unless otherwise provided in the plan, the securities or cash remaining unclaimed at the expiration of the bar date fixed pursuant to Rule 10–405 (b), or any extension thereof, shall be delivered to the new corporation acquiring the assets of the debtor under the plan, if any, otherwise to the reorganized debtor.

## PART V. COURTS OF BANKRUPTCY; OFFICERS AND PERSONNEL; THEIR DUTIES

*Rule 10–501. Administrative matters.*

Part V of the Bankruptcy Rules applies in Chapter X cases except that Rule 509 (a) thereof shall include the following additional sentence: "If a Chapter X case is not referred pursuant to Rule 10–103 (a), all papers shall be filed with the clerk of the district court or as directed by local rule or order of the district judge."

## PART VI. PROPERTY OF THE ESTATE

*Rule 10–601. Petition as automatic stay of actions against debtor and lien enforcement.*

(*a*) *Stay of actions and lien enforcement.*—A petition filed under Rule 10–104 or 10–105 shall operate as a stay of the commencement or the continuation of any court or other proceeding against the debtor, or the enforcement of any judgment against it, or of any act or the commencement or continuation of any court proceeding to enforce any lien against its property, or of any court proceeding for the purpose of the rehabilitation of the debtor or the liquidation of its estate.

(*b*) *Duration of stay.*—Except as it may be terminated, annulled, modified, or conditioned by the bankruptcy court under subdivision (c), (d), or (e) of this rule, the stay shall continue until the case is closed, dismissed or converted to bankruptcy or the property subject to the lien is, with the approval of the court, abandoned or transferred.

(*c*) *Relief from stay.*—On the filing of a complaint seeking relief from a stay provided by this rule, the bankruptcy court shall, subject to the provisions of subdivision (d) of this rule, set the trial for the earliest possible date, and it shall take precedence over all matters except older matters of the same character. The court may,

for cause shown, terminate, annul, modify, or condition such stay. A party seeking continuation of a stay against lien enforcement shall show that he is entitled thereto.

(*d*) *Ex parte relief from stay.*—On the filing of a complaint seeking relief from a stay against any act or proceeding to enforce a lien or any proceeding commenced for the purpose of rehabilitation of the debtor or the liquidation of its estate, relief may be granted without written or oral notice to the adverse party if (1) it clearly appears from specific facts shown by affidavit or by a verified complaint that immediate and irreparable injury, loss, or damage will result to the plaintiff before the adverse party or attorney can be heard in opposition, and (2) the plaintiff's attorney certifies to the court in writing the efforts, if any, which have been made to give the notice and the reasons supporting his claim that notice should not be required. The party obtaining relief under the subdivision shall give written or oral notice thereof as soon as possible to the debtor, the trustee, receiver, or debtor in possession or, if none has been designated or qualified, to the petitioner or petitioners and, in any event, shall forthwith mail to such person or persons a copy of the order granting relief. On 2 days' notice to the party who obtained relief from a stay provided by this rule without notice or on such shorter notice to that party as the court may prescribe, the adverse party may appear and move its reinstatement, and in that event the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

(*e*) *Availability of other relief.*—Nothing in this rule precludes the issuance of, or relief from, any stay, restraining or injunction order when otherwise authorized.

*Rule 10–602. Duty of trustee, receiver, or debtor in possession to give notice of Chapter X case.*

Bankruptcy Rule 602 applies in Chapter X cases.

*Rule 10–603. Burden of proof as to validity of post-petition transfer.*

Bankruptcy Rule 603 applies in Chapter X cases.

*Rule 10–604. Accounting by prior custodian of property of the estate.*

(*a*) *Accounting required.*—Any person required by the Act to deliver property in his possession or control to the trustee, receiver, or debtor in possession, shall promptly file a written report and account with the court in which the Chapter X case is pending with respect to the property of the estate and his administration thereof.

(*b*) *Examination of administration.*—On the filing of the report and account required by subdivision (a) of this rule and after an examination has been made into the superseded administration, the court shall determine the propriety of such administration, including the reasonableness of all disbursements.

*Rule 10–605. Money of the estate: deposit and disbursement.*

Bankruptcy Rule 605 (b) and (c) apply in Chapter X cases.

*Rule 10–606. Rejection of executory contracts.*

When a motion is made for the rejection of an executory contract, including an unexpired lease, other than as part of the plan, the court shall set a hearing on notice to the parties to the contract and to such other parties in interest as the court may direct.

*Rule 10–607. Appraisal and sale of property; compensation and eligibility of appraisers and auctioneers.*

(*a*) *Appraiser: appointment and duties.*—The court may appoint one or more competent and disinterested appraisers who shall prepare and file with the court an appraisal of the property of the debtor. The court may prescribe how such appraisal shall be made.

(*b*) *Sale of property.*—The court may, on such notice as it may direct and for cause shown, authorize the trustee, receiver, or debtor in possession to lease or sell any real or personal property of the debtor, on such terms and conditions as the court may approve.

(*c*) *Compensation and eligibility of auctioneers and appraisers.*—Bankruptcy Rule 606 (c) applies in Chapter X cases to any appraiser or auctioneer appointed by the court.

*Rule 10–608. Abandonment of property.*

After hearing on such notice as the court may direct and on approval by the court, the trustee, receiver, or debtor in possession may abandon any property.

*Rule 10–609. Redemption of property from lien or sale.*

Bankruptcy Rule 609 applies in Chapter X cases.

*Rule 10–610. Prosecution and defense of proceedings by trustee, receiver, or debtor in possession.*

Bankruptcy Rule 610 applies in Chapter X cases.

*Rule 10–611. Preservation of voidable transfer.*

Bankruptcy Rule 611 applies in Chapter X cases.

*Rule 10–612. Proceeding to avoid indemnifying lien or transfer to surety.*

Bankruptcy Rule 612 applies in Chapter X cases.

## Part VII. Adversary Proceedings

*Rule 10–701. Adversary proceedings.*

Part VII of the Bankruptcy Rules governs any proceeding instituted by a party before a bankruptcy judge in a Chapter X case to (1) recover money or property other than a proceeding under Rule 10–217 or Rule 10–604, (2) determine the validity, priority, or extent of a lien or other interest in property, (3) sell property free of a lien or other interest for which the holder can be compelled to take a money satisfaction, (4) obtain an injunction, or (5) obtain relief from a stay as provided

in Rule 10–601. Such a proceeding shall be known as an adversary proceeding.

## Part VIII. Appeal to District Court

*Rule 10–801. Appeal to district court.*

Part VIII of the Bankruptcy Rules applies in Chapter X cases, except that:

(1) Rule 802 (c) thereof shall read as follows:

"(c) *Extension of time for appeal.*—The referee may extend the time for filing the notice of appeal by any party for a period not to exceed 20 days from the expiration of the time otherwise prescribed by this rule. A request to extend the time for filing a notice of appeal must be made before such time has expired, except that a request made after the expiration of such time may be granted upon a showing of excusable neglect if the judgment or order does not authorize the sale of any property or the issuance of any certificate of indebtedness, or is not a judgment or order approving or dismissing a petition under Rule 10–113, or converting a Chapter X case to Chapter XI under Rule 10–117, or approving a plan under Rule 10–303, or confirming a plan under Rule 10–307, or dismissing a Chapter X case, or converting a Chapter X case to bankruptcy or to Chapter XI under Rule 10–308."

(2) The following shall be added to Rule 805 thereof:

"Unless an order approving a sale of property of issuance of a certificate of indebtedness is stayed pending appeal, the sale to a good faith purchaser or the issuance of a certificate to a good faith holder shall not be affected by the reversal or modification of such order on appeal whether or not the purchaser or holder knows of the pendency of the appeal."

## Part IX. General Provisions

*Rule 10–901. General provisions.*

Part IX of the Bankruptcy Rules applies in Chapter X cases, except that:

(1) The definitions of words and phrases in § 106 of the Act govern their use in the Chapter X Rules to the extent they are not inconsistent therewith.

(2) "Bankruptcy judge" as defined in Rule 901 (7) shall also mean the district judge acting in a Chapter X case when there has been no reference under Rule 10–103.

(3) The references to various rules in Rule 906 (b) shall also include a reference to Chapter X Rule 10–212 (a).

(4) The references to various rules in Rule 906 (c) shall also include references to Chapter X Rules 10–209 (a) and 10–212 (a).

(5) The exception in Rule 910 (c) for "the execution and filing of a proof of claim" shall be read to include also "the execution and filing of an acceptance or rejection of a plan."

(6) The reference in Rule 919 (a) shall be read as a reference to Chapter X Rule 10–209 (a).

(7) The reference in Rule 922 (b) to Rule 102 shall be read as a reference to Chapter X Rule 10–103.

# OFFICIAL CHAPTER X FORMS

[NOTE. These official forms shall be observed and used, with such alterations as may be appropriate to suit the circumstances. See Bankruptcy Rule 909.]

FORM No. 10–1

VOLUNTARY PETITION UNDER CHAPTER X

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

In re
.....,
*Debtor*
} Bankruptcy No. .....

VOLUNTARY PETITION UNDER CHAPTER X

1. Petitioner's post-office address is .....
.....

2. Petitioner is a corporation organized and existing under the laws of ..... and is qualified to file this petition and is entitled to the benefits of Chapter X of the Bankruptcy Act.

3. Petitioner has had its principal place of business [*or* has had its principal assets] within this district for the preceding 6 months [*or* for a longer portion of the preceding 6 months than in any other district].

4. Petitioner is insolvent [*or* unable to pay its debts as they mature].

5. The nature of petitioner's business is .....
.....
.....

6. The indebtedness of petitioner, liquidated as to amount and not contingent as to liability, is $250,000 or over [*or* less than $250,000].



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INFORMATION
GPO

7. The assets, liabilities, and capital stock of petitioner are substantially as follows [attach most recent financial statements or set forth sufficient information about the business to enable the court to make findings with respect to its preliminary approval of the petition]:

(a) Assets. Description and location of the principal assets of petitioner: .....

.....

.....

.....

(b) Liabilities. The principal liabilities of petitioner consist of .....

.....

.....

(c) Capital Stock. The authorized, issued and outstanding capital stock of petitioner is as follows:

Authorized:

.....

.....

.....

Issued and outstanding:

.....

.....

.....

(d) Other facts, if any, affecting financial condition:

.....

.....

.....

.....

8. There are no proceedings pending affecting the property of petitioner, except as follows: .....

.....

9. No plan of reorganization, readjustment, or liquidation affecting the property of petitioner is pending, either in connection with or without any judicial proceeding, except as follows: .....

.....;

no other petition by or against petitioner is pending under Chapter X of the Act; nor is any other bankruptcy case, initiated by a pe-

tition by or against petitioner now pending [*or* Petitioner is a bankrupt in Bankruptcy Case No. ..... pending in this court].

10. The specific facts showing the need for relief under Chapter X of the Act are as follows: [state appropriate facts including why relief under Chapter XI would not be adequate] .....

.....

.....

.....

.....

.....

Wherefore petitioner prays for relief in accordance with Chapter X of the Act.

Signed: .....,
*Attorney for Petitioner.*

Address: .....,
.....

State of.....
County of..... } *ss.*

I, ....., the president [*or* other officer *or* an authorized agent] of the corporation named as petitioner in the foregoing petition, do hereby swear that the statements contained therein are true according to the best of my knowledge, information, and belief, and that the filing of this petition on behalf of the corporation has been authorized.

.....

Subscribed and sworn to before me on .....
.....,
.....
[*Official character*]

FORM NO. 10–2

INVOLUNTARY PETITION UNDER CHAPTER X

[*Caption, other than designation, as in Form No. 10–1*]

INVOLUNTARY PETITION UNDER CHAPTER X

1. Petitioners, ....., of* ....., and ..... of* ....., and ..... of* ....., are creditors of ....., debtor, of* ....., having claims against debtor, liquidated as to amount and not contingent as to liability, amounting in the aggregate to $5,000 or over. The nature and amount of petitioners' claims are as follows: .....

.....

2. The debtor is a corporation organized and existing under the laws of ..... and is subject to an involuntary petition under Chapter X of the Bankruptcy Act.

3. The debtor has had its principal place of business [*or* has had its principal assets] within the district for the preceding 6 months [*or* for a longer portion of the preceding 6 months than in any other district].

4. The debtor is insolvent [*or* unable to pay its debts as they mature].

5. The nature of the debtor's business is .....

.....

.....

.....

6. The indebtedness of the debtor liquidated as to amount and not contingent as to liability, is $250,000 or over [*or* less than $250,000].

7. The assets, liabilities, capital stock, and financial condition of debtor are substantially as follows [attach most recent financial statements or set forth sufficient information about the business to enable the court to make findings with respect to its preliminary approval of the petition]:

---

**State post-office address.*

(a) The assets of the debtor consist of [state description and location]:

..... $.....
..... .....
..... .....
..... .....

Total ..... $.....

(b) The principal liabilities of the debtor consist of:

..... $.....
..... .....
..... .....
..... .....

Total ..... $.....

(c) The issued and outstanding capital stock of the debtor are:

.....
.....
.....

(d) Other facts, if any, affecting the financial condition of the debtor: .....
.....
.....
.....

8. There are no pending proceedings affecting the property of the debtor, except as follows: .....
.....
.....

9. No plan of reorganization, readjustment, or liquidation affecting the property of the debtor is pending either in connection with or without any judicial proceeding, except as follows: .....
.....
.....;
no other petition by or against the debtor is pending under Chapter X of the Act; nor is any other bankruptcy case, initiated by a petition by or against the debtor now pending [*or* the debtor is a bankrupt, in Bankruptcy Case No. ..... pending in this court].

10. The specific facts showing the need for relief under Chapter X of the Act are as follows: [state appropriate facts including why relief under Chapter XI would not be adequate] .....
.....
.....

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11. [A receiver [*or* trustee] has been appointed for *or* has taken charge of all or the greater portion of the property of the debtor in a pending equity proceeding as follows: .....
.....
.....] *or*

[An indenture trustee [*or* a mortgagee under a mortgage] is, by reason of a default, in possession of all or the greater portion of the property of the debtor, as follows: .....
.....
.....] *or*

[A proceeding to foreclose a mortgage *or* to enforce a lien against all or the greater portion of the property of the debtor is pending, as follows: .....
.....
.....] *or*

[Within the 4 months preceding the filing of this petition, the debtor committed an act of bankruptcy in that it did on .....
.....
.....].

Wherefore petitioners pray for relief in accordance with Chapter X of the Act.

Signed: .....,
*Attorney for Petitioners.*

Address: .....,
.....

State of.....
County of..... } *ss.*

I, ....., one of the petitioners named in the foregoing petition do hereby swear that the statements contained therein are true according to the best of my knowledge, information, and belief.

.....
*Petitioner.*

Subscribed and sworn to before me on .....
.....,
.....
[*Official character*]

FORM No. 10–3

SUMMONS TO DEBTOR

[*Caption, other than designation, as in Form No. 10–1*]

SUMMONS

To the Above-named debtor:

An involuntary petition for your reorganization under Chapter X of the Bankruptcy Act having been filed on ..... in this court of bankruptcy,

You are hereby summoned and required to file with this court and to serve upon the petitioners' attorney, whose address is ..... ....., an answer to the petition which is herewith served upon you, on or before .....

If you fail to do so, the petition may be approved by default.

....., *Bankruptcy Judge.*

[*If Appropriate*] ....., *Clerk of the District Court.*

[Seal of the United States District Court]

Date of Issuance: .....

FORM No. 10–4

CERTIFICATE OF RETENTION OF DEBTOR IN POSSESSION

[*Caption, other than designation, as in Form No. 10–1*]

CERTIFICATE OF RETENTION OF DEBTOR IN POSSESSION

I hereby certify that the above-named debtor continues in possession of its estate as debtor in possession, no trustee having been appointed.

Dated: .....

....., *Bankruptcy Judge.*

FORM NO. 10–5

ORDER FOR FIRST MEETING OF CREDITORS AND STOCKHOLDERS AND RELATED ORDERS, COMBINED WITH NOTICE THEREOF AND OF AUTOMATIC STAY

[*Caption, other than designation, as in Form No. 10–1*]

ORDER FOR FIRST MEETING OF CREDITORS AND STOCKHOLDERS AND HEARING ON APPROVAL OF THE PETITION, RETENTION OF TRUSTEE OR DEBTOR IN POSSESSION, COMBINED WITH NOTICE THEREOF AND OF AUTOMATIC STAY

To the debtor, its creditors, and stockholders, and other parties in interest:

A petition having been filed, on ..... by ....., the above-named debtor of* ....., [*or* against ....., of* .....,] seeking relief under Chapter X of the Bankruptcy Act, it is ordered, and notice is hereby given, that:

1. The first meeting of creditors and stockholders shall be held at ..... on ..... at ..... o'clock .... m.;

2. The last date for filing an answer to the petition by any creditor, indenture trustee, or stockholder is ..... If any such answer is timely filed, a hearing on the approval of the petition will be held at ..... ..... on ....., at ..... o'clock .... m. [*or* at the first meeting of creditors and stockholders].

3. The hearing on the retention of the trustee, ..... ....., of* ..... ..... [*or* the debtor in possession] will be held at the first meeting of creditors and stockholders [*or* a trustee will be appointed at such meeting and a date will then be fixed for the hearing on his retention in office].

4. The trustee [*or* debtor in possession] has filed or will file a list of creditors and stockholders pursuant to Rule 10–108. Any creditor holding a listed claim which is not listed as disputed, contingent, or unliquidated as to amount, may, but need not, file a proof of claim in this case. Creditors whose claims are not listed

---

**State post-office address.*

or whose claims are listed as disputed, contingent, or unliquidated as to amount and who desire to participate in the case or share in any distribution must file their proofs of claim on or before .....
....., which date is hereby fixed as the last day for filing a proof of claim [*or, if appropriate,* on or before a date to be later fixed of which you will be notified]. Any creditor who desires to rely on the list has the responsibility for determining that he is accurately listed.

You are further notified that:

The first meeting may be continued or adjourned from time to time by order made in open court, without further written notice to creditors and stockholders.

When required pursuant to Rule 10–303 notice of the time to file acceptances or rejections of a plan shall be transmitted to holders of stock, bonds, debentures, notes, and other securities of record at the date the order approving a plan is entered.

At the first meeting, creditors and stockholders may examine the debtor as permitted by the court, and transact such other business as may properly come before such meeting.

The filing of the petition by [*or* against] the debtor above-named operates as a stay of the commencement or continuation of any action against the debtor, or the enforcement of any judgment against it, of any act or the commencement or continuation of any court proceeding to enforce any lien on the property of the debtor and of any court proceeding commenced for the purpose of rehabilitation of the debtor or the liquidation of its estate as provided by Rule 10–601.

[*If appropriate*] .....
of* .....
has been appointed receiver of the estate of the above-named debtor.

Dated: .....

.....,
*Bankruptcy Judge.*

FORM NO. 10–6

ORDER APPROVING PLAN AND FIXING TIME FOR FILING ACCEPTANCES OR REJECTIONS, COMBINED WITH NOTICE THEREOF

[*Caption, other than designation, as in Form No. 10–1*]

ORDER APPROVING PLAN AND FIXING TIME FOR FILING ACCEPTANCES OR REJECTIONS, COMBINED WITH NOTICE THEREOF

A plan under Chapter X of the Bankruptcy Act having been filed by ..... on

*State post-office address.

.....[*if appropriate,* and by ....., on .....] [*if appropriate,* as modified by a modification filed on ..... .....]; and

It having been determined after hearing on notice that:

1. The provisions of Article X of Chapter X of the Act have been complied with; and

2. The plan is [*or* plans are] fair and equitable, and feasible; and

3. The plan has [*or* plans have] been proposed in good faith and not by any means forbidden by law;

It is ordered, and notice is hereby given that:

A. The plan proposed by ..... dated ..... [*if appropriate,* and by ..... ....., dated .....] is [are] approved.

B. ..... is fixed as the last day for filing written acceptances or rejections of such plan [*or* plans].

C. Within ..... days after the entry of this order, the trustee [*or* debtor in possession] shall transmit by mail to creditors, stockholders, and other parties in interest as provided in Rule 10-303, the plan [*or* plans] and a summary [*or* summaries] thereof approved by the court, a summary approved by the court of its opinion, if any, dated ....., approving the plan [*or* plans], and a summary of the report, if any, of the Securities and Exchange Commission, dated ..... prepared by such Commission.

D. If acceptances are filed for more than one approved plan, preferences among the plans so accepted may be indicated.

Dated: .....

.....,
*Bankruptcy Judge.*

[*If the court directs that a copy of the opinion, or report should be transmitted in lieu of or in addition to the summary thereof, the appropriate change should be made in paragraph C of this Order.*]

FORM NO. 10–7

BALLOT FOR ACCEPTING OR REJECTING PLAN

[*Caption, other than designation, as in Form No. 10–1*]

BALLOT FOR ACCEPTING OR REJECTING PLAN

*The plan referred to in this ballot can be confirmed by the court only if two-thirds of the amount of creditors in each class and a majority of stockholders in each class voting on the plan accept the plan. Return of this ballot accepting or rejecting a plan will be deemed to be the filing of a proof of claim or stock interest only for the purpose of computing the vote. This ballot should be returned to:* *Name:* .....

*Address:* .....

.....

[*If stockholder*] The undersigned, the holder of [*state number*] ..... shares of [*describe type*] ..... ..... stock of the above-named debtor, represented by Certificate(s) No. ....., registered in the name of.....,

[*If bondholder, debenture holder or other debt security holder*] The undersigned, the holder of [*state unpaid principal amount*] $..... of [*describe security*] ..... of the above-named debtor, due ..... [*if applicable* registered in the name of .....] [*if applicable* bearing serial number(s) .....],

[*If holder of general claim*] The undersigned, a creditor of the above-named debtor in the unpaid principal amount of $.....,

[*Check one box*]

[ ] ACCEPTS
[ ] REJECTS

the plan for the reorganization of the above-named debtor filed by ..... on ..... as approved by the court on ..... for submission for your vote.

Dated: .....

Print or type name: .....

Signed: .....

[*If appropriate*] By: .....

as: .....

Address: .....

.....

*The trustee or other person transmitting this ballot to creditors or stockholders should complete the blanks indicating the person filing the plan, the date of the plan, the date of the court's order approving the plan, and the person to whom the ballot should be returned.*

FORM NO. 10–8

ORDER PERMITTING FILING MODIFICATION OF PLAN, FIXING HEARING AND TIME FOR REJECTION OF MODIFICATION, COMBINED WITH NOTICE THEREOF

[*Caption, other than designation, as in Form No. 10–1*]

ORDER PERMITTING FILING MODIFICATION OF PLAN, FIXING HEARING AND TIME FOR REJECTION OF MODIFICATION, COMBINED WITH NOTICE THEREOF

To the debtor, its creditors and stockholders, and other parties in interest:

A modification of the plan dated ..... having been filed by ..... on ....., it is ordered and notice is hereby given that:

1. The modification, a copy [*or* a summary] of which is attached hereto, may be filed.

2. The hearing for the consideration of the proposed modification shall be held at ..... on ..... at ..... o'clock .... m., which hearing may be continued or adjourned from time to time by order made in open court, without further notice to creditors and stockholders.

3. ..... is fixed as the last day for filing a written rejection of the modification. Any creditor or stockholder who has accepted the plan and who fails to file a written rejection of the modification within the time above specified shall be deemed to have accepted the plan as modified.

Dated: .....

....., *Bankruptcy Judge.*

FORM NO. 10–9

ORDER CONFIRMING PLAN

[*Caption, other than designation, as in Form No. 10–1*]

ORDER CONFIRMING PLAN

The plan under Chapter X of the Bankruptcy Act filed by ..... on ..... [*if appropriate,* as modified by a modification filed on ..... .....,] and a summary thereof having been transmitted to creditors and stockholders; and

It having been determined after hearing on notice:

1. That the plan has been accepted in writing by the creditors and stockholders whose acceptance is required by law; and

2. That acceptance of the plan has been procured in good faith and not by any means forbidden by law; that the provisions of Chapter X of the Act have been complied with; that the proposal of the plan and its acceptance are in good faith and have not been made or procured by means or promises forbidden by the Act; and, that the plan is fair and equitable, and feasible; and

3. All payments made or promised by the debtor or by a corporation issuing securities or acquiring property under the plan or by any other person, for services and for costs and expenses in, or in connection with, the case or in connection with the plan and incident to the reorganization, have been fully disclosed to the court and are reasonable or, if to be fixed after confirmation of the plan, will be subject to the approval of the court; and

4. The identity, qualifications, and affiliations of the persons who are to be directors or officers, or voting trustees, if any, upon the consummation of the plan, have been fully disclosed, and that the appointment of such persons to such offices, or their continuance therein, is equitable, compatible with the interests of the creditors and stockholders and consistent with public policy:

It is ordered that:

The plan filed by ..... on ..... and approved by an order of the court entered on ....., a copy of which plan is attached hereto, is confirmed.

Dated: .....

.....,
*Bankruptcy Judge.*

# RULES OF BANKRUPTCY PROCEDURE

## TITLE VI

## CHAPTER XII RULES

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# TITLE VI

## CHAPTER XII RULES

*Rule 12–1. Scope of Chapter XII rules and forms; short title.*

The rules and forms in this Title VI govern the procedure in courts of bankruptcy in cases under Chapter XII of the Bankruptcy Act. These rules may be known and cited as the Chapter XII Rules. These forms may be known and cited as the Official Chapter XII Forms.

*Rule 12–2. Meanings of words in the Bankruptcy Rules when applicable in a Chapter XII case.*

The following words and phrases used in the Bankruptcy Rules made applicable in Chapter XII cases by these rules have the meanings herein indicated, unless they are inconsistent with the context:

(1) "Bankrupt" means "debtor."

(2) "Bankruptcy" or "bankruptcy case" means "Chapter XII case."

(3) "Receiver," "trustee," "receiver in bankruptcy," or "trustee in bankruptcy" means the "trustee" or "debtor continued in possession" in the Chapter XII case.

*Rule 12–3. Commencement of Chapter XII case.*

(*a*) *Method of commencement.*—A Chapter XII case is commenced by the filing of a petition with the court by a person seeking relief under Chapter XII of the Act.

(*b*) *When case may be commenced.*—The petition under Chapter XII may be an original petition or it may be filed in a case pending under another chapter of the Act.

*Rule 12–4. Chapter XII cases originally commenced under another chapter of the Act.*

When a case commenced under another chapter of the



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Act proceeds under Chapter XII, the Chapter XII case shall be deemed to have been originally commenced as of the date of the filing of the first petition initiating a case under the Act.

*Rule 12–5. Reference of cases; withdrawal of reference and assignment.*

Bankruptcy Rule 102 applies in Chapter XII cases.

*Rule 12–6. Original petition.*

An original petition under Chapter XII of the Act shall conform substantially to Official Form No. 12–F1. An original and 4 copies of the petition shall be filed, unless a different number of copies is required by local rule. The clerk shall transmit one copy to the District Director of Internal Revenue for the district in which the case is filed, and one copy to the Secretary of the Treasury.

*Rule 12–7. Petition in pending case.*

If a case under another chapter of the Act is pending by or against the debtor, any petition under Chapter XII shall be filed therein and may be filed before or after adjudication. Such petition shall conform substantially to Official Form No. 12–F2. The number and distribution of copies shall be as specified in Rule 12–6. The filing of the petition shall act as a stay of adjudication and of administration of an estate in bankruptcy. The court may, for cause shown, terminate, annul, modify, or condition the stay.

*Rule 12–8. Partnership petition.*

A petition may be filed pursuant to Rule 12–6 or 12–7 by all the general partners on behalf of the partnership.

*Rule 12–9. Caption of petition.*

Bankruptcy Rule 106 applies in Chapter XII cases.

*Rule 12–10. Filing fees.*

Every petition filed pursuant to Rule 12–6 shall be accompanied by the prescribed filing fees.

*Rule 12–11. Schedules, statement of affairs, and statement of executory contracts.*

(*a*) *Schedules and statements required.*—The debtor shall file with the court schedules of all his debts and all his property, a statement of his affairs, and a statement of his executory contracts, prepared by him in the manner prescribed by Official Forms No. 12–F4 and either No. 12–F5 or No. 12–F6, whichever is appropriate. The number of copies of the schedules and statements shall correspond to the number of copies of the petition required by these rules.

(*b*) *Time limits.*—Except as otherwise provided herein, the schedules and statements, if not previously filed in a pending bankruptcy or Chapter XI case, shall be filed with the petition. A petition shall nevertheless be accepted by the clerk if accompanied by a list of all the debtor's creditors and their addresses, and the schedules and statements may be filed within 15 days thereafter in such case. On application, the court may grant up to 30 additional days for the filing of schedules and the statements; any further extension may be granted only for cause shown and on such notice as the court may direct.

(*c*) *Partnership.*—If the debtor is a partnership, the general partners shall prepare and file the schedules of the debts and property, statement of affairs, and statement of executory contracts of the partnership.

(*d*) *Interests acquired or arising after petition.*—Bankruptcy Rule 108 (e) applies in Chapter XII cases except that the supplemental schedule need not be filed with respect to property or interests acquired after confirmation of a plan.

*Rule 12–12. Verification and amendment of petition and accompanying papers.*

Bankruptcy Rules 109 and 110 apply in Chapter XII cases to petitions, schedules, statements of affairs, statements of executory contracts, and amendments thereto.

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*Rule 12–13. Venue and transfer.*

(*a*) *Proper venue.*

(*1*) *General venue requirement.*—A petition filed pursuant to Rule 12–6 may be filed in the district (A) where the debtor has had his principal place of business or his principal assets for the preceding 6 months or for a longer portion thereof than in any other district; or (B) if there is no such district, in any district where the debtor has property. A petition filed pursuant to Rule 12–7 shall be filed with the court in which the other petition under the Act is pending.

(*2*) *Partner with partnership or copartner.*—Notwithstanding the foregoing: (A) a petition commencing a Chapter XII case may be filed by a general partner in a district where a petition under the Act by or against a partnership is pending; (B) a petition commencing a Chapter XII case may be filed by a partnership or by any other general partner or any combination of the partnership and the general partners in a district where a petition under the Act by or against a general partner is pending.

(*3*) *Affiliate.*—Notwithstanding the foregoing, a petition commencing a Chapter XII case may be filed by an affiliate of a debtor or bankrupt in a district where a petition under the Act by or against the debtor or bankrupt is pending.

(*b*) *Transfer of cases; dismissal or retention when venue improper; reference of transferred cases.*—Bankruptcy Rule 116 (b) and (d) apply in Chapter XII cases.

(*c*) *Procedure when petitions involving the same debtor or related debtors are filed in different courts.*—Bankruptcy Rule 116 (c) applies in Chapter XII cases.

*Rule 12–14. Joint administration of cases pending in same court.*

Bankruptcy Rule 117 (b) and (c) apply in Chapter XII cases.

*Rule 12–15. Death or insanity of debtor.*

In the event of death or insanity of the debtor, a Chapter XII case may be dismissed, or if further administration is feasible and in the best interest of the parties, the estate may be administered and the case concluded in the same manner, so far as possible, as though the death or insanity had not occurred.

*Rule 12–16. Debtor involved in foreign proceeding.*

Bankruptcy Rule 119 applies in Chapter XII cases.

*Rule 12–17. Appointment of trustee; continuance of debtor in possession; removal.*

(*a*) *Reappointment of bankruptcy trustee.*—When a petition is filed under Rule 12–7 after the qualification of a trustee in bankruptcy in a pending bankruptcy case, the court shall appoint such trustee as trustee in the Chapter XII case.

(*b*) *Retention of debtor in possession; appointment of trustee.*—On the filing of a petition under Rule 12–6 or 12–7, if no trustee in bankruptcy has previously qualified, the debtor shall continue in possession. On application of any party in interest, the court may, for cause shown, appoint a trustee.

(*c*) *Notice to trustee of his appointment; qualification.*—The court shall immediately notify the trustee of his appointment, inform him as to how he may qualify, and require him forthwith to notify the court of his acceptance or rejection of the office. A trustee shall qualify as provided in Rule 12–19.

(*d*) *Eligibility.*—Only a person who is eligible to be a trustee under Bankruptcy Rule 209 (d) may be appointed a trustee in a Chapter XII case.

(*e*) *Removal of trustee for cause.*—On application of any party in interest or on the court's own initiative and after hearing on notice, the court may remove a trustee for cause and either appoint a successor or designate the debtor as debtor in possession.

(*f*) *Substitution of successor.*—When a trustee dies, resigns, is removed, or otherwise ceases to hold office during the pendency of a Chapter XII case, his successor is automatically substituted as a party in any pending action, proceeding, or matter without abatement.

*Rule 12–18. Trustees for estates when joint administration ordered.*

(*a*) *Appointment of trustees for estates being jointly administered.*—If the court orders a joint administration of 2 or more estates pursuant to Rule 12–14, it may appoint one or more common trustees or separate trustees for the estates being jointly administered. Common trustees shall not be appointed unless the court is satisfied that parties in interest in the different estates will not be prejudiced by conflicts of interest of such trustees.

(*b*) *Separate accounts.*—The trustee or trustees of estates being jointly administered shall nevertheless keep separate accounts of the property of each estate.

*Rule 12–19. Qualification by trustee and disbursing agent; indemnity; bonds; evidence.*

(*a*) *Qualifying bond or security.*—Except as provided hereinafter, every trustee within 5 days after his appointment, and every person specially appointed as disbursing agent within the time fixed by the court shall, before entering on the performance of his official duties, qualify by filing a bond in favor of the United States conditioned on the faithful performance of his official duties or by giving such other security as may be approved by the court.

(*b*) *Blanket bond.*—The court may authorize a blanket bond in favor of the United States conditioned on the faithful performance of official duties by a trustee in more than one case or by more than one trustee.

(*c*) *Qualification by filing acceptance.*—A trustee for whom a blanket bond has been filed pursuant to subdivision (b) of this rule shall qualify by filing his acceptance of his appointment in lieu of the bond.

(*d*) *Indemnification.*—The court may after hearing on notice to the debtor and such other persons as the court may direct, order the debtor to indemnify or otherwise protect the estate against subsequent loss thereto or diminution thereof until the entry, if any, of an order of adjudication.

(*e*) *Amount of bond and sufficiency of surety; filing of bond; proceeding on bond.*—Bankruptcy Rule 212 (e) and (f) apply to the bonds of trustees and persons specially appointed as disbursing agents in Chapter XII cases.

(*f*) *Evidence of qualification; debtor continued in possession.*—A certified copy of the order approving the bond or other security given by a trustee under subdivision (a) or of his acceptance filed under subdivision (c) of this rule shall constitute conclusive evidence of his appointment and qualification. Whenever evidence is required that a debtor is a debtor in possession, the court may so certify and the certificate shall constitute conclusive evidence of that fact.

*Rule 12–20. Limitation on appointment of trustees.*

Bankruptcy Rule 213 applies in Chapter XII cases.

*Rule 12–21. Employment of attorneys and accountants.*

Bankruptcy Rule 215 applies in Chapter XII cases.

*Rule 12–22. Authorization of trustee or debtor in possession to conduct business of debtor.*

The court may authorize the trustee or debtor in possession to conduct the business and manage the property of the debtor for such time and on such conditions as may be in the best interest of the estate.

*Rule 12–23. Notice to parties in interest and the United States.*

(*a*) *Ten-day notices to parties in interest.*—Except as provided hereinafter, the court shall give the trustee, the debtor, all creditors, and indenture trustees at least 10 days' notice by mail of (1) a meeting of creditors;

(2) any proposed sale of property, other than in the ordinary course of business, including the time and place of any public sale, unless the court on cause shown shortens the time or orders a sale without notice; (3) the hearing on the approval of a compromise or settlement of a controversy, unless the court on cause shown directs that notice not be sent; (4) the time for filing objections to confirmation; (5) the hearing to consider confirmation of a plan; (6) the time fixed to reject a proposed modification of a plan when notice is required by Rule 12–39; and (7) the hearing on an application for allowances for compensation or reimbursement of expenses. The notice of a proposed sale of property, including real estate, is sufficient if it generally describes the property to be sold. The notice of a hearing on an application for compensation or reimbursement of expenses shall specify the applicant and the amount requested.

(*b*) *Other notices to parties in interest.*—The court shall give notice by mail to the trustee, the debtor, all creditors, and indenture trustees of (1) dismissal of the case pursuant to Rule 12–41; (2) the time allowed for filing a complaint to determine the dischargeability of a debt pursuant to § 17c (2) of the Act as provided in Rule 12–47; and (3) entry of an order confirming a plan pursuant to Rule 12–38.

(*c*) *Addresses of notices.*—Bankruptcy Rule 203 (e) applies in Chapter XII cases.

(*d*) *Notices to the United States.*—Copies of all notices required to be mailed to creditors under these rules shall be mailed to the United States in the manner provided in Bankruptcy Rule 203 (g).

(*e*) *Notice by publication.*—Bankruptcy Rule 203 (h) applies in Chapter XII cases.

(*f*) *Caption.*—The caption of every notice given under this rule shall comply with Rule 12–9.

*Rule 12–24. Meeting of creditors.*

(*a*) *First meeting.*

(*1*) *Date and place.*—The first meeting of creditors shall be held not less than 20 nor more than 40 days after the filing of a petition commencing a Chapter XII case but if there is an application or motion to dismiss or to convert to bankruptcy pursuant to Rule 12–41 or an appeal from or a motion to vacate an order entered under that rule, the court may delay fixing a date for such a meeting. The meeting may be held at a regular place for holding court or at any other place within the district more convenient for the parties in interest.

(*2*) *Agenda.*—The bankruptcy judge shall preside over the transaction of all business at the first meeting of creditors, including the examination of the debtor. He shall, when necessary, determine which claims are unsecured and which are secured and to what extent, which claims have voted for acceptance of a plan, and may fix a time for filing a plan if one has not been filed.

(*b*) *Special meetings.*—The court may call a special meeting of creditors on application or on its own initiative.

*Rule 12–25. Representation of creditors.*

(*a*) *Representation.*—A creditor may appear in a Chapter XII case and act in his own behalf or by an attorney authorized to practice in the court, and may also perform any act not constituting the practice of law by an authorized agent, attorney in fact, proxy, or committee.

(*b*) *Data required.*—Every person or commitee representing more than one creditor, and every indenture trustee shall file a signed statement with the court setting forth (1) the names and addresses of such creditors; (2) the nature and amounts of their claims and the time of acquisition thereof unless they are alleged to have been acquired more than one year prior to the filing of the petition; (3) a recital of the pertinent facts and circumstances in connection with the employment of such person or indenture trustee, and, in the case of a com-

mittee, the name or names of the person or persons at whose instance, directly or indirectly, such employment was arranged or the committee was organized or agreed to act; and (4) with reference to the time of the employment of such person, or the organization or formation of such committee, or the appearance in the case of any indenture trustee, a showing of the amounts of claims owned by such person, the members of such committee or such indenture trustee, the times when acquired, the amounts paid therefor and any sales or other disposition thereof. The statement shall include a copy of the instrument, if any, whereby such person, committee, or indenture trustee is empowered to act on behalf of creditors. A supplemental statement shall be filed promptly, setting forth any material changes in the facts contained in the statement filed pursuant to this subdivision.

(c) *Failure to comply; effect.*—The court on its own initiative or on application or motion of any party in interest (1) may determine whether there has been a failure to comply with the provisions of this rule or with any other applicable law regulating the activities and personnel of any person, committee, or indenture trustee or any other impropriety in connection with any solicitation and, if it so determines, the court may refuse to permit any such person, committee, or indenture trustee to be heard further or to intervene in the case; (2) may examine any representation provision of a deposit agreement, proxy, trust mortgage, trust indenture, or deed of trust, or committee or other authorization, and any claim acquired by any person or committee in contemplation or in the course of a case under the Act and grant appropriate relief pursuant to the Act; and (3) may hold invalid any authority or acceptance given, procured, or received by a person or committee who has not complied with subdivision (b) of this rule.

*Rule 12–26. Examination.*

Bankruptcy Rule 205 applies in Chapter XII cases,

except that the scope of examination referred to in subdivision (d) thereof may also relate to the liabilities and financial condition of the debtor, the operation of his business and the desirability of the continuance thereof, the source of any money or property acquired or to be acquired by the debtor for the purposes of consummating a plan and the consideration given or offered therefor, and any other matter relevant to the case or to the formulation of a plan.

*Rule 12–27. Duty of trustee or debtor in possession to keep records, make reports, and furnish information.*

Bankruptcy Rule 218 applies in Chapter XII cases, except that (1) the written report of the financial condition of the estate shall be made by the trustee or debtor in possession within a month after the filing of a petition commencing a Chapter XII case and every month thereafter, and shall include a statement of the operation of the business for the preceding month and, if payments are made to employees, the amounts of deductions for withholding and social security taxes and the place where such amounts are deposited; and (2) the court may excuse the filing of a final report and account by a trustee, and a debtor in possession need not file a final report and account unless ordered to do so by the court.

*Rule 12–28. Compensation for services and reimbursement of expenses.*

(*a*) *Factors in allowing compensation.*—Reasonable compensation and reimbursement of necessary expenses may be allowed by the court to the trustee and his attorney, the attorney for the debtor in possession, the attorney for the debtor, and such other persons as may be authorized to assist the trustee or debtor in possession, and to creditors, committees or representatives of creditors, indenture trustees, depositaries, reorganization managers, and any other parties in interest and the attorneys or agents for any of them, for services which contribute to a plan which is confirmed or to the confirmation of a

plan, and for services rendered in opposing a plan confirmation of which has been refused, and for services in connection with the administration of the estate under Chapter XII.

(*b*) *Superseded case.*—If the Chapter XII petition was filed in a pending case, the court may allow, if not already allowed, reasonable compensation for services rendered and reimbursement of expenses to a marshal, receiver, or trustee as allowed by the Act, to the attorney for petitioning creditors, to the attorney for the bankrupt or debtor, and to any other persons and their attorneys entitled to compensation under the Act or rules in such case.

(*c*) *Application for compensation and reimbursement; disclosure of arrangements regarding compensation by attorney for debtor; attorney or accountant; restriction on sharing of compensation.*—Bankruptcy Rule 219 applies in Chapter XII cases and in addition to the matters specified in subdivision (a) thereof the application for compensation for services or reimbursement for necessary expenses shall also set forth the claims against the debtor, if any, in which a beneficial interest, direct or indirect, has been acquired or transferred by the applicant or for his account after the filing of a petition commencing a case under the Act.

(*d*) *Denial of allowances.*—No compensation or reimbursement shall be allowed to any committee or attorney, or other person acting in the case in a representative or fiduciary capacity, who at any time after assuming to act in such capacity has, without the approval of the court, purchased or sold claims against the debtor, or a beneficial interest direct or indirect in such claims, or by whom or for whose account such claims, or beneficial interest therein have been otherwise acquired or transferred.

(*e*) *Dismissal or conversion to bankruptcy.*—On the dismissal or conversion of a case to another chapter under the Act, the court may allow reasonable compensation for

services rendered and reimbursement of expenses incurred in the Chapter XII case by any persons entitled thereto under this rule.

*Rule 12–29. Examination of debtor's transactions with his attorney.*

Bankruptcy Rule 220 applies in Chapter XII cases.

*Rule 12–30. Proof of claim.*

(*a*) *Schedule of debts.*—The schedule of debts filed with the court pursuant to Rule 12–11 shall constitute prima facie evidence of the validity and amount of claims of creditors which are not scheduled as disputed, contingent, or unliquidated as to amount and, except as provided in subdivision (b)(3) of this rule, it shall not be necessary for the holder of such claim to file a proof of claim.

(*b*) *Filing proof of claim.*

(*1*) *Time for filing.*—The court shall fix a time within which proofs of claim may be filed. For cause shown, the court may extend such time. Notice of the time so fixed shall be transmitted to all creditors.

(*2*) *Who may file.*—Any creditor or indenture trustee may file a proof of claim within the time fixed pursuant to subdivision (b)(1) of this rule.

(*3*) *Who must file.*—(A) Any creditor, including the United States, a state, or any subdivision thereof, whose claim is scheduled as disputed, contingent, or unliquidated as to amount, shall file a proof of claim within the time fixed pursuant to subdivision (b)(1) of this rule; any such creditor who fails to do so shall not, with respect to such claim, be treated as a creditor for the purposes of voting and distribution.

(B) The court may, at any time, require the filing of a proof of claim within such time as it may fix. Any person required under this paragraph to file a proof of claim who fails to do so shall not, with respect to such claim, be treated as a creditor for the purposes of voting and distribution.

(4) *Evidentiary effect.*—A proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of such claim. Such a proof of claim shall supersede any scheduling of that claim made pursuant to Rule 12–11.

(5) *Form and place of filing.*—A proof of claim shall consist of a statement in writing setting forth a creditor's claim and, except as provided in Rule 12–32, shall be executed by the creditor or by his authorized agent. Subdivisions (b) and (c) of Bankruptcy Rule 302 apply in Chapter XII cases except that subdivision (c) shall not apply to claims founded on bonds or debentures.

(6) *Filing by indenture trustee.*—An indenture trustee may file claims for all holders, known or unknown, of securities issued pursuant to the instrument under which he is trustee.

(c) *Transfer of claim.*—If a claim other than one founded on a bond or debenture has been assigned, a statement setting forth the terms of the assignment shall be filed with the court and a copy thereof delivered to the trustee or debtor in possession.

(d) *Duty to examine and object to claims.*—The trustee or debtor in possession shall examine scheduled debts and proofs of claim and, unless no purpose would be served thereby, object to the allowance of improper claims.

(e) *Allowance when no objection made.*—Subject to the provisions of subdivision (b)(3) of this rule and Rule 12–31, a claim filed in accordance with this rule, or Rule 12–32, or scheduled in accordance with Rule 12–11, shall be deemed allowed unless objection is made by a party in interest.

(f) *Objection to allowance.*—An objection to the allowance of a claim shall be in writing. A copy of the objection and notice of a hearing thereon shall be mailed or delivered to the claimant, the debtor and the trustee, or debtor in possession. If an objection is joined with

a demand for relief of the kind specified in Bankruptcy Rule 701, the proceeding thereby becomes an adversary proceeding.

(*g*) *Reconsideration of claims.*—Bankruptcy Rule 307 applies in Chapter XII cases.

*Rule 12–31. Classification of claims; valuation of security.*

(*a*) *Classification of claims.*—For the purpose of the plan and its acceptance, the court may fix, after hearing on such notice as it may direct, the division of creditors into classes according to the nature of their respective claims.

(*b*) *Valuation of security.*—For the purposes of classification under subdivision (a) of this rule, of claims which may be secured in whole or in part, the court shall, if necessary, on application of any party in interest, hold a hearing on such notice as the court may direct, to determine the value of the security interest and allow the claim as unsecured to the extent it is enforceable for any excess of the claim over such value.

*Rule 12–32. Claim by codebtor.*

(*a*) *Filing of claim.*—If a creditor has not filed a proof of claim pursuant to Rule 12–30 (b) a person who is or may be liable with the debtor to that creditor, or who has secured that creditor, may, during the time for filing claims prescribed by Rule 12–30 (b), execute and file a proof of claim pursuant to this rule in the name of the creditor, if known or if unknown, in his own name. No distribution shall be made on the claim except on satisfactory proof that the original debt will be diminished by the amount of distribution. The creditor may nonetheless file a proof of claim pursuant to Rule 12–30 (b) and it shall supersede the proof of claim filed pursuant to the first sentence of this subdivision.

(*b*) *Filing of acceptance; substitution of creditor.*—A person who has filed a claim pursuant to the first sentence of subdivision (a) of this rule may file an accept-

ance or rejection of a plan in the name of the creditor, if known or if unknown, in his own name but if the creditor files a proof of claim within the time permitted by Rule 12–30 (b) or files a notice with the court of his intention to act in his own behalf prior to confirmation, he shall be substituted for such other person, with respect to that claim, for all purposes of the Chapter XII case.

*Rule 12–33. Post-petition tax claims.*

Notwithstanding Rule 12–30 (b), the court may, at any time while a case is pending, permit the filing of a proof of claim for the following:

(1) Claims for taxes owing to the United States, a state, or any subdivision thereof, at the time of the filing of the petition under Rule 12–6 or 12–7 which had not been assessed prior to the date of confirmation of the plan, but which are assessed within one year after the date of the filing of the petition.

(2) Claims for taxes owing to the United States, a state, or any subdivision thereof, after the filing of the petition under Rule 12–6 or 12–7 and which are assessed while the case is pending.

*Rule 12–34. Withdrawal of claim.*

A creditor may withdraw a claim as of right by filing a notice of withdrawal, except as provided in this rule. If, after a creditor has filed a proof of claim, an objection is filed thereto or a complaint is filed against him in an adversary proceeding, or the creditor has accepted or rejected the plan or otherwise has participated significantly in the case, he may not withdraw the claim save on application or motion with notice to the trustee or debtor in possession, and on order of the court containing such terms and conditions as the court deems proper.

*Rule 12–35. Distribution; undistributed consideration; unclaimed funds.*

(*a*) *Distributions.*—Except as otherwise provided in the plan and except with respect to an indenture trustee

authorized by the indenture under which he is trustee to receive distributions, Bankruptcy Rule 308 applies in Chapter XII cases to cash distributions made under a plan. Except as otherwise provided in the plan or ordered by the court, consideration other than cash distributed under the plan shall be issued in the name of the creditor entitled thereto and, if a power of attorney authorizing another person to receive dividends has been executed and filed in accordance with Bankruptcy Rule 910, such consideration shall be transmitted to such other person.

(*b*) *Undistributed consideration.*—Except as provided in subdivision (c) of this rule, or as otherwise ordered by the court, the disbursing agent shall return to the debtor or to such other person as may be designated by the court any money or other deposited consideration in his possession not distributed under the plan.

(*c*) *Unclaimed funds.*—Sixty days after any distribution, the disbursing agent shall stop payment on all checks then unpaid. Bankruptcy Rule 310 shall otherwise apply in Chapter XII cases.

*Rule 12–36. Filing of plan; transmission to creditors; adjourned meeting.*

(*a*) *Filing of plan by debtor.*—The debtor may file a plan with his petition or thereafter, but not later than a time fixed by the court.

(*b*) *Filing of plan by creditors.*—Within such time as may be fixed by the court, a plan may be filed by a creditor holding a security interest in real property or a chattel real dealt with by such plan.

(*c*) *Number of copies.*—If required by the court, the person filing a plan shall promptly furnish a sufficient number of copies to enable the court to transmit them as provided in subdivision (d) of this rule.

(*d*) *Transmittal of plan; adjourned meetings.*—If a plan is filed prior to mailing of notice of the first meeting of creditors, a copy of the plan shall accompany the

notice. If the debtor has not filed a plan prior to the first date set for the first meeting of creditors, the court, at the first meeting or thereafter, shall fix a time for filing a plan. If the debtor has not filed a plan prior to the mailing of notice of the first meeting of creditors, the court at the first meeting, shall adjourn the meeting to a date certain. When a plan is timely filed by the debtor or a creditor, a copy thereof and notice of a subsequent adjourned meeting date shall be mailed to the persons specified in Rule 12–13 (a) at least 10 days prior to such date. The court may adjourn a first meeting of creditors from time to time to dates certain.

*Rule 12–37. Acceptance or rejection of plans.*

(*a*) *Persons entitled to accept or reject plan; time for acceptance or rejection.*—The court shall fix a time for the acceptance or rejection of a plan or plans and notice thereof shall accompany any plan transmitted to creditors pursuant to Rule 12–36. If his claim is deemed allowed pursuant to Rule 12–30 (e) or has been allowed by the court, a creditor may accept or reject a plan or plans within the time fixed. Acceptances may be obtained before or after the filing of the petition and may be filed with the court on behalf of the accepting creditor. For cause shown and within such time, the court may permit a creditor to change or withdraw his acceptance or rejection.

(*b*) *Form of acceptance or rejection.*—An acceptance or rejection shall be in writing, shall identify the plan or plans accepted or rejected, and shall be signed by the creditor or his authorized agent. If more than one plan is transmitted pursuant to Rule 12–36, an acceptance or rejection may be filed by each creditor for any number of such plans and if acceptances are filed for more than one plan, the creditor may indicate his preferences among the plans so accepted.

(*c*) *Acceptance or rejection by partially secured creditor.*—A creditor whose claim has been allowed in part

as a secured claim and in part as an unsecured claim shall be entitled to accept or reject a plan or plans in both capacities.

(*d*) *Computing requisite majorities.*—The requisite majorities necessary for the acceptance of a plan shall be computed on the basis of the claims of creditors affected by the plan who file an acceptance or rejection of the plan within the time prescribed which in no event shall be less than the requisite majorities of the filed and allowed claims. The filing of an acceptance or rejection of a plan by a creditor shall be deemed to constitute the filing of a proof of claim for the purpose of computing the majorities required by the Act.

(*e*) *Temporary allowance.*—Notwithstanding objection to a claim, the court may temporarily allow it to such extent as to the court seems proper for the purpose of accepting a plan.

*Rule 12–38. Deposit; confirmation of plan; evidence of title.*

(*a*) *Deposit.*—At the first meeting of creditors, after a plan has been accepted and before confirmation, the court shall (1) designate as disbursing agent the trustee, if any, otherwise the debtor in possession or a person specially appointed, to distribute, subject to the control of the court, the consideration, if any, to be deposited; and (2) fix a time before confirmation within which there shall be deposited with the disbursing agent, or in such place and on such terms as the court may approve, the money, other consideration, or security required by the Act for confirmation.

(*b*) *Waiver.*—Any person who has waived his right to share in the distribution of the deposit or in payments under the plan shall file with the court, prior to confirmation of the plan, a statement setting forth the waiver and any agreement with respect thereto made with the debtor, his attorney, or any other person.

(*c*) *Objections to confirmation.*—Objections to confirmation of a plan shall be filed and served on the debtor, any other person filing a plan, and creditors' committees, if any, at any time prior to confirmation or by such earlier date as the court may fix. An objection to confirmation on the ground the debtor committed any act or failed to perform any duty which would be a bar to the discharge of a bankrupt is governed by Part VII of the Bankruptcy Rules. Any other objection is governed by Bankruptcy Rule 914.

(*d*) *Hearing on confirmation.*—The court shall rule on confirmation of a plan after hearing on notice as provided in Rule 12–23. The hearing may be held at any time after the conclusion of the first meeting of creditors. If no objection is timely filed under subdivision (c) of this rule, the court may find, without taking proof, that the debtor has not committed any act or failed to perform any duty which would be a bar to the discharge of a bankrupt and that the plan has been proposed and its acceptance procured in good faith, and not by any means, promises, or acts forbidden by law. If more than one plan has received the requisite number of acceptances, the court shall consider the preferences indicated by the creditors pursuant to Rule 12–37 (b) in determining which plan to confirm.

(*e*) *Order of confirmation.*—The order of confirmation shall conform substantially to Official Form No. 12–F18. Notice of entry of the order of confirmation and a copy of the provisions of the order dealing with the discharge of the debtor shall be mailed to the debtor and to all creditors within 30 days after entry of the order.

(*f*) *Evidence of title.*—A certified copy of the plan and of the order confirming the plan shall constitute conclusive evidence of the revesting of title to all property in the debtor or the vesting of title in such other person as may be provided in the plan or in the order confirming the plan.

*Rule 12–39. Modification of plan before or after confirmation.*

At any time prior to the acceptance of a plan by the requisite majority of creditors, a person filing a plan pursuant to Rule 12–36 may file a modification thereof. After a plan has been so accepted the person filing the plan may file a modification of the plan only with leave of the court. The debtor or such creditor may also submit with the proposed modification written acceptances thereof by creditors. If the court finds that the proposed modification does not materially and adversely affect the interest of any creditor who has not in writing accepted it, the modification shall be deemed accepted by all creditors who have previously accepted the plan. Otherwise, the court shall enter an order that the plan as modified shall be deemed to have been accepted by any creditor who accepted the plan and who fails to file with the court within such reasonable time as shall be fixed in the order a written rejection of the modification. Notice of such order, accompanied by a copy of the proposed modification, shall be given to the debtor, the trustee, creditors, indenture trustees, and such other persons as the court may designate, at least 10 days before the time fixed in such order for filing rejections of the modification. The debtor or creditor shall, if required by the court, furnish a sufficient number of copies of the proposed modification to enable the court to transmit a copy with each such notice.

*Rule 12–40. Revocation of confirmation.*

Any party in interest may, at any time within six months after a plan has been confirmed, make a motion pursuant to the Act to revoke the confirmation as procured by fraud. The circumstances constituting the alleged fraud shall be stated with particularity. When such motion is made, the court shall reopen the case if necessary and conduct a hearing on at least 10 days'

notice to all parties in interest. If the confirmation is revoked—

(1) The court may dispose of the case pursuant to Rule 12–41 (b); or

(2) The court may receive proposals to modify the plan. Thereafter, the procedure for modification and for confirmation of a plan as modified shall follow Rules 12–38 and 12–39, except that acceptance of the plan shall not be required by any creditor who has participated in the fraud and such creditor shall not be counted in determining the amount of the claims of creditors whose acceptance is required. If a modified plan is not confirmed, the court shall dispose of the case pursuant to Rule 12–41 (b).

*Rule 12–41. Dismissal or conversion to bankruptcy prior to or after confirmation of plan.*

(*a*) *Voluntary dismissal or conversion to bankruptcy.*— The debtor may file an application or motion to dismiss the case or to convert it to bankruptcy at any time prior to confirmation or, where the court has retained jurisdiction, after confirmation. On the filing of such application or motion, the court shall—

(1) if the petition was filed pursuant to Rule 12–7, enter an order directing that the bankruptcy case proceed; or

(2) if the petition was filed pursuant to Rule 12–6, enter an order adjudicating the debtor a bankrupt if he so requests, or, if he requests dismissal, enter an order after hearing on notice dismissing the case or adjudicating him a bankrupt whichever may be in the best interest of the estate.

Notwithstanding the foregoing, when a plan has been filed by a creditor pursuant to Rule 12–36, the court shall not dismiss the case or adjudicate the debtor a bankrupt unless the court, after hearing on notice to the debtor, the trustee, all creditors and indenture trustees,

determines that the creditor's plan should not be confirmed under the Act or cannot be consummated.

(*b*) *Dismissal or conversion to bankruptcy for want of prosecution, denial of confirmation, default, or termination of plan.*—The court shall enter an order, after hearing on such notice as it may direct dismissing the case, or adjudicating the debtor a bankrupt if he has not been previously so adjudged, or directing that the bankruptcy case proceed, whichever may be in the best interest of the estate—

(1) for want of prosecution; or

(2) for failure to comply with an order made under Rule 12–19 (d) for indemnification; or

(3) if no plan is confirmed; or

(4) if confirmation is revoked for fraud and a modified plan is not confirmed pursuant to Rule 12–38; or

(5) where the court has retained jurisdiction after confirmation of a plan:

(A) if a confirmed plan is not consummated; or

(B) if a plan terminates by reason of the happening of a condition specified therein.

The court may reopen the case, if necessary, for the purpose of entering an order under this subdivision. Notwithstanding the foregoing, if a confirmed creditor's plan is not consummated for reasons other than the debtor's default, the court shall not order the case converted to bankruptcy without the written consent of the debtor.

(*c*) *Notice of dismissal.*—Promptly after entry of an order of dismissal under this rule, notice thereof shall be given as provided in Rule 12–23.

(*d*) *Effect of dismissal.*—Unless the order specifies to the contrary, dismissal of a case on the ground of fraud is with prejudice, and a dismissal on any other ground is without prejudice. A certified copy of the order of dismissal under this rule shall constitute conclusive evidence of the revesting of the debtor's title to his property.

(*e*) *Consent to adjudication.*—Notwithstanding the foregoing, no adjudication shall be entered under this rule against a wage earner or farmer without his written consent.

*Rule 12–42. Confirmation as discharge.*

(*a*) *Statement of discharge.*—The order confirming a plan shall contain provisions substantially similar to Official Form No. 12–F18 stating the effect of confirmation on the further enforcement of claims against the debtor.

(*b*) *Registration in other districts.*—An order confirming a plan that has become final may be registered in any other district by filing in the office of the clerk of the district court of that district a certified copy of the order and when so registered shall have the same effect as an order of the court of the district where registered and may be enforced in like manner.

*Rule 12–43. Petition as automatic stay of actions against debtor and lien enforcement.*

(*a*) *Stay of actions and lien enforcement.*—A petition filed under Rule 12–6 or 12–7 shall operate as a stay of the commencement or the continuation of any court or other proceeding against the debtor, or the enforcement of any judgment against him, or of any act or the commencement or continuation of any court proceeding to enforce any lien against his property, or of any court proceeding for the purpose of the rehabilitation of the debtor or the liquidation of his estate.

(*b*) *Duration of stay.*—Except as it may be deemed annulled under subdivision (c) or may be terminated, annulled, modified, or conditioned by the bankruptcy court under subdivision (d), (e), or (f) of this rule, the stay shall continue until the case is closed, dismissed, or converted to bankruptcy or the property subject to the lien is, with the approval of the court, abandoned or transferred.

(*c*) *Annulment of stay.*—At the expiration of 30 days after the first meeting of creditors, a stay provided by this rule other than a stay against lien enforcement shall be deemed annulled as against any creditor whose claim has not been listed in the schedules and who has not filed his claim by that time.

(*d*) *Relief from stay.*—On the filing of a complaint seeking relief from a stay provided by this rule, the bankruptcy court shall, subject to the provisions of subdivision (e) of this rule, set the trial for the earliest possible date, and it shall take precedence over all matters except older matters of the same character. The court may, for cause shown, terminate, annul, modify or condition such stay. A party seeking continuation of a stay against lien enforcement shall show that he is entitled thereto.

(*e*) *Ex parte relief from stay.*—On the filing of a complaint seeking relief from a stay against any act or proceeding to enforce a lien or any proceeding commenced for the purpose of rehabilitation of the debtor or the liquidation of his estate, relief may be granted without written or oral notice to the adverse party if (1) it clearly appears from specific facts shown by affidavit or by a verified complaint that immediate and irreparable injury, loss, or damage will result to the plaintiff before the adverse party or his attorney can be heard in opposition, and (2) the plaintiff's attorney certifies to the court in writing the efforts, if any, which have been made to give the notice and the reasons supporting his claim that notice should not be required. The party obtaining relief under this subdivision shall give written or oral notice thereof as soon as possible to the trustee, receiver, or debtor in possession and to the debtor and, in any event, shall forthwith mail to such person or persons a copy of the order granting relief. On 2 days' notice to the party who obtained relief from a stay provided by this rule without notice or on such shorter notice to that party as the court may prescribe, the adverse party may ap-

pear and move its reinstatement, and in that event the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

(*f*) *Availability of other relief.*—Nothing in this rule precludes the issuance of, or relief from, any stay, restraining order, or injunction when otherwise authorized.

*Rule 12–44. Duties of debtor.*

Bankruptcy Rule 402 applies in Chapter XII cases and, in addition to the duties specified therein, the debtor shall attend at the hearing on confirmation of a plan and, if called as a witness, testify with respect to issues raised.

*Rule 12–45. Apprehension and removal of debtor to compel attendance for examination.*

Bankruptcy Rule 206 applies in Chapter XII cases to a debtor and, if the debtor is a partnership, to the general partners and any other person in control of the partnership.

*Rule 12–46. Exemptions.*

Bankruptcy Rule 403 (a) applies in Chapter XII cases.

*Rule 12–47. Determination of dischargeability of a debt; judgment on nondischargeable debt; jury trial.*

Bankruptcy Rule 409 applies in Chapter XII cases except that the court may but need not make an order fixing a time for filing a complaint under § 17c (2) of the Act. If such an order is made, at least 30 days' notice of the time so fixed shall be given to all creditors in the manner provided in Rule 12–23. The court may for cause, on its own initiative or on application of any party in interest, extend the time so fixed under this rule. If such an order is not made, a complaint to determine the dischargeability of a debt under clause (2), (4), or (8) of § 17a of the Act may be filed at any time.

*Rule 12–48. Duty of trustee or debtor in possession to give notice of Chapter XII case.*

Bankruptcy Rule 602 applies in Chapter XII cases.

*Rule 12–49. Burden of proof as to validity of post-petition transfer.*

Bankruptcy Rule 603 applies in Chapter XII cases.

*Rule 12–50. Accounting by prior custodian of property of the estate.*

(*a*) *Accounting required.*—Any person required by the Act to deliver property in his possession or control to the trustee or debtor in possession, shall promptly file a written report and account with the court in which the Chapter XII case is pending with respect to the property of the estate and his administration thereof.

(*b*) *Examination of administration.*—On the filing of the report and account required by subdivision (a) of this rule and after an examination has been made into the superseded administration, the court shall determine the propriety of such administration, including the reasonableness of all disbursements.

*Rule 12–51. Money of the estate: Deposit and disbursement.*

Bankruptcy Rule 605 (b) and (c) apply in Chapter XII cases.

*Rule 12–52. Rejection of executory contracts.*

When a motion is made for the rejection of an executory contract, including an unexpired lease, other than as part of the plan, the court shall set a hearing on notice to the parties to the contract and to such other persons as the court may direct.

*Rule 12–53. Appraisal and sale of property; compensation and eligibility of appraisers and auctioneers.*

(*a*) *Appraiser: Appointment and duties.*—The court may appoint one or more competent and disinterested appraisers who shall prepare and file with the court an appraisal of the property of the debtor. The court may prescribe how such appraisal shall be made.

(*b*) *Sale of property.*—The court may, on such notice as it may direct and for cause shown, authorize the

trustee or debtor in possession to lease or sell any real or personal property of the debtor, on such terms and conditions as the court may approve.

(c) *Compensation and eligibility of auctioneers and appraisers.*—Bankruptcy Rule 606 (c) applies in Chapter XII cases to any appraiser or auctioneer appointed by the court.

*Rule 12–54. Abandonment of property.*

After hearing on such notice as the court may direct and on approval by the court, the trustee or debtor in possession may abandon any property.

*Rule 12–55. Redemption of property from lien or sale.*

Bankruptcy Rule 609 applies in Chapter XII cases.

*Rule 12–56. Prosecution and defense of proceedings by trustee or debtor in possession.*

Bankruptcy Rule 610 applies in Chapter XII cases.

*Rule 12–57. Preservation of voidable transfer.*

Bankruptcy Rule 611 applies in Chapter XII cases.

*Rule 12–58. Proceeding to avoid indemnifying lien or transfer to surety.*

Bankruptcy Rule 612 applies in Chapter XII cases.

*Rule 12–59. Courts of bankruptcy; officers and personnel; their duties.*

Part V of the Bankruptcy Rules applies in Chapter XII cases.

*Rule 12–60. Adversary proceedings.*

(a) *Adversary proceedings.*—Part VII of the Bankruptcy Rules shall govern any proceeding instituted by a party before a bankruptcy judge in a Chapter XII case to (1) recover money or property other than a proceeding under Rule 12–29 or Rule 12–50, (2) determine the validity, priority, or extent of a lien or other interest in property, (3) sell property free of a lien or other interest for which the holder can be compelled to take a

money satisfaction, (4) obtain an injunction, (5) obtain relief from a stay as provided in Rule 12–43, (6) object to confirmation of a plan on the ground that the debtor has committed any act or failed to perform any duty which would be a bar to the discharge of a bankrupt, or (7) determine the dischargeability of a debt. Such a proceeding shall be known as an adversary proceeding.

(*b*) *Reference in Bankruptcy Rules.*—As applied in Chapter XII cases, the reference in Rule 741 to "a complaint objecting to the bankrupt's discharge" shall be read to include also a reference to "a complaint objecting to the confirmation of a plan on the ground that the debtor has committed any act or failed to perform any duty which would be a bar to the discharge of a bankrupt."

*Rule 12–61. Appeal to district court.*

Part VIII of the Bankruptcy Rules applies in Chapter XII cases, except that:

(1) Rule 802 (c) thereof shall read as follows:

"(c) *Extension of time for appeal.*—The referee may extend the time for filing the notice of appeal by any party for a period not to exceed 20 days from the expiration of the time otherwise prescribed by this rule. A request to extend the time for filing a notice of appeal must be made before such time has expired, except that a request made after the expiration of such time may be granted upon a showing of excusable neglect if the judgment or order does not authorize the sale of any property or the issuance of any certificate of indebtedness, or is not a judgment or order under Rule 12–38 confirming a plan, or is not a judgment or order under Rule 12–41 dismissing a Chapter XII case, or converting a Chapter XII case to bankruptcy."

(2) The following shall be added to Rule 805 thereof:

"Unless an order approving a sale of property or issuance of a certificate of indebtedness is stayed pending appeal, the sale to a good faith purchaser or the issuance

of a certificate to a good faith holder shall not be affected by the reversal or modification of such order on appeal whether or not the purchaser or holder knows of the pendency of the appeal."

*Rule 12–62. General provisions.*

Part IX of the Bankruptcy Rules applies in Chapter XII cases, except that:

(1) The definitions of words and phrases in § 406 of the Act govern their use in Chapter XII Rules to the extent they are not inconsistent therewith.

(2) The references to various rules in Rule 906 (c) shall also include references to Chapter XII Rules 12–23 (a) and 12–24 (a)(1).

(3) The exception in Rule 910 (c) for "the execution and filing of a proof of claim" shall be read to include also "the execution and filing of an acceptance or rejection of a plan" and the reference to Official Forms in that rule shall include a reference to Official Form No. 12–F15.

(4) The reference in Rule 913 (b) to "a dischargeable debt" shall be read as "a debt which is or will be provided for by the plan."

(5) The reference in Rule 919 (a) to Rule 203 (a) shall be read as a reference to Chapter XII Rule 12–23 (a).

(6) The reference in Rule 922 (b) to Rule 102 shall be read as a reference to Chapter XII Rule 12–5.

# OFFICIAL CHAPTER XII FORMS

[NOTE: These official forms should be observed and used with such alterations as may be appropriate to suit the circumstances. See Bankruptcy Rule 909.]

FORM No. 12–F1

ORIGINAL PETITION UNDER CHAPTER XII

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

| | |
|---|---|
| In re<br>.....,<br>*Debtor [include here all names used by debtor within last 6 years]* | Bankruptcy No. ..... |

ORIGINAL PETITION UNDER CHAPTER XII

1. Petitioner's post-office address is .....
.....

2. Petitioner has had his principal place of business [*or* has had his principal assets] within this district for the preceding 6 months [*or* for a longer portion of the preceding 6 months than in any other district].

3. No other case under the Bankruptcy Act initiated on a petition by or against petitioner is now pending.

4. Petitioner is qualified to file this petition and is entitled to the benefits of Chapter XII of the Act.

5. Petitioner is insolvent [*or* unable to pay his debts as they mature].

6. A copy of petitioner's proposed plan is attached [*or* petitioner intends to file a plan pursuant to Chapter XII of the Act].



AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Wherefore petitioner prays for relief in accordance with Chapter XII of the Act.

Signed: .....,
*Attorney for Petitioner.*
Address: .....
.....
[*Petitioner signs if not represented by attorney.*]
.....,
*Petitioner.*

State of.....
County of..... } *ss.*

I, ....., the petitioner named in the foregoing petition, do hereby swear that the statements contained therein are true according to the best of my knowledge, information, and belief.

.....,
*Petitioner.*

Subscribed and sworn to before me on .....
.....,
.....
[*Official character.*]

[*Unless the petition is accompanied by a list of all the debtor's creditors and their addresses, the petition must be accompanied by a schedule of his property, a statement of his affairs, and a statement of executory contracts, pursuant to Rule 12–11. These statements shall be submitted on official forms and verified under oath.*]

FORM No. 12–F2

CHAPTER XII PETITION IN PENDING CASE

[*Caption, other than designation, as in Form No. 12–F1*]

CHAPTER XII PETITION IN PENDING CASE

1. Petitioner's post-office address is .....
.....

2. Petitioner is the bankrupt [*or* debtor] in Bankruptcy Case No. ....., pending in this court.

3. Petitioner is qualified to file this petition and is entitled to the benefits of Chapter XII of the Bankruptcy Act.

4. Petitioner is insolvent [*or* unable to pay his debts as they mature].

5. A copy of petitioner's proposed plan is attached [*or* petitioner intends to file a plan pursuant to Chapter XII of the Act].

Wherefore petitioner prays for relief in accordance with Chapter XII of the Act.

Signed: .....,
*Attorney for Petitioner.*

Address: .....,
.....

[*Petitioner signs if not represented by attorney.*]

.....,
*Petitioner.*

State of .....
County of ..... } *ss.*

I, ....., the petitioner named in the foregoing petition, do hereby swear that the statements contained therein are true according to the best of my knowledge, information, and belief.

.....
*Petitioner.*

Subscribed and sworn to before me on .....
.....,
.....
[*Official character.*]

[*Unless the schedules and statements have already been filed in the pending case they must be filed with this petition or within 15 days thereafter as provided in Rule 12–11. These statements shall be on official forms and verified under oath.*]

FORM NO. 12–F3

VERIFICATION ON BEHALF OF A PARTNERSHIP

[*Form No. 5 of the Bankruptcy Forms is applicable and should be used.*]

FORM NO. 12–F4

SCHEDULES

[*Form No. 6 of the Bankruptcy Forms is applicable and should be used. The word "bankrupt" wherever used in Form No. 6 should be changed to "debtor."*]

FORM NO. 12–F5

STATEMENT OF AFFAIRS FOR DEBTOR NOT ENGAGED IN BUSINESS

[*Form No. 7 of the Bankruptcy Forms is applicable and should be used. The word "bankrupt" wherever used in Form No. 7 should be changed to "debtor."*]

[*The term "original petition" as used in that form means the petition filed under Rule 12–6 or, if filed in a pending case, the first petition initiating a case under the Act.*]

FORM NO. 12–F6

STATEMENT OF AFFAIRS FOR DEBTOR ENGAGED IN BUSINESS

[*Form No. 8 of the Bankruptcy Forms is applicable and should be used. The word "bankrupt" wherever used in Form No. 8 should be changed to "debtor."*]

[*The term "original petition" as used in that form means the petition filed under Rule 12–6 or, if filed in a pending case, the first petition initiating a case under the Act.*]

FORM NO. 12–F7

ORDER APPOINTING TRUSTEE OR DISBURSING AGENT AND FIXING THE AMOUNT OF HIS BOND

[*Caption, other than designation, as in Form No. 12–F1*]

ORDER APPOINTING TRUSTEE [OR DISBURSING AGENT] AND FIXING THE AMOUNT OF HIS BOND

1. ....., of* ....., is hereby appointed

*State post-office address.

trustee of the estate [*or* disbursing agent for the estate] of the above-named debtor.

2. The amount of the bond of the trustee [*or* disbursing agent] is fixed at $.....

Dated: .....

....., *Bankruptcy Judge.*

FORM No. 12–F8

NOTICE TO TRUSTEE OR DISBURSING AGENT OF HIS APPOINTMENT

[*Caption, other than designation, as in Form No. 12–F1*]

NOTICE TO TRUSTEE [OR DISBURSING AGENT] OF HIS APPOINTMENT

To ....., of* .....:

You are hereby notified of your appointment as trustee of the estate [*or* disbursing agent for the estate] of the above-named debtor. The amount of your bond has been fixed at $.....

[*The following paragraph is applicable to trustee only*]

You are required to notify the undersigned forthwith of your acceptance or rejection of the office of trustee.

Dated: .....

....., *Bankruptcy Judge.*

FORM No. 12–F9

BOND OF TRUSTEE OF DISBURSING AGENT

[*Caption, other than designation, as in Form No. 12–F1*]

BOND OF TRUSTEE [OR DISBURSING AGENT]

We, ....., of* ....., as principal, and ....., of* ..... ....., as surety, bind ourselves to the United States in the sum of $..... for the faithful performance by the undersigned principal of his official duties as trustee of the estate [*or* disbursing agent for the estate] of the above-named debtor.

Dated: .....

.....
*Principal.*

.....
*Surety.*

**State post-office address.*

FORM No. 12–F10

ORDER APPROVING TRUSTEE'S OR DISBURSING AGENT'S BOND

[*Caption, other than designation, as in Form No. 12–F1*]

ORDER APPROVING TRUSTEE'S [OR DISBURSING AGENT'S] BOND

The bond filed by .....
of* ..... as trustee of the estate [*or* disbursing agent for the estate] of the above-named debtor is hereby approved.

Dated: .....

.....,
*Bankruptcy Judge.*

FORM No. 12–F11

CERTIFICATE OF RETENTION OF DEBTOR IN POSSESSION

[*Caption, other than designation, as in Form No. 12–F1*]

CERTIFICATE OF RETENTION OF DEBTOR IN POSSESSION

I hereby certify that the above-named debtor continues in possession of his estate as debtor in possession, no trustee having been appointed or qualified.

Dated: .....

.....,
*Bankruptcy Judge.*

FORM No. 12–F12

ORDER FOR FIRST MEETING OF CREDITORS AND RELATED ORDERS, COMBINED WITH NOTICE THEREOF AND OF AUTOMATIC STAY

[*Caption, other than designation, as in Form No. 12–F1*]

ORDER FOR FIRST MEETING OF CREDITORS COMBINED WITH NOTICE THEREOF AND OF AUTOMATIC STAY

To the debtor, his creditors, and other parties in interest:

.....,
of* ....., having filed a petition on ..... stating that he desires to effect a plan under Chapter XII of the Bankruptcy Act, it is ordered, and notice is hereby given, that:

1. The first meeting of creditors shall be held at .....
....., on .....
....., at ..... o'clock .... m.;

---

**State post-office address.*

2. The debtor shall appear in person [*or, if the debtor is a partnership, by a general partner*] before the court at that time and place for the purpose of being examined;

3. The hearing on confirmation of a plan shall be held at a date to be later fixed [*or* at a date to be fixed at the first meeting *or* at ..... on ..... at ..... *or* immediately following the conclusion of the first meeting].

4. Creditors may file written objections to confirmation at any time prior to confirmation, [*or* ..... is fixed as the last day for the filing of objections to confirmation, *or* objections to confirmation may be filed by a date to be later fixed].

You are further notified that:

The meeting may be continued or adjourned from time to time by order made in open court, without further written notice to creditors.

At the meeting the creditors may file their claims and acceptances of the plan, examine the debtor as permitted by the court, and transact such other business as may properly come before the meeting.

The filing of the petition by the debtor above named operates as a stay of the commencement or continuation of any court proceeding to enforce any lien on the property of the debtor, and of any court proceeding commenced for the purpose of rehabilitation of the debtor or the liquidation of his estate, as provided by Rule 12–43.

The debtor has filed or will file a schedule of debts pursuant to Rule 12–11. Any scheduled creditor whose claim is not scheduled as disputed, contingent, or unliquidated as to amount, may, but need not, file a proof of claim in this case. All other creditors desiring to participate must file their proofs of claim on or before ..... ....., which date is hereby fixed as the last day for filing a proof of claim [*or, if appropriate,* on or before a date to be later fixed of which you will be notified]. Any creditor who desires to rely on the list has the responsibility for determining that he is accurately scheduled.

A claim may be filed in the office of the undersigned bankruptcy judge on an official form prescribed for a proof of claim.

[*If appropriate*] .....
of* ..... has been appointed trustee of the estate of the above-named debtor.

Dated: .....

.....,
*Bankruptcy Judge.*

---

**State post-office address.*

FORM No. 12–F13

PROOF OF CLAIM

[*Form No. 15 of the Bankruptcy Forms is applicable and should be used. The word "bankrupt" wherever used in Form No. 15 should be changed to "debtor."*]

FORM No. 12–F14

PROOF OF CLAIM FOR WAGES, SALARY, OR COMMISSIONS

[*Form No. 16 of the Bankruptcy Forms is applicable and should be used. The word "bankrupt" wherever used in Form No. 16 should be changed to "debtor."*]

FORM No. 12–F15

PROOF OF MULTIPLE CLAIMS FOR WAGES, SALARY, OR COMMISSIONS

[*Form No. 16A of the Bankruptcy Forms is applicable and should be used. The word "bankrupt" wherever used in Form No. 16A should be changed to "debtor."*]

FORM No. 12–F16

POWER OF ATTORNEY

[*Caption, other than designation, as in Form No. 12–F1*]

POWER OF ATTORNEY

To ..... of* .....,
and ..... of* .....:

The undersigned claimant hereby authorizes you, or any one of you, as attorney in fact for the undersigned and with full power of substitution, to receive distributions and in general to perform any act not constituting the practice of law for the undersigned in all matters arising in this case.

Dated: .....

Signed: .....
[*If appropriate*] By: .....
as .....
Address: .....

---

**State post-office address.*

[*If executed by an individual*]

Acknowledged before me on .....

[*If executed on behalf of a partnership*]

Acknowledged before me on .....,
by ....., who says that he is a member of the partnership named above and is authorized to execute this power of attorney in its behalf.

[*If executed on behalf of a corporation*]

Acknowledged before me on .....
by ....., who says that he is ..... of the corporation named above and is authorized to execute this power of attorney in its behalf.

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

FORM NO. 12–F17

ORDER FIXING TIME TO REJECT MODIFICATION OF PLAN COMBINED WITH NOTICE THEREOF

[*Caption, other than designation, as in Form No. 12–F1*]

ORDER FIXING TIME TO REJECT MODIFICATION OF PLAN COMBINED WITH NOTICE THEREOF

To the debtor, his creditors and other parties in interest:

The debtor having filed a modification of his plan on.....
....., it is ordered, and notice is hereby given that:

1. ..... is fixed as the last day for filing a written rejection of the modification.

2. A copy [*or* a summary] of the modification is attached hereto. Any creditor who has accepted the plan and who fails to file a written rejection of the modification within the time above specified shall be deemed to have accepted the plan as modified.

Dated: .....

.....,
*Bankruptcy Judge.*

FORM NO. 12–F18

ORDER CONFIRMING PLAN

[*Caption, other than designation, as in Form No. 12–F1*]

ORDER CONFIRMING PLAN

The plan filed by ..... on ....., [*if appropriate,* as modified by a modification filed on .....,] having been transmitted to creditors; and

The deposit required by Chapter XII of the Bankruptcy Act having been made; and

It having been determined after hearing on notice:

1. That the plan has been accepted in writing by the creditors whose acceptance is required by law [*or* by all creditors affected thereby]; and

2. That the plan has been proposed and its acceptance procured in good faith, and not by any means, promises, or acts forbidden by law [and, *if the plan is accepted by less than all affected creditors,* the provisions of Chapter XII of the Act have been complied with, the plan is for the best interests of the creditors and is feasible, the debtor has not been guilty of any of the acts or failed to perform any of the duties which would be a bar to the discharge of a bankrupt];

It is ordered that:

A. The plan filed by ..... on ....., a copy of which is attached hereto, is confirmed.

B. Except as otherwise provided or permitted by the plan or this order:

(1) The above-named debtor is released from all dischargeable debts;

(2) Any judgment heretofore or hereafter obtained in any court other than this court is null and void as a determination of the personal liability of the debtor with respect to any of the following:

(a) debts dischargeable under § 17a and b of the Act;

(b) [*if the court has fixed a time for the filing of complaints under § 17c (2) of the Act pursuant to Rule 12–47*] unless heretofore or hereafter determined by order of this court to be nondischargeable, debts alleged to be excepted from discharge under clauses (2) and (4) of § 17a of the Act;

(c) [*if the court has fixed a time for the filing of complaints under § 17c (2) of the Act pursuant to Rule 12–47*] unless heretofore or

hereafter determined by order of this court to be nondischargeable, debts alleged to be excepted from discharge under clause (8) of § 17a of the Act, except those debts on which there was an action pending on ....., the date when the first petition was filed initiating a case under the Act, in which a right to jury trial existed and a party has either made a timely demand therefor or has submitted to this court a signed statement of intention to make such a demand;

(d) debts determined by this court to be discharged under § 17c (3) of the Act.

C. All creditors whose debts are discharged by this order and all creditors having claims of a type referred to in paragraph (B)(2) above are enjoined from instituting or continuing any action or employing any process to collect such debts as personal liabilities of the above-named debtor.

Dated: .....

....., *Bankruptcy Judge.*

FORM NO. 12–F19

NOTICE OF ORDER OF CONFIRMATION OF PLAN AND DISCHARGE

[*Caption, other than designation, as in Form No. 12–F1*]

NOTICE OF ORDER OF CONFIRMATION OF PLAN AND DISCHARGE

To the debtor, his creditors, and other parties in interest:

Notice is hereby given of the entry of an order of this court on ....., confirming the plan dated ....., and providing further that:

A. Except as otherwise provided or permitted by the plan or such order:

(1) The above-named debtor is released from all dischargeable debts;

(2) Any judgment theretofore or thereafter obtained in any court other than this court is null and void as a determination of the personal liability of the debtor with respect to any of the following:

(a) debts dischargeable under § 17a and b of the Bankruptcy Act;

(b) [*if the court has fixed a time for the filing of complaints under § 17c (2) of the Act pursuant to Rule 12–47*] unless theretofore or thereafter determined by order of this court to be nondischargeable, debts alleged to be excepted from discharge under clauses (2) and (4) of § 17a of the Act;

(c) [*if the court has fixed a time for the filing of complaints under § 17c (2) of the Act pursuant to Rule 12–47*] unless theretofore or thereafter determined by order of this court to be nondischargeable, debts alleged to be excepted from discharge under clause (8) of § 17a of the Act, except those debts on which there was an action pending on ....., the date when the first petition was filed initiating a case under the Act, in which a right to jury trial existed and a party has either made a timely demand therefor or has submitted to this court a signed statement of intention to make such demand;

(d) debts determined by this court to be discharged under § 17c (3) of the Act.

B. All creditors whose debts are discharged by said order and all creditors having claims of a type referred to in paragraph (A)(2) above are enjoined from instituting or continuing any action or employing any process to collect such debts as personal liabilities of the above-named debtor.

Dated: .....

.....,
*Bankruptcy Judge.*