BANKRUPTCY RULES AND OFFICIAL BANKRUPTCY FORMS

Effective August 1, 1976

The Bankruptcy Rules and Official Bankruptcy Forms were prescribed by the Supreme Court of the United States on April 26, 1976, pursuant to 28 U. S. C. § 2075, and were reported to the Congress by THE CHIEF JUSTICE on the same date. For the letter of transmittal, see *post*, p. 1004. The Judicial Conference reports referred to in that letter are not reproduced herein. These rules and forms became effective on August 1, 1976, as provided in paragraph 2 of the Court's orders, *post*, pp. 1005 and 1006.

For earlier publication of Bankruptcy Rules and Forms, see, *e. g.*, 421 U. S. 1019.

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LETTER OF TRANSMITTAL

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

APRIL 26, 1976

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 Amendments to the Federal Rules of Criminal Procedure prescribed pursuant to Sections 3771 and 3772 of Title 18, United States Code;

Rules and Forms governing proceedings in the United States District Courts under Sections 2254 and 2255 of Title 28, United States Code, prescribed pursuant to Section 2872 of Title 28, United States Code, and Sections 3771 and 3772 of Title 18, United States Code;

Rules and Forms governing proceedings under Chapter VIII of the Bankruptcy Act, prescribed pursuant to Section 2075 of Title 28, United States Code;

Rules and Forms governing proceedings under Chapter IX of the Bankruptcy Act, as amended, prescribed pursuant to Section 2075 of Title 28, United States Code; and

Rules and Forms amending certain rules and forms previously prescribed pursuant to Chapter I–VII, XI, and XIII of the Bankruptcy Act, prescribed pursuant to Section 2075 of Title 28, United States Code.

Accompanying these Rules and Forms are excerpts from the Reports of the Judicial Conference of the United States containing the Advisory Committee Notes which were submitted to the Court for its consideration pursuant to Section 331 of Title 28, United States Code.

Respectfully,

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

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SUPREME COURT OF THE UNITED STATES

MONDAY, APRIL 26, 1976

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 VIII Rules and Official Chapter VIII 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 VIII 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. 1007–1081.]

2. That the aforementioned Chapter VIII Rules and Official Chapter VIII Forms shall take effect on August 1, 1976, 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 49 heretofore prescribed by this Court be, and it hereby is, abrogated, effective August 1, 1976.

4. That THE CHIEF JUSTICE be, and he hereby is, authorized to transmit the aforementioned new Chapter VIII Rules and Official Chapter VIII 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, to

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be known as the Chapter IX Rules and Official Chapter IX 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 IX 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. 1083–1123.]

2. That the aforementioned Chapter IX Rules and Official Chapter IX Forms shall take effect on August 1, 1976, 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 THE CHIEF JUSTICE be, and he hereby is, authorized to transmit the aforementioned new Chapter IX Rules and Official Chapter IX Forms to the Congress in accordance with the provisions of Title 28, U. S. C. § 2075.

RULES OF BANKRUPTCY PROCEDURE

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TITLE II
CHAPTER VIII (SECTION 77) RULES

Rule 8–1. Scope of Chapter VIII (Section 77) rules and forms; short title.

The rules and forms in this Title II govern the procedure in courts of bankruptcy in cases under Chapter VIII (Section 77) of the Bankruptcy Act. These rules may be known and cited as the Chapter VIII Rules. These forms may be known and cited as the Official Chapter VIII Forms.

PART I. PETITION AND PROCEEDINGS RELATING THERETO

Rule 8–101. Commencement of Chapter VIII case.

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

Rule 8–102. Voluntary petition.

A voluntary petition shall conform substantially to Official Form No. 8–1. An original and 6 copies of the petition shall be filed with the court, unless additional copies are required by local rule, and one copy shall be filed with the Interstate Commerce Commission. The clerk of the district court shall transmit one copy to the Secretary of the Department of Transportation, 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 8–103. Involuntary petition.

(*a*) *Form and number.*—An involuntary petition shall conform substantially to Official Form No. 8–2. The number, place of filing, and distribution of copies shall be as specified in Rule 8–102.

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(*b*) *Transferor or transferee of claim.*—A person who has transferred or acquired a claim for the purpose of commencing a Chapter VIII case shall not be a qualified petitioner. A petitioning creditor who is a transferor or transferee of a claim, whether transferred unconditionally, for security, or otherwise, shall annex to the original and each of the copies of the petition a copy of all documents evidencing the transfer, and a signed statement setting forth the consideration for and terms of the transfer and that the claim was not transferred for the purpose of commencing a Chapter VIII case.

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

Rule 8–104. Caption of petition.

The caption of every petition shall comply with Bankruptcy Rule 904 (b) and conform substantially to the caption of Official Form No. 8–1. 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 8–105. Filing fees.

Every petition shall be accompanied by the prescribed filing fees.

Rule 8–106. Lists of creditors and stockholders.

(*a*) *Lists required.*—The trustee shall, or if the trustee has not yet qualified and the court so directs, the debtor 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.

(*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 VIII petition or during the pendency of the Chapter VIII case.

Rule 8–107. Verification of petitions and lists.

All lists and amendments thereto filed by the debtor and all petitions and amendments thereto shall be verified.

Rule 8–108. Amendments of petitions and lists.

(*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 8–111. 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.*—A list of creditors or stockholders filed pursuant to Rule 8–106 may be amended as a matter of course at any time before expiration of the time fixed for filing claims pursuant to Rule 8–401 (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 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 8–109. Service of petition and process.

On the filing of an involuntary petition, the clerk of the district court shall forthwith issue a summons for service on the debtor. The summons shall conform substantially to Official Form No. 8–3, and a 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 8–110. 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, stockholder, or indenture trustee may serve and file an answer to a voluntary or involuntary petition not later than the day

prior to the date set for the hearing on the appointment of a trustee provided for in Rule 8–202. 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 8–111. 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 VIII 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 8–110 (a)(1), and if no other party in interest has filed an answer within such time, or if no valid defense or objection to the petition is set forth in any answer, the court shall enter an order approving the petition if satisfied that it complies with the requirements of Chapter VIII 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 8–112. Venue and transfer.

(*a*) *Proper venue.*

(*1*) *Debtor.*—A petition filed pursuant to Rule 8–102 or 8–103 may be filed in the district where the debtor has had its principal executive or operating office for the preceding 6 months or for a longer portion thereof than in any other district.

(*2*) *Controlled railroad corporation or leased line.*—Notwithstanding the foregoing, a petition commencing a Chapter VIII case may be filed by or against a controlled railroad corporation or leased line in a district where a petition under Chapter VIII of the Act by or against the debtor 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 date set for the hearing on the appointment of a trustee pursuant to Rule 8–202 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 date set for the hearing on the appointment of a trustee pursuant to Rule 8–202 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 VIII cases or a Chapter VIII case and any other case under the Act are filed in different districts by or against (1) the same debtor, (2) a debtor and a controlled railroad corporation or leased line, or (3) a debtor and an affiliate, a district judge of 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, other than a Chapter VIII case, transferred

under this rule shall be referred by the clerk of the district court to which it has been transferred.

Rule 8–113. Joint administration of cases pending in same court.

(*a*) *Cases involving a debtor and a controlled railroad corporation or leased line.*—If 2 or more petitions are pending in the same court by or against a debtor and a controlled railroad corporation or a leased line, 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 8–114. Debtor involved in foreign proceeding.

When a proceeding for the purpose of the liquidation of rehabilitation of its estate has been commenced by or against a debtor in a court of competent jurisdiction without the United States, the court may, after hearing on notice to such persons as it may direct, having regard to the rights and convenience of local creditors and other relevant circumstance, dismiss a case or suspend the proceedings therein under such terms as may be appropriate.

Rule 8–115. Applicability of Federal Rules of Civil Procedure.

Except as otherwise provided in Part I of these rules and unless the court otherwise directs, the following rules of the Federal Rules of Civil Procedure, as modified by Rule 8–602, apply in all proceedings relating to a contested petition: Rules 5, 8–10, 16, 24–26, 28–37, 52, 56, and 62. The court may direct that one or more of the other rules of the Federal Rules of Civil Procedure shall

also apply in such a proceeding. For the purposes of this rule a reference in the Federal Rules of Civil Procedure to an action or a civil action shall be read as a reference to proceedings relating to a contested petition, and a reference to the complaint shall be read as a reference to the petition.

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

Rule 8–201. Appointment and duties of receivers.

(*a*) *When receiver may be appointed.*—The court may appoint a receiver only before qualification of the trustee 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 the 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 counter-bond 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 as 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 8–204.

(*h*) *Termination of appointment.*—The appointment of a receiver shall be terminated when the trustee qualifies 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 the debtor, if a trustee has not qualified, 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 8–202. Appointment of trustee.

(*a*) *Appointment.*—The court shall appoint one or more trustees at a hearing held not later than 30 days after approval of a petition, or as soon after the hearing as practicable.

(*b*) *Notice of hearing.*—Notice of the hearing required under subdivision (a) of this rule shall be given by publication in such newspapers and for such period as the court may direct.

(*c*) *Eligibility.*

(1) A trustee shall be disinterested and shall be competent to perform the duties of his office.

(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, a controlled railroad corporation, an affiliate 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 VIII case need not be deemed of itself to affect the disinterestedness of an attorney.

(3) When a disinterested trustee is appointed, a person who is or was within 2 years prior to the date of the filing of the petition a director, officer, or employee

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of the debtor, a controlled railroad corporation, or an affiliate of the debtor may be appointed a co-trustee, if the court finds that the disqualifying interest will not affect the person in the discharge of his duties as a co-trustee. Only one co-trustee appointed under this paragraph may serve at any one time.

(*d*) *Ratification of appointment.*—An appointment of a trustee under this rule shall be effective on ratification by the Interstate Commerce Commission.

(*e*) *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 8–204.

(*f*) *Appointment of co-trustees or substitute trustees; removal; hearing.*—Subject to subdivisions (c), (d), and (e) of this rule and after hearing on such notice as the court may direct, the court may appoint co-trustees, remove trustees, and appoint substitute trustees.

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

Rule 8–203. 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 8–113 (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 8–204. Qualification by trustee and receiver.

(*a*) *Qualifying bond or security.*—Except as provided hereinafter, every receiver within 5 days after his appointment and every trustee within 5 days after ratification of his appointment by the Interstate Commerce Commission 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*) *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 clerk of the district 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.*—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 in possession, the court may so certify and the certificate shall constitute conclusive evidence of that fact.

Rule 8–205. 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 VIII case, his successor is automatically

substituted as a party in any pending action, proceeding, or matter without abatement.

Rule 8–206. Employment of attorneys, accountants, and consultants.

(*a*) *Conditions of employment of attorneys and accountants.*—Bankruptcy Rule 215 applies to the employment, in Chapter VIII cases, of attorneys and accountants by a trustee, receiver, or debtor. In addition an attorney appointed to represent the trustee shall be disinterested as specified in Rule 8–202 (c)(2), except that an attorney who is, or was within 2 years prior to the date of the filing of the petition employed by the debtor, a controlled railroad corporation, or an affiliate of the debtor may be appointed to represent the trustee when such appointment is in the best interest of the estate. 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.

(*c*) *Consultants.*—The court may authorize the trustee to engage consultants to render services not relating to the debtor's ordinary course of business if it finds that the services are necessary, the person to be engaged is competent and does not hold any interest adverse to the estate that would interfere with the performance of his

services, and his employment is in the best interest of the estate.

Rule 8–207. Trustee, receiver, or debtor to conduct business of the debtor.

Subject to the jurisdiction of the Interstate Commerce Commission, the trustee, receiver, or the debtor, if the trustee or receiver has not qualified, shall 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 and in the interest of continuing the debtor's rail operations.

Rule 8–208. Duty of trustee to investigate, make reports, furnish information, and prepare plans.

A trustee shall (1) file the lists as required by Rule 8–106; (2) 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; (3) investigate the acts, conduct, liabilities and financial condition of the debtor, the operation of its business, and any other matter relevant to the case or to the formulation of a plan; (4) 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; (5) if the court so authorizes, examine the directors and officers of the debtor and any other witnesses concerning the foregoing matters; (6) as soon as practicable, file a statement of his investigations, and cause copies or a summary thereof to be mailed to such persons as the court may designate; (7) if directed by the court, 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; (8) file a plan as required by Rule 8–301; (9) within 30 days after the date of the order confirming the plan or within such other time as the court may fix, file a re-

port 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 (10) 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.

Rule 8–209. Notices to creditors, stockholders, and governmental bodies.

(*a*) *Notices to all creditors and parties in interest.*—Except as hereinafter provided, the trustee shall give all creditors, stockholders, and indenture trustees notice by mail of (1) the hearing pursuant to Rule 8–304 (a) on approval of the plan and the time within which objections to approval may be filed; (2) the hearing pursuant to Rule 8–307 (a) on confirmation of the plan and the time within which objections to confirmation may be filed; (3) confirmation of the plan pursuant to Rule 8–307 (d); (4) the hearing on dismissal of a case pursuant to Rule 8–310 (a); and (5) dismissal of the case pursuant to Rule 8–310.

(*b*) *Notices to governmental bodies.*—Copies of notices required to be mailed to all creditors under these rules shall be mailed to (1) the Department of Transportation and the Interstate Commerce Commission at Washington, District of Columbia, and at such additional place as each shall designate in writing filed with the court; (2) the district director of internal revenue for the district in which the case is pending; (3) the governor of each state in which the debtor operates its rail lines;

(4) the Secretary of the Treasury if the filed papers disclose a stock interest of the United States; and (5) the Attorney General of the United States, and whenever the list of creditors 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.

(*c*) *Limitation on notices to creditors and stockholders.*—The court may direct that all notices required by subdivision (a) of this rule be mailed only to creditors, stockholders, and indenture trustees (1) who file with the court a request that all such notices be mailed to them or (2) who may be designated by the court. Notice shall be given by mail of any direction under this subdivision.

(*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*) *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. The first day of publication shall start the running of any relevant time period, unless the court directs otherwise.

(*f*) *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.

(*g*) *Caption.*—The caption of every notice given under this rule shall comply with Rule 8–104.

Rule 8–210. 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 VIII 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 of right for governmental bodies.*—The Department of Transportation and the Interstate Commerce Commission may, or if requested by the court shall, intervene in a Chapter VIII case. One representative of any state in which the debtor operates its rail line may intervene in a Chapter VIII case. Any person intervening under this subdivision shall be deemed a party in interest with the right to be heard on all matters in the case.

(*c*) *Permissive intervention.*—The court may for cause shown permit any interested person to intervene generally or with respect to any specified matter in the Chapter VIII case.

(*d*) *Service on intervenors.*—The court may enter orders governing the service of notice and papers on intervenors.

Rule 8–211. Representation of creditors and stockholders.

(*a*) *Data required.*—Unless otherwise ordered by the court for cause shown, 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. If the court has waived the filing of a statement required by any person or committee under this subdivision, a statement shall be filed promptly setting forth any material changes in the facts disclosed to the court at the time the waiver was granted.

(*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 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, and (3) may examine any representation provision of a deposit agreement, proxy, trust mortgage, trust indenture or deed of trust, or committee or other authorization not approved by the Interstate Commerce Commission and any claim or stock acquired by any person or committee in contemplation or in the course of a Chapter VIII case and grant appropriate relief pursuant to the Act.

Rule 8–212. 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 or to be rendered and expenses incurred or to be incurred; (2) if appropriate, 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 the petition commencing a Chapter VIII case. When an application is filed by a person whose compensation or reimbursement of necessary expenses is required to be within the maximum limit set by the Interstate Commerce Commission, a copy of the application shall be filed with the Commission. 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*) *Procedure for allowance.*—The court may allow compensation or reimbursement of necessary expenses (1) after hearing on notice to such persons as the court may direct, or (2) after notice to such persons as the court may direct of the time within which objections to allowance may be filed, if no timely objection is filed or, if a timely objection is filed, after hearing to consider such objection. Such allowance shall not exceed the limit set by the Commission when the Commission is authorized to set such limit.

(*c*) *Limitations on allowance.*

(*1*) *Attorney, accountant, or consultant.*—Compensation may be allowed an attorney, accountant, or consultant employed pursuant to Rule 8–206 (c) only for professional services.

(*2*) *Denial of allowance.*—No compensation or reimbursement shall be allowed to any committee, 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.

(*d*) *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 date set for the hearing on the appointment of a trustee held pursuant to Rule 8–202 (a), 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.

(*e*) *Restriction on sharing of compensation.*—Except as herein provided, a person rendering services in a Chapter VIII 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 services with any other person, nor shall he share or agree to share in the compensation of any other person rendering services in a Chapter VIII case 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 8–206 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 8–213 to which he is a party, or may enter such other order as may be appropriate.

Rule 8–213. Examination of debtor's transactions with its attorney.

(*a*) *Payment or transfer to attorney in contemplation of the filing of a Chapter VIII petition.*—On motion by any party in interest or on the court's own initiative, the court may examine any payment of money or any transfer of property by the debtor, made directly or indirectly and in contemplation of the filing of a Chapter VIII petition 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.

Rule 8–214. 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 or other persons.*—The trustee shall, if the court so directs, and any other person may, with the permission of the court, examine the directors and officers of the debtor and any other witnesses.

(*c*) *Scope of examination.*—The examination under this rule 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 Rule 45 of the Federal Rules of Civil Procedure 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 pursuant to this rule 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 Chapter VIII petition or his residence at the time he is required to appear for such examination, whichever is the lesser.

Rule 8–215. Apprehension and removal of debtor to compel attendance for examination.

(*a*) *Order to compel attendance for examination.*—On a verified application of any party in interest alleging (1) that the examination of an officer, 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 is necessary for the proper administration of the estate and that there is reasonable

cause to believe that the person is about to leave his residence or his principal place of business to avoid examination, or (2) that he has evaded service of a subpoena or order to attend for examination, or (3) that he has willfully disobeyed a subpoena or order to attend for examination, duly served on him, the court may issue to the marshal, or some other officer authorized by law, an order directing him to bring the person forthwith before the court. If after hearing the court finds the allegations to be true, the court shall thereupon examine the person or cause him to be examined as soon as possible, but, in any event, the examination shall be commenced within 10 days after he was taken into custody. If it is necessary, the court shall fix conditions for further examination and for the person's obedience to all orders made in reference thereto.

(*b*) *Removal.*—Whenever any order to bring a person before the court is issued under this rule and the person is found in a district other than that of the court issuing the order, he may be taken into custody under such order and removed in accordance with the following rules:

(1) If taken at a place less than 100 miles from the place of issue of the order, the person shall be brought forthwith before the court that issued the order.

(2) If taken at a place 100 miles or more from the place of issue of the order, the person shall be brought without unnecessary delay before the nearest magistrate, or district judge. If, after hearing, the magistrate or district judge finds that an order has issued under this rule and that the person in custody is the subject of such order, or if the person in custody waives a hearing, the magistrate or district judge shall issue an order of removal and the person in custody shall be released on conditions assuring his prompt appearance before the court which issued the order to compel his attendance.

(*c*) *Conditions of release.*—In determining what con-

ditions will reasonably assure attendance or obedience under subdivision (a) of this rule or appearance under subdivision (b) of this rule, the court shall be governed by the provisions and policies of Title 18, U. S. C. § 3146 (a) and (b).

Part III. Proceedings Relating to Plan, Dismissal, and Consummation of Plan

Rule 8–301. Formulation and filing of plan.

(*a*) *First filing of plan.*

(*1*) *By trustee.*—Within one year of approval of the petition or within any lesser period fixed by the court, the trustee shall file a plan with the court unless the court, after hearing on notice to such persons as the court may direct and for cause shown, extends the time within which a plan is to be filed. An application for an extension of time shall contain (A) the reasons why a plan cannot be formulated at that time, (B) a statement of the actions taken and intended to be taken in managing the debtor's estate, and (C) a summary of the debtor's operations and financial results. An extension shall not exceed one year.

(*2*) *By others.*—If the trustee does not file a plan within the one-year period specified in paragraph (1) of this subdivision or within any lesser period fixed by the court, the court may, on application after hearing on notice to such persons as the court may direct, grant to other parties in interest leave to file a plan.

(*b*) *Filing of additional plans or modifications.*—After the first filing of a plan but before transmission of the plan to the Interstate Commerce Commission under Rule 8–303, a party in interest may file another plan or a modification of a plan.

(*c*) *Copies to Interstate Commerce Commission.*—A person filing a plan or modification of a plan shall furnish a copy thereof to the Interstate Commerce Commission.

(*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 8–302. 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 interests.

Rule 8–303. Transmission of plan to Interstate Commerce Commission.

Not less than 30 days after the first filing of a plan under Rule 8–301, the court shall transmit all plans and modifications which have been filed with it to the Interstate Commerce Commission for filing with and consideration by the Commission.

Rule 8–304. Approval of plan by court.

(*a*) *Hearing.*—After the certification by the Interstate Commerce Commission of a plan, the record of its proceedings, its report and order, and a summary of its report, the court shall hold a hearing to rule on approval of the plan on at least 20 days' notice to the debtor, creditors, stockholders, indenture trustees, and other parties in interest as provided in Rule 8–209.

(*b*) *Notice of the hearing.*—The notice shall state the time within which objections to approval may be filed, and shall be accompanied by a copy of the plan.

(*c*) *Objections.*—Objections to approval of a plan shall be in writing and stated with particularity.

(*d*) *Ruling on approval.*—The court shall rule on approval of the plan on the basis of the record certified to it by the Interstate Commerce Commission. Notwithstanding the foregoing, the court may receive evidence of changed circumstances and evidence relating to allowances of compensation and reimbursement of expenses. The court shall file an opinion stating the reasons for its ruling on approval.

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(*e*) *Notice by publication.*—On approval of a plan, the trustee shall give notice by publication of such approval. The notice shall include the time fixed under Rule 8–305 (a) for accepting or rejecting the plan and the time within which nonregistered security holders must file a proof of claim in order to vote on the plan.

(*f*) *Procedure if plan not approved.*—If the plan is not approved, the court may (1) remand the proceeding to the Interstate Commerce Commission for reconsideration of the plan in whole or in part, or (2) direct further proceedings pursuant to Rule 8–310.

Rule 8–305. Submission of plan and notice to creditors and stockholders.

(*a*) *Time for acceptance or rejection.*—On approval of a plan, the court shall fix a time within which creditors and stockholders may accept or reject such plan.

(*b*) *Notice and accompanying information.*—The trustee shall mail to creditors and stockholders entitled to accept or reject the plan (1) a summary of the plan approved by the court; (2) a summary of the opinion of the court approving the plan, which summary shall be approved by the court; (3) the summary of the report of the Interstate Commerce Commission; (4) notice of the time within which acceptances and rejections of the plan may be filed; (5) a form of ballot conforming substantially to Official Form No. 8–7; and (6) such other information as the court may direct. The court may direct that the plan, opinion of the court, or report of the Commission be transmitted in place of, or in addition to, the summaries thereof specified in clauses (1), (2), and (3) of this subdivision. In the event only summaries are transmitted, the plan, opinion of the court, and report of the Commission shall be provided on request to parties in interest without charge.

Rule 8–306. Acceptance or rejection of plan.

(*a*) *Persons entitled to accept or reject plan; time for*

acceptance or rejection.—Any creditor whose claim is deemed allowed pursuant to Rule 8–401 (f) or has been allowed by the court and any creditor who is a security holder of record at the date the order approving the plan is entered whose claim has not been disallowed and any stockholder of record at the date the order approving the plan is entered whose stock interest has not been disallowed may accept or reject the plan within the time fixed by the court pursuant to Rule 8–305. For cause shown and within such time, the court may permit a creditor or stockholder to change or withdraw his acceptance or rejection. Notwithstanding 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. 8–7, and shall be in writing and signed by the creditor or stockholder or his authorized agent.

(*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 the plan 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 the plan if such acceptance or rejection was not in good faith in 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 entitled to vote on the plan who file an acceptance or rejection of the plan within the time prescribed.

Rule 8–307. Confirmation of plan.

(*a*) *Hearing.*—The court shall hold a hearing to rule on confirmation of the plan on at least 20 days' notice to the debtor, creditors, stockholders, indenture trustees, and other parties in interest as provided in Rule 8–209.

(*b*) *Notice.*—The notice shall state the results of the submission of the plan, the time within which objections to confirmation may be filed, and, if appropriate, that the court may confirm the plan notwithstanding the failure of the requisite majorities to accept the plan.

(*c*) *Objection.*—Objections to confirmation of a plan shall be in writing and stated with particularity.

(*d*) *Opinion; order of confirmation.*—The court shall file an opinion stating the reasons for its conclusions, and if the plan is confirmed, the order of confirmation shall conform substantially to Official Form No. 8–8. Notice of entry of the order of confirmation shall be mailed promptly as provided in Rule 8–209.

(*e*) *Procedure if plan not confirmed.*—If the plan is not confirmed, the court may (1) remand the proceeding to the Interstate Commerce Commission for reconsideration of the plan in whole or in part, or (2) direct further proceedings pursuant to Rule 8–310.

Rule 8–308. Approval or confirmation of plan after remand to the Interstate Commerce Commission.

(*a*) *Hearing.*—After a remand of the proceeding to the Interstate Commerce Commission under Rule 8–307 (e) and certification by the Commission of a plan, the record of its proceedings, its report and order, and summary of its report, the court shall hold a hearing on at least 20 days' notice to the debtor, creditors, stockholders, indenture trustees, and other parties in interest as provided in Rule 8–209, to rule on approval or confirmation of the plan.

(*b*) *Notice of hearing.*—The notice shall state the time within which objections to approval or confirma-

tion may be filed, and shall be accompanied by the plan or such other information as the court may direct.

(*c*) *Objections.*—Objections to approval or confirmation of the plan shall be in writing and stated with particularity.

(*d*) *Ruling.*

(*1*) *Confirmation.*—If the court finds that any changes in the plan from the plan as previously submitted pursuant to Rule 8–305 do not materially and adversely affect the interests of creditors or stockholders, the plan shall be deemed accepted by all creditors or stockholders who have previously accepted the plan, and the court may pursuant to Rule 8–307 confirm the plan, remand the plan to the Commission, or direct further proceedings pursuant to Rule 8–310.

(*2*) *Approval.*—If the court finds that any changes in the plan from the plan as previously submitted pursuant to Rule 8–305 do materially and adversely affect the interests of creditors or stockholders, the court may pursuant to Rule 8–304 approve the plan, remand the plan to the Commission, or direct further proceedings pursuant to Rule 8–310. On approval, the requirements of Rules 8–305 and 8–306 with respect to submission of the plan and acceptance and rejection of the plan shall apply except that any creditor or stockholder who accepted the plan as previously submitted and who fails to file with the court a timely rejection shall be deemed to have accepted the plan as changed.

Rule 8–309. 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 instru-

ments 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; (3) making such provisions by way of injunction or otherwise as may be equitable; and (4) closing the estate.

Rule 8–310. Dismissal of case.

(*a*) *Dismissal.*—The court may, after hearing on at least 20 days' notice to the debtor, creditors, stockholders, and indenture trustees as provided in Rule 8–209, dismiss the case if (1) a plan certified by the Interstate Commerce Commission is not approved pursuant to Rule 8–304 or not confirmed pursuant to Rule 8–307 and there is no remand of the proceeding to the Commission; (2) in light of all existing circumstances there is undue delay in the accomplishment of a reasonably expeditious reorganization; or (3) the Commission certifies that no plan can be formulated within a reasonable time. Before dismissing a Chapter VIII case for undue delay the court shall request the Commission to submit to the court a report and recommendation concerning dismissal of the case.

(*b*) *Notice of dismissal to creditors.*—Promptly after entry of an order of dismissal under this rule, notice thereof shall be published and given to creditors, stockholders, and indenture trustees in the manner provided in Rule 8–209.

(*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 unless the order provides otherwise.

Part IV. Claims and Distribution to Creditors and Stockholders

Rule 8–401. 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 8–106 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 and give notice thereof as provided in subdivision (c) of this rule.

(*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 except as provided in paragraph (3)(C) of this subdivision; 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. Except as provided in paragraph (3)(C), any person required under this paragraph

(3)(B) 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.

(C) On application, the court may permit the filing of a claim after the expiration of the time for filing fixed under this rule if the failure to file was the result of excusable neglect.

(*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 8–106.

(*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 8–402 (a), shall be executed by the creditor or by his authorized agent and filed with the court, unless the court otherwise directs. Except with respect to bonds, debentures, and other debt instruments issued under a single agreement, whenever a claim is founded on a writing or secured pursuant to a writing by property of the debtor, the original or duplicate of the writing shall be filed with the proof of claim unless the writing has been lost or destroyed. If lost or destroyed, a statement of the circumstances of the loss or destruction shall be filed with the claim. If a security interest in property of the debtor is claimed, the proof of claim shall be accompanied by satisfactory evidence that the security interest has been perfected.

(*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*) *Notice.*

(1) The trustee shall give notice by mail as to the filing of proofs of claim to all indenture trustees and creditors, except record holders of bonds, debentures,

notes, and other debt securities. The notice shall conform substantially to Official Form No. 8–5.

(2) Notice of any order entered pursuant to subdivision (b)(3)(B) shall be given by mail to persons required by the order to file a proof of claim.

(*d*) *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.

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

(*f*) *Allowance when no objection made.*—Subject to the provisions of subdivision (b)(3) of this rule, a claim filed in accordance with this rule or Rule 8–402 (a), or listed in accordance with Rule 8–106, shall be deemed allowed unless objection is made by a party in interest.

(*g*) *Objection to allowance.*—An objection to the allowance of a claim shall be in writing. A copy of the objection and at least 10 days' notice or, if the claim is for taxes, at least 30 days' notice of a hearing thereon shall be mailed or delivered to the claimant, the debtor, and the trustee. If an objection is joined with a demand for relief of the kind specified in Rule 8–601, the proceeding thereby becomes an adversary proceeding.

(*h*) *Reconsideration of claims.*—A party in interest may move for reconsideration of an order allowing or disallowing a claim against the debtor. If the motion is granted, the court may after hearing on notice make such further order as may be appropriate.

(*i*) *Proof of right to record status.*—For the purposes of Rules 8–306 and 8–404 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 8–402. Claim by codebtor.

(*a*) *Filing of claim.*—If a creditor has not filed his proof of claim pursuant to Rule 8–401 (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 8–401 (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 8–401 (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 8–401 (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 VIII case.

Rule 8–403. 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 and on

order of the court containing such terms and conditions as the court deems proper.

Rule 8–404. 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 8–401 (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 8–405. 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 VIII 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 accordance with Rule 8–706, 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 8–404 (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. Property of Estate

Rule 8–501. Petition as automatic stay of actions against debtor, lien enforcement, and setoff.

(*a*) *Stay of actions and lien enforcement.*—A petition filed under Rule 8–102 or 8–103 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, or of the setoff of any obligation to the debtor against any claim owing by the debtor, except that this rule shall not operate (1) to stay the commencement or prosecution to judgment of any claim or action for damages caused by the operation of trains, buses, or other means of transportation, or (2) to prevent an owner, as trustee, lessor, or otherwise, from taking possession of rolling stock equipment leased or conditionally sold to the debtor when authorized under the lease or conditional sale contract.

(*b*) *Duration of stay.*—Except as it may be terminated, annulled, modified, or conditioned by the court under subdivision (c), (d), or (e) of this rule, the stay shall continue until the case is closed or dismissed or the prop-

erty 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 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 liquidation of its estate, or setoff, 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 this subdivision shall give written or oral notice thereof as soon as possible to the trustee or receiver, or, if none has been appointed or qualified, to the debtor, 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 8–502. Duty of trustee or receiver to give notice of Chapter VIII case.

(*a*) *Real property.*—Unless otherwise ordered by the court, as soon as possible after his qualification a receiver or, if a receiver has not done so, the trustee shall record a certified copy of the petition in the office where transfers of real property are recorded in every county where the debtor has an interest in real property not exempt from execution. The recording of a copy pursuant to this subdivision is not necessary, however, in the county in which is kept the record of the original proceedings in the case or in any office where such a copy has previously been recorded.

(*b*) *Personal property.*—Unless otherwise ordered by the court, as soon as possible after his qualification a receiver or, if a receiver has not done so, the trustee shall give notice of the case to every person known to be holding money or property subject to withdrawal or order of the debtor, including every bank, building and loan association, public utility company, and landlord with whom the debtor has a deposit, and to every insurance company which has issued a policy having a cash surrender value payable to the debtor. No notice need be given, however, to any of the forenamed persons who has knowledge or has previously been notified of the case, and no notice need be given with respect to property exempt from execution.

Rule 8–503. Burden of proof as to validity of post-petition transfer.

Any person asserting the validity of a transfer under § 70d of the Act shall have the burden of proof.

Rule 8–504. 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 shall promptly file a written report and account with the court in which the Chapter VIII 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 8–505. Money of the estate: Authorized deposits, investments, and disbursement.

(*a*) *Authorized deposits and investments.*—Except as provided in Rule 8–509 (c), the trustee, receiver, or debtor shall deposit all money received by him in a checking or interest bearing account of a banking institution whose accounts are insured under Title 12, U. S. C., § 1821, or purchase securities or obligations of the United States or an agency thereof backed by the full faith and credit of the United States maturing in not more than 6 months.

(*b*) *Other deposits and investments.*—On application of the trustee, receiver, or debtor the court may authorize the acquisition of certificates of deposit or similar debt obligations of banking institutions insured under Title 12, U. S. C., § 1821, or securities or obligations of the United States or an agency thereof backed by the full faith and credit of the United States.

(*c*) *Security.*—The court may require banking institutions which hold funds of the estate or have issued obligations to the trustee, receiver, or debtor in excess of the maximum amount insured under Title 12, U. S. C., § 1821,

to post a bond secured by the undertaking of an authorized corporate surety approved by the court, or by the deposit of securities designated in Title 6, U. S. C., § 15. Securities accepted for deposit in lieu of a surety on a depository bond shall be deposited by the banking institution in the custody of a Federal Reserve bank or branch thereof designated by the court and shall be subject to the order of the court.

(*d*) *When adequacy of security doubtful.*—A trustee, receiver, or debtor shall not deposit money received or held by him as a fiduciary under the Act in, or acquire debt obligations of, a banking institution required to post a bond or security under subdivision (c) if he has reasonable cause to believe that the bond or the security therefor is or may be inadequate in view of existing and expected deposits or holdings of certificates of deposit or similar debt obligations.

(*e*) *Conditions of bond; place of filing; proceeding on bond.*—The condition of a bond given under this rule shall be that the banking institution will well and truly account for all money deposited with it as depository and for all interest payable on savings and time deposits, will pay certificates of deposit and similar debt obligations in accordance with their terms, will pay out such money and interest only in accordance with the Act, these rules, and rules and orders of the court, and will otherwise faithfully perform all its duties as depository. A bond given under this rule shall be filed with the court and may be proceeded on in the name of the United States for the use of any person injured by a breach of the condition.

(*f*) *New bond or additional securities: When required.*—The court shall direct a banking institution required under subdivision (c) to post a bond or security to give a new bond or additional securities whenever the prior bond, together with securities deposited pursuant to subdivision (c), does not appear to constitute adequate security in view of existing and expected deposits or

holdings of certificates of deposit or similar debt obligations.

(*g*) *Failure to comply.*—If any depository fails, within the time fixed, to give a bond under this rule or to deposit adequate securities, the court shall order the depository immediately to pay over all money on deposit with it, with all interest payable thereon, and shall direct that the bank is no longer a proper depository for the Chapter VIII case.

(*h*) *Relief from liability on bond.*—A surety on the bond of a banking institution may, by an application setting forth the grounds therefor, request to be relieved from liability with respect to any subsequent default of the banking institution. If, after hearing on notice to such persons as the court may direct, the court determines that the application can be granted without injury to any party in interest, the applicant shall be relieved and a new bond or other appropriate security shall be required.

(*i*) *Withdrawals and disbursements.*—The trustee, receiver, or debtor shall withdraw and disburse money of the estate only by check or other method approved by the court.

Rule 8–506. Adoption and rejection of executory contracts.

(*a*) *Adoption or rejection after hearing.*—When a motion is made for the adoption or 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.

(*b*) *Authority to adopt or reject within classes.*—Notwithstanding subdivision (a), on motion of the trustee and after hearing on such notice as the court may direct, the court may fix a class or classes of executory contracts, including unexpired leases other than the leases of lines of railroad, and authorize the trustee to give notice by

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mail to the parties to any contract within such class or classes of the adoption or rejection of the contract. Unless a motion for relief from the trustee's action is made by a party to the contract or other party in interest within 25 days of mailing of notice, or such other time as the court may fix, the adoption or rejection shall be deemed approved, and the trustee's notice shall so state. If a timely motion for relief is made, the court shall set a hearing on notice to the parties to the contract and such other persons as the court may direct.

(*c*) *Periodic reports.*—The trustee shall make periodic reports, as directed by the court, of the contracts adopted or rejected under this rule.

(*d*) *Motion to compel adoption or rejection by trustee.*—On motion of a party in interest after hearing on such notice as the court may direct, the court may fix a time within which an executory contract, including an unexpired lease, shall be adopted or rejected.

(*e*) *Proof of claim on rejection and notice.*—In order for his claim to be allowed a party to a rejected executory contract shall file a proof of claim in the manner provided in Rule 8–401 (b)(5) within such reasonable time after rejection as the court may fix. The trustee shall give notice by mail to the parties to rejected contracts of the time within which proofs of claim arising from rejection of contracts shall be filed. Such notice may be combined with the notice given under subdivision (b) of this rule.

Rule 8–507. Operation of leased line after rejection.

After the rejection of a lease of a line of railroad of which the debtor is lessee, the court, on its own motion or on motion of the trustee or lessor to determine whether the trustee or lessor shall operate the leased line, shall set a hearing thereon on such notice as it may direct.

Rule 8–508. Appraisal of property; compensation and eligibility of appraisers and auctioneers.

(*a*) *Appraiser: Appointment and duties.*—The court may appoint one or more competent and disinterested ap-

praisers 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*) *Compensation and eligibility of auctioneers and appraisers.*—No auctioneer shall be employed or appraiser appointed except on an order of the court fixing the amount or rate of compensation. No officer or employee of the Judicial Branch of the United States or the United States Department of Justice shall be eligible to act as an auctioneer or appraiser. No residence or licensing requirement shall apply to an auctioneer employed or appraiser appointed under this rule.

Rule 8–509. Sale of property free of lien or other interest.

(*a*) *Sale after hearing.*—On motion of the trustee, receiver, or debtor and after hearing on notice to persons having an interest in the property or to the indenture trustee or other representative of such persons, if any, and to such other persons as the court may direct, the court may, if it finds that it is in the best interest of the debtor's estate and ultimate reorganization, authorize the sale of real or personal property of the debtor, on such terms and conditions as it may approve, free of a lien or any other interest for which the holder may be compelled to take a money satisfaction.

(*b*) *Authority to sell property within classes.*—Notwithstanding subdivision (a) of this rule, on motion of the trustee, receiver, or debtor and after hearing on such notice as the court may direct, the court may, if it finds that it is in the best interest of the debtor's estate and ultimate reorganization, fix a class or classes of real or personal property of the debtor, and authorize, subject to such terms and conditions as the court may approve, the sale of property within such class or classes free of liens and any other interests for which the holder may be compelled to take a money satisfaction. The trustee shall give notice by mail to persons having an interest in the property or to the indenture trustee or other representa-

tive of such persons, if any, of proposed sales under this subdivision. Unless a motion for relief is made by a person with an interest in the property or other party in interest within 25 days of the mailing of the notice, or such other time as the court may fix, the sale shall be deemed approved, and the trustee's notice shall so state. If a timely motion is made, the court shall set a hearing on notice to such persons as the court may direct.

(*c*) *Proceeds of sale.*—The proceeds received from the sale of property under this rule shall be deposited with such depository and on such terms as the court may direct.

(*d*) *Periodic reports.*—The trustee, receiver, or debtor shall make periodic reports, as directed by the court, of the sales under this rule.

Rule 8–510. Lease of property and sale other than free of lien or other interest.

(*a*) *Sale or lease after hearing.*—Except as provided in Rule 8–509, on motion of the trustee, receiver, or debtor and after hearing on such notice as the court may direct, the court may, if it finds that it is in the best interest of the debtor's estate and ultimate reorganization, authorize the sale or lease of real or personal property of the debtor, on such terms and conditions as the court may approve.

(*b*) *Authority to sell or lease property within classes.*—Except as provided in Rule 8–509 and notwithstanding subdivision (a) of this rule, on motion of the trustee, receiver, or debtor and after hearing on such notice as the court may direct, the court may, if it finds that it is in the best interest of the debtor's estate and ultimate reorganization, fix a class or classes of real or personal property of the debtor and authorize the trustee, receiver, or debtor to sell or lease property within such class or classes, on such terms and conditions as the court may approve.

(*c*) *Periodic reports.*—The trustee, receiver, or debtor

shall make periodic reports, as directed by the court, of the sales and leases under this rule.

Rule 8–511. Abandonment of property other than a line of railroad.

After hearing on such notice as the court may direct and on approval by the court, the trustee, receiver, or debtor may abandon any property other than a line of railroad or portion thereof.

Rule 8–512. Abandonment of line of railroad or portion thereof.

(*a*) *Authority to proceed before regulatory agencies.*—On application of the trustee, the court, with or without hearing, may authorize initiation of proceedings to abandon a line of railroad or portion thereof before appropriate regulatory agencies.

(*b*) *Abandonment after hearing.*—On motion of the trustee and after hearing, the court may authorize the abandonment of a line of railroad or portion thereof conditioned on the issuance of the necessary approval by appropriate regulatory agencies. The trustee shall give notice of the hearing to the Department of Transportation, the Interstate Commerce Commission, and persons having an interest in the property, or to the indenture trustee or other representative of such persons, if any, and notice shall also be given by publication to the communities which may be affected by the abandonment.

Rule 8–513. Trustee certificates.

On motion of the trustee, receiver, or debtor to authorize the trustee to issue certificates of indebtedness the court shall set a hearing on at least 15 days' notice. Notice shall be given to indenture trustees and such other persons as the court may direct, and notice shall also be given by publication. If such motion is made, the court may, with or without hearing, authorize the initiation of proceedings before the Interstate Commerce Commission to obtain any necessary approval.

Rule 8–514. Compromise and arbitration.

(*a*) *Compromise or settlement after hearing.*—On application of the trustee, receiver, or debtor and after hearing on notice to such persons as the court may direct, the court may approve a compromise or settlement. For cause shown the court may direct that notice not be given.

(*b*) *Authority to compromise or settle controversies within classes.*—After hearing on such notice as the court may direct, the court may fix a class or classes of controversies and authorize the trustee, receiver, or debtor to compromise or settle controversies within such class or classes without further hearing or notice.

(*c*) *Arbitration.*—On stipulation of the parties to any controversy affecting the estate the court may authorize the matter to be submitted to final and binding arbitration.

Rule 8–515. Redemption of property from lien or sale.

On application by the trustee, receiver, or debtor after hearing on such notice as the court may direct, the court may authorize the redemption of property from a lien or from a sale to enforce a lien in accordance with applicable law.

Rule 8–516. Prosecution and defense of proceedings by trustee, receiver, or debtor.

Subject to Rules 8–512 and 8–513, the trustee, receiver, or debtor may, with or without court approval, prosecute or enter his appearance and defend any pending action or proceeding by or against the debtor, or commence and prosecute any action or proceeding in behalf of the estate, before any tribunal.

Rule 8–517. Preservation of voidable transfer.

Whenever any transfer is voidable by the trustee, the court may determine, in an adversary proceeding in which are joined persons claiming interests or rights in the property subject to the transfer, whether the transfer

shall be avoided only or shall be preserved for the benefit of the estate.

PART VI. ADVERSARY PROCEEDINGS

Rule 8–601. Adversary proceedings.

Rule 8–602 governs any proceeding instituted by a party in a Chapter VIII case to (1) recover money or property other than a proceeding under Rule 8–213 or Rule 8–504; (2) determine the validity, priority, or extent of a lien or other interest in property; (3) secure the release of funds deposited under Rule 8–509 (c); (4) obtain an injunction; or (5) obtain relief from a stay as provided in Rule 8–501. Such a proceeding shall be known as an adversary proceeding.

Rule 8–602. Applicability of Federal Rules of Civil Procedure and Bankruptcy Rules to adversary proceedings.

(*a*) *Federal Rules of Civil Procedure.*—Rules 3, 5, 7 (a), 8–10, 12–21, 22 (1), 23–26, 28–37, 41, 42, 52, 54–56, 64–65, and 67–71 of the Federal Rules of Civil Procedure apply to adversary proceedings in Chapter VIII cases, except that:

(1) The reference in Rule 5 to Rule 4 shall be read as a reference to Bankruptcy Rule 704.

(2) The reference in Rule 8 to Rule 11 shall be read as a reference to Bankruptcy Rule 911.

(3) The reference in Rule 10 to "caption" shall be read as "caption conforming substantially to the caption of Official Form 8–1."

(4) The following words shall be added at the beginning of Rule 12 (h)(3): "Subject to Bankruptcy Rule 915."

(5) The following clause shall be added at the end of the last sentence of Rule 13 (a): "(3) a party sued by a trustee or receiver need not state as a counterclaim any claim which he has against the debtor"; and the

following words shall be added at the end of the last sentence of Rule 13 (f): "or by commencing a new adversary proceeding or separate action."

(6) The following words shall be added at the beginning of Rule 17 (a): "Except as provided in Rules 8–204 (c) and 8–505 (e)."

(7) The reference in Rule 30 (a) to Rule 4 (e) shall be read as a reference to Bankruptcy Rule 704 (d)(1).

(8) The following is added at the end of paragraph one of Rule 65 (c): "The court may excuse compliance with this subdivision when the applicant is a trustee, receiver, or debtor."

(*b*) *Bankruptcy Rules.*—Bankruptcy Rules 704, 719 (b), 727, and 782 apply to adversary proceedings in a Chapter VIII case, except that:

(1) The reference in Bankruptcy Rule 704 (a) to "and shall forthwith issue a summons" shall be read as "and the district judge or clerk shall forthwith issue a summons," and the following sentence shall be added at the end of the last sentence of Rule 704 (a): "Unless the court otherwise directs, if the trustee or intervenors are not parties to the adversary proceeding, they shall be served with a copy of the complaint." The reference in Bankruptcy Rule 704 (f)(2) to Rule 220 shall be read as a reference to Rule 8–213.

(2) The reference in Bankruptcy Rule 719 (b) to "subdivision (a)" shall be read as a reference to "Rule 19 (a) of the Federal Rules of Civil Procedure."

(3) The references in Bankruptcy Rule 727 to Bankruptcy Rules 734 and 735 shall be read as references to Rules 34 and 35 of the Federal Rules of Civil Procedure.

(4) The second sentence of Bankruptcy Rule 782 is deleted.

PART VII. GENERAL PROVISIONS

Rule 8–701. General definitions.

The definitions of words and phrases in § 1 of the Act govern their use in these rules to the extent they are not

inconsistent with these rules. In addition, the following words and phrases used in these rules have the meanings herein indicated unless they are inconsistent with the context:

(1) "Accountant" includes an accounting partnership or corporation.

(2) "Act" means the Bankruptcy Act.

(3) "Affiliate" of a debtor means any person other than a railroad corporation who is (A) a corporation 25 per cent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor, or (B) a person who directly or indirectly owns, controls, or holds with power to vote, 25 per cent or more of the outstanding voting securities of the debtor, or (C) a corporation 25 per cent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by a person who directly or indirectly owns, controls, or holds with power to vote, 25 per cent or more of the outstanding voting securities of the debtor, or (D) a person substantially all of whose property is operated under lease or operating agreement by the debtor.

(4) "Application" includes any request to the court for relief that is not a pleading or proof of claim. An application not made in open court shall be in writing unless a writing is excused by the court. An application for an order against another party may be required to be made by motion.

(5) "Attorney" includes a law partnership or corporation.

(6) "Claims" includes debts, securities other than stock, liens, and all claims of whatever character against the debtor or its property whether or not provable under § 63 of the Act and whether secured or unsecured, liquidated or unliquidated, fixed or contingent.

(7) "Creditor" means the holder of any claim.

(8) "Controlled railroad corporation" means a railroad corporation 25 per cent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by a debtor.

(9) "Court" means the United States district court or a judge thereof.

(10) "Debtor" means a railroad corporation by or against which a Chapter VIII petition has been filed.

(11) "Leased line" means a railroad corporation substantially all of whose properties are operated by a debtor under lease or operating agreement.

(12) "Motion" means an application to the court for an order in an adversary proceeding or in a proceeding on a contested petition or to determine any other contested matter. Unless made during a hearing or trial, a motion shall be made in writing, shall conform substantially to a pleading in form, shall state with particularity the grounds therefor, and shall set forth the relief or order sought.

(13) "Person" includes an individual, corporation, partnership, association, joint-stock company, unincorporated organization, or a government or unit thereof.

(14) "Plan" means a plan of reorganization in a Chapter VIII case.

(15) "Railroad corporation" means a corporation which is a common carrier by railroad engaged in the transportation of persons or property in interstate commerce, except a street, suburban, or interurban electric railway which is not operated as a part of a general railroad system of transportation or which does not derive more than 50 per cent of its operating revenue from the transportation of freight in standard steam railroad freight equipment.

(16) "Securities" includes notes, bonds, and other evidences of indebtedness, either secured or unsecured, beneficial interests, and certificates of beneficial interest in property and stock.

(17) "Stock" includes membership, shares, and similar interests in the debtor, voting trust certificates, and options and warrants to receive or to subscribe for stock.

(18) "Stockholder" means the holder of any stock.

Rule 8–702. Meanings of words in the Federal Rules of Civil Procedure and Bankruptcy Rules when applicable in Chapter VIII cases.

The following words and phrases used in the Federal Rules of Civil Procedure or Bankruptcy Rules made applicable in Chapter VIII cases shall have the meanings herein indicated unless they are inconsistent with the context:

(*1*) *Federal Rules of Civil Procedure.*—"Action" or "civil action" means an adversary proceeding or, when appropriate, a Chapter VIII case, or a proceeding on a contested petition or to determine any other contested matter.

(*2*) *Bankruptcy Rules.*

(A) "Bankrupt" means debtor.

(B) "Bankruptcy" or "bankruptcy case" means Chapter VIII case.

(C) "Court," "referee," or "bankruptcy judge" means the United States district court or a judge thereof.

(D) "Receiver," "trustee," "receiver in bankruptcy," or "trustee in bankruptcy" means the receiver, trustee, or debtor in the Chapter VIII case.

Rules 8–703. Applicability of Federal Rules of Civil Procedure and Bankruptcy Rules.

(*a*) *Federal Rules of Civil Procedure.*—Rules 6, 43–46, 53, 58–63, 65.1, 77, 79, and 80 of the Federal Rules of Civil Procedure apply in Chapter VIII cases, except that:

(1) The references in Rule 6 (b) to various rules shall also include a reference to Rule 8–202 (a).

(2) The following shall be added to Rule 6: "(f) Reduction. When by these rules or by a notice given

thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for cause shown may in its discretion with or without application or notice order the period shortened; but it may not reduce the time for taking any action under Rules 8–304 (a), 8–307 (a), 8–310 (a), and 8–513."

(3) The reference in Rule 43 (e) to "Evidence on Motions" shall be read as "Evidence on Motions or Applications," and the reference to "When a motion is based on facts not appearing in the record" shall be read as "When a motion or application is based on facts not appearing in the record."

(4) The reference in Rule 53 (a) to "may appoint a special master therein" shall be read as a reference to "may appoint as a special master a person designated eligible by the appropriate court of appeals." The second sentence of Rule 53 (a) is deleted.

(5) The following clause shall be added at the end of the second sentence of Rule 60 (b): "except that a motion to reopen a case or for reconsideration of an order allowing or disallowing a claim against the debtor entered without a contest is not subject to the one-year limitation."

(6) The following shall be added to Rule 62: "(i) Effect of Appeal on Unstayed Order. 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."

(7) The sentence in Rule 65.1 "His liability may be enforced on motion without the necessity of independent action" shall be read as "His liability may be enforced in an adversary proceeding governed by the rules in Part VI." The last sentence of Rule 65.1 is deleted.

(8) The reference in Rule 79 to "civil docket" shall be read as "bankruptcy docket."

(*b*) *Bankruptcy Rules.*—Bankruptcy Rules 508, 903, 904, 907–909, 911, 912, 915, 918, 927, and 928 apply in Chapter VIII cases, except that the reference in Rule 915 to Rule 112 shall be read as a reference to Rule 8–110.

Rule 8–704. Service and Filing of Applications, Motions, and Other Papers.

(*a*) *Service on trustee and intervenors: When required.*—Except as otherwise provided in these rules or by order of the court, every order required by its terms to be served, every appearance, objection, application, motion, or paper relating to discovery, other than an application or motion which may be heard ex parte, shall be served on the trustee and intervenors.

(*b*) *Service: How made.*—Whenever under these rules service is required or permitted to be made on a person represented by an attorney the service shall be made upon the attorney unless service on the person himself is ordered by the court. Service on the attorney or on the person shall be made by delivering a copy to him or by mailing it to him at his last known address or, if no address is known, by leaving it with the clerk of the court. Delivery of a copy within this rule means: handing it to the attorney or to the person to be served; or leaving it at his office with his clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. Service by mail is complete on mailing.

(*c*) *Filing.*—All papers after the petition required to be served shall be filed with the court either before service or within a reasonable time thereafter. The court may prescribe the number of copies to be filed.

(*d*) *Filing with the court.*—The filing of papers with the court as required by these rules shall be made by filing them with the clerk of the court, except that the judge may permit the papers to be filed with him, in which event he shall note thereon the filing date and forthwith transmit them to the office of the clerk.

Rule 8–705. Procedure in contested matters not otherwise provided for.

In a contested matter in a Chapter VIII case not otherwise governed by these rules, relief shall be requested by motion, and reasonable notice and opportunity for hearing shall be afforded the party against whom relief is sought. No responsive pleading is required under this rule, but the court may order an answer to a motion. In all such matters, unless the court otherwise directs, the following Federal Rules of Civil Procedure shall apply: 21, 25, 26, 28–30 (as Rule 30 is modified by Rule 8–602 (a)(7)), 31–37, 41, 42, 52, 54–56, 62, 64, 69, and 71. The court may at any stage in a particular matter direct that one or more of the other Federal Rules of Civil Procedure, as incorporated and modified by Rule 8–602, shall apply. A person who desires to perpetuate his own testimony or that of another person regarding any matter that may be cognizable and relevant in a contested matter in a pending Chapter VIII case may proceed in the same manner as provided in Bankruptcy Rule 727 for the taking of a deposition before an adversary proceeding. Notice of an order or direction under this rule shall be given when necessary or appropriate to assure to the parties affected a reasonable opportunity to comply with the procedures made applicable by the order.

Rule 8–706. Representation and appearances; power of attorney.

(*a*) *Authority to act personally or by attorney.*—Subject to the provisions of Rule 8–211, a debtor, creditor,

stockholder, indenture trustee, committee or group, or any other person may in a Chapter VIII case (1) appear and act in his own behalf or by an attorney authorized to practice in the court, and (2) perform any act not constituting the practice of law, by an authorized agent, attorney in fact, or proxy.

(*b*) *Notice of appearance.*—An attorney appearing in a Chapter VIII case shall file a notice of appearance with his name, business address, and telephone number unless his appearance is otherwise noted in the record.

(*c*) *Power of attorney.*—The authority of any agent, attorney in fact, or proxy for any purpose other than the execution and filing of a proof of claim or any acceptance or rejection of a plan shall be evidenced by a written power of attorney acknowledged before an officer authorized to administer oaths in proceedings before courts of the United States or under laws of the state where the oath is to be taken, or a diplomatic or consular officer of the United States in any foreign country.

OFFICIAL CHAPTER VIII 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. 8–1

VOLUNTARY PETITION UNDER CHAPTER VIII

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

In re
.....,
Debtor

Bankruptcy No. .....
Chapter VIII

VOLUNTARY PETITION UNDER CHAPTER VIII

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

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

3. Petitioner's railroad line is operated in the state of .....
[*or* in the states of ..... and .....]
and its principal operating office [*or* executive office] has been 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. Petitioner's most recent annual report and financial statements as required by the Interstate Commerce Commission to be filed with the Commission are attached.

6. The assets, liabilities, and the capital stock of the petitioner are substantially as follows:

(a) Assets.

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(i) Rail Lines: The rail lines of petitioner consist of ..... track miles and ..... route miles.

(ii) Equipment: The following rolling stock and equipment is owned or leased by petitioner [state the number of locomotives, general box cars, and other types of equipment]:

.....

.....

.....

(iii) Nonrailroad: The principal nonrailroad assets of the petitioner are:

.....

.....

.....

(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 [set forth such additional information about the petitioner's financial condition as is necessary to enable the court to make findings with respect to its preliminary approval of the petition]: .....

.....

.....

7. No equity receivership or similar proceeding, 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: .....

.....

.....

8. No other petition by or against the petitioner is pending under Chapter VIII of the Act; nor is any proceeding involving the petitioner pending under § 20 (b) of the Interstate Commerce Act (49 U. S. C., § 20 (b)), except as follows: .....

.....

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

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

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

Telephone number: .....

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. 8–2

INVOLUNTARY PETITION UNDER CHAPTER VIII

[*Caption, other than designation, as in Form No. 8–1*]

INVOLUNTARY PETITION UNDER CHAPTER VIII

1. Petitioners, ..., of* ....., and .... of* ....., and ..... of* ....., are creditors of ....., debtor, of* ....., having claims against the debtor, amounting in the aggregate to not less than 5 percent of all the indebtedness of the debtor as shown on the latest annual report filed by the debtor with the Interstate Commerce Commission. The nature and amount of petitioners' claims are as follows: ....

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

3. The debtor's railroad line is operated in the state of ..... [*or* in the states of ..... and .....], and its principal operating office [*or* executive office] has been within this 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 debtor's most recent annual report and financial statements as required by the Interstate Commerce Commission to be filed with the Commission are attached.

6. The assets, liabilities, and the capital stock of the debtor are substantially as follows [complete the remaining portion of this paragraph to the extent possible]:

(a) Assets.

(i) Rail Lines: The rail lines of the debtor consist of ..... track miles and ..... route miles.

(ii) Equipment: The following rolling stock and equipment is

**State post-office address.*

owned or leased by the debtor [state the number of locomotives, general box cars, and other types of equipment]: .....
.....
.....

(iii) Nonrailroad: The principal nonrailroad assets of the debtor are: .....
.....
.....

(b) Liabilities. The principal liabilities of the debtor consist of
.....
.....
.....

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

Authorized:
.....
.....
.....

Issued and outstanding:
.....
.....
.....

(d) Other facts, if any, affecting financial condition [set forth such additional information about the debtor's financial condition as is necessary to enable the court to make findings with respect to its preliminary approval of the petition]: .....
.....
.....

7. No equity receivership or similar proceeding, 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: .....
.....
.....

8. No other petition by or against the debtor is pending under Chapter VIII of the Act; nor is any proceeding involving the debtor pending under § 20 (b) of the Interstate Commerce Act (49 U. S. C. § 20 (b)), except as follows: .....
.....
.....

Wherefore petitioner[s] pray for relief in accordance with Chapter VIII of the Act.

Signed: .....,
Attorney for Petitioner(s).
Address: .....,
.....
Telephone number: .....

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

I, ..., the petitioner [*or* 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. 8–3

SUMMONS TO DEBTOR

[*Caption, other than designation, as in Form No. 8–1*]

SUMMONS

To the above-named debtor:

An involuntary petition for your reorganization under Chapter VIII 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 petitioner's 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.

.....,
Clerk of the District Court.

[Seal of the United States District Court]

Date of issuance: .....

FORM NO. 8–4

ORDER FOR AND NOTICE OF HEARING ON APPOINTMENT OF TRUSTEE, COMBINED WITH NOTICE OF PROOF OF CLAIM PROCEDURE AND OF AUTOMATIC STAY

[*Caption, other than designation, as in Form No. 8–1*]

ORDER FOR AND NOTICE OF HEARING ON APPOINTMENT OF TRUSTEE, COMBINED WITH NOTICE OF PROOF OF CLAIM PROCEDURE 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 VIII of the Bankruptcy Act, it is ordered, and notice is hereby given, that:

1. A hearing on the appointment of a trustee shall be held at ....., on ..... at ..... o'clock ..m.

2. [*If appropriate*] On or before..... suggestions of persons qualified to serve as trustee may be submitted to the court at .....

3. The last date for filing an answer to the petition by any creditor, indenture trustee, or stockholder is the day prior to the date of the hearing set in paragraph 1. If a timely answer is filed, the court will consider such answer at the hearing on appointment of a trustee.

4. The trustee [*or* debtor] has filed or will file a list of creditors and stockholders pursuant to Chapter VIII Rule 8–106 of the Rules of Bankruptcy Procedure. In order to vote on a plan or share in any distribution, a creditor who is not listed, and a creditor whose claim is listed as disputed, contingent, or unliquidated as to amount, must file a proof of claim on or before a date which

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**State post-office address.*

will be fixed and of which you will be notified by mail if your address is known. A creditor who desires to assert a claim different in amount or character from his claim as listed, must file a proof of claim within the time to be fixed by the court. Holders of record of stock, bonds, debentures, notes, and other securities will be entitled to vote on a plan and share in the distribution under a plan based on their ownership of the securities at the times fixed under Rules 8–306 and 8–405. Holders of nonregistered securities (securities for which no formal transfer records are maintained by or for the debtor) will be entitled to share in distribution under a plan if the filed list includes the outstanding indebtedness of the entire securities issue. The filing of a proof of claim covering the entire indebtedness by a trustee under a trust indenture will also establish the right of a holder of a security under the indenture to share in distribution under a plan. However, since the filed list or the proof of claim of a trustee under a trust indenture may not indicate who owns nonregistered securities, it may be impossible to provide voting materials to nonregistered security holders. If you are the holder of a nonregistered security and you desire to vote on a plan, you must file a timely proof of claim.

You are further notified that:

The hearing on appointment of a trustee may be continued or adjourned from time to time by order made in open court, without further notice to creditors, indenture trustees, and stockholders.

The filing of the petition by [*or* against] the above-named debtor operates as a stay of the commencement or continuation of any action against the debtor, of any setoff by a creditor, of the enforcement of any judgment against the debtor, 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 8–501.

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

Dated: .....

....., *District Judge.*

**State post-office address.*

FORM NO. 8–5

NOTICE OF PROOF OF CLAIM PROCEDURE

[*Caption, other than designation, as in Form No. 8–1*]

NOTICE OF PROOF OF CLAIM PROCEDURE

To creditors and indenture trustees:

You are hereby notified that:

The ....., debtor, is in reorganization under Chapter VIII of the Bankruptcy Act, and the undersigned, ... of* ..... and ..... of *....., has [*or* have] been appointed trustee(s) of the debtor's estate.

As required by Chapter VIII Rule 8–106 of the Rules of Bankruptcy Procedure, a list of creditors has been filed which includes the amount and character of the debtor's obligation to each creditor. You appear on this list as a creditor.

Notwithstanding the inclusion of your claim on the list, under Rule 8–401 it may be necessary for you to file a proof of claim in this case in order to protect your interest.

A creditor whose claim is shown on the list as disputed, contingent, or unliquidated as to amount must file a proof of claim within the time prescribed in this notice. If a proof of claim is not filed by such creditor, he will not be entitled to share in any distribution under a plan or to vote on a plan.

A listed claim not shown as disputed, contingent, or unliquidated as to amount is deemed allowed unless an objection to allowance is filed. Notice of an objection to a claim will be given to the creditor involved. A creditor who is not satisfied that his claim as listed accurately reflects his claim against the debtor and who desires to assert a claim different in amount or character must file a proof of claim within the time prescribed in this notice.

It is the responsibility of each creditor to ascertain how his claim

---

**State post-office address.*

is shown on the list. The list is available for inspection at .....
.....

Pursuant to an order entered in this case on ....., proofs of claim must be filed on or before ....., with ..... at .....
[*or, if appropriate,* proofs of claim must be filed prior to the approval of a plan]. A proof of claim must comply with the formalities specified in Rule 8–401 (b)(5) [*and, if appropriate,* be filed on the form prescribed by the court and appended to this notice].

Dated: .....

Signed: .....,
.....,
Trustee(s).

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

FORM No. 8–6

ORDER APPROVING PLAN

[*Caption, other than designation, as in Form No. 8–1*]

ORDER APPROVING PLAN

A plan under Chapter VIII of the Bankruptcy Act for.....
..... having been certified to this court by the Interstate Commerce Commission; and

It having been determined after hearing on notice that:

1. The provisions of § 77 (b) of the Act have been complied with; and

2. The plan is fair and equitable, affords due recognition to rights of each class of creditors or stockholders with no unfair discrimination among classes of creditors and stockholders, and conforms to the law regarding participation of the various classes of creditors and stockholders; and

3. To the extent ascertainable the expenses and fees incident to this case have been disclosed, the amounts of expenses and fees provided for by the plan are within the limits set by the Interstate Commerce Commission, and such expenses and fees have been approved by this court as reasonable [*or* the reasonableness of such expenses and fees is subject to approval by this court]; and

4. The plan provides for payment of all costs of administration and all other allowances made or to be made by this court;

It is ordered and notice is hereby given that:

A. The plan certified by the Interstate Commerce Commission to this court on ..... is approved.

B. ..... is fixed as the last day for filing written acceptances or rejections of the plan.

C. Within ..... days after the entry of this order the trustee shall transmit by mail to creditors, stockholders, and other parties in interest as provided in Rule 8–306 who are members of the classes of creditors, stockholders, and other parties in interest entitled to accept or reject the plan, as summary of such plan approved by the court, a summary approved by the court of its opinion, dated ....., approving the plan, a summary of the report of the Interstate Commerce Commission, dated ....., prepared by the Commission, and a form of ballot conforming substantially to Official Form No. 8–7 [*or, if appropriate,* a copy of the ballot appended to this order].

Dated: .....

....., *District Judge.*

[*If the court directs that a copy of the plan, opinion, or the 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. 8–7

BALLOT FOR ACCEPTING OR REJECTING PLAN

[*Caption, other than designation, as in Form No. 8–1*]

BALLOT FOR ACCEPTING OR REJECTING PLAN

The plan referred to in this ballot has been approved by the court on ..... *and can be confirmed by the court and thereby made binding on you if it is accepted by the holders of two-thirds in amount of claims in each class and the holders of two-thirds of the stock in each class voting on the plan. In the event the requisite acceptances are not obtained, the court may nevertheless confirm the plan if the court finds that the plan accords fair and equitable treatment to those rejecting it, and that in light of all the circumstances the rejection is not reasonably justified. To have your vote count you must complete and return this ballot.*

[*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, with a stated maturity date of .... [*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.

Dated: .....

Print or type name: .....
Signed: .....,
[*If appropriate*] By: .....,
as: .....
Address: .....,
.....
Return this ballot on or before ..... to:
Name: .....,
Address: .....,
.....

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

FORM NO. 8–8

ORDER CONFIRMING PLAN

[*Caption, other than designation, as in Form No. 8–1*]

ORDER CONFIRMING PLAN

A plan under Chapter VIII of the Bankruptcy Act and related documents or summaries thereof having been submitted in conformity with Rule 8–305 to creditors and stockholders entitled to vote on such plan; 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;

It is ordered that:

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

Dated: .....

.....,
District Judge.

RULES OF BANKRUPTCY PROCEDURE

TITLE III

CHAPTER IX RULES

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TITLE III
CHAPTER IX RULES

Rule 9–1. Scope of Chapter IX rules and forms; short title.

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

Rule 9–2. Commencement of Chapter IX case.

A Chapter IX case is commenced by the filing with the court of a petition seeking relief under Chapter IX of the Act.

Rule 9–3. Petition.

A petition under Chapter IX of the Act shall conform substantially to Official Form No. 9–F1. An original and 4 copies of the petition shall be filed, unless additional copies are required by local rule. The clerk of the district court shall transmit one copy to the Securities and Exchange Commission and one copy to the Secretary of State of the state in which the petitioner is located.

Rule 9–4. Stay of actions against petitioner and lien enforcement.

(*a*) *Automatic stay of actions and lien enforcement.*— A petition filed under Rule 9–3 shall operate as a stay of the commencement or the continuation of any court or other proceeding against the petitioner or any officer or inhabitant thereof, which seeks to enforce any claim against the petitioner, or of any act or the commencement or continuation of any court or other proceeding to enforce a lien on the property of the petitioner or a lien on or arising out of taxes or assessments due the

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petitioner, and shall operate as a stay of the enforcement of any setoff or counterclaim relating to a contract, debt, or obligation of the petitioner.

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

(*c*) *Relief from automatic stay.*—On the filing of a complaint seeking relief from a stay provided by subdivision (a) of this rule, the court shall set the trial for the earliest possible date. The court may, for cause shown, terminate, annul, modify or condition such stay. A party seeking continuation of the stay shall show that he is entitled thereto.

(*d*) *Other stays.*—The commencement or continuation of any other act or proceeding may be stayed, restrained, or enjoined pursuant to Rule 65 of the Federal Rules of Civil Procedure, except that a temporary restraining order or preliminary injunction may be issued without compliance with subdivision (c) of that rule.

Rule 9–5. 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 petitioner and such other names used by it as are necessary to assure adequate identification.

Rule 9–6. Filing fees.

Every petition shall be accompanied by the prescribed filing fees.

Rule 9–7. Lists of creditors and owners of real property.

(*a*) *List of creditors.*—The petitioner shall file with the court, within such time as the court may fix, a list of the petitioner's creditors of each class, showing the

amounts and character of their claims, whether secured or unsecured, the nature of any security, 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. The petitioner shall supplement the list as creditors who were unknown or unidentified at the time the list was filed become known or identified to the petitioner.

(*b*) *List of owners of real property.*—If a plan proposed pursuant to Rule 9–24 (a) requires a revision of assessments so that the proportion of special assessments or special taxes to be assessed against some real property will be different from the proportion in effect at the date the petition pursuant to Rule 9–3 is filed, the petitioner shall also file with the court a list showing the names and addresses, so far as known, of the holders of record of title, legal or equitable, to such real property adversely affected.

(*c*) *Modification of requirements.*—The court, on application, may for cause shown modify the requirements of subdivisions (a) and (b) of this rule.

Rule 9–8. Verification of petitions and lists.

All petitions, lists, and amendments thereto shall be verified.

Rule 9–9. Amendments of petitions and lists.

(*a*) *Petitions.*—A 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 9–11. 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.*—A list of creditors or holders of record of title to real property filed pursuant to Rule 9–7 may be amended as a matter of course at any time before expiration of the time fixed for filing claims pursuant to

Rule 9–22. 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 of any party in interest, or on its own initiative, order any list 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 9–10. Responsive pleading.

(*a*) *Time for filing answer.*—Any party in interest may serve and file an answer to a petition not later than 15 days after the publication of notice required by Rule 9–14 (h)(1) is completed. A timely answer filed under this subdivision 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.

(*c*) *Other responsive pleading.*—No other responsive pleading 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 9–11. Preliminary approval; hearing; disposition of petition.

(*a*) *Preliminary approval or other disposition of petition.*—On the filing of a petition, the court, with or without a hearing, shall enter an order approving the petition if satisfied that it complies with the requirements of Chapter IX 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*) *Hearing and disposition of petition after answer.*—If a timely answer is filed, the court shall hold a hearing at the meeting of creditors provided for in Rule 9–17 or at such earlier time as the court may fix 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.

Rule 9–12. Venue and transfer.

(*a*) *Proper venue.*—A petition filed pursuant to Rule 9–3 may be filed in the district in which the petitioner is located.

(*b*) *Transfer or retention when venue improper.*—If a petition is filed in a wrong district, the court may, after hearing on notice to the petitioner and such other persons as it may direct, transfer the case to the proper district or in the interest of justice retain the case.

Rule 9–13. Reference to a referee.

The court may refer any special issue of fact to a referee in bankruptcy for consideration, the taking of testimony, and a report on such special issue of fact, if the court finds that the condition of its docket is such that it cannot take such testimony without unduly delaying the dispatch of other business pending in the court, and if it appears that such special issue is necessary to the determination of the case. A reference to a referee in bankruptcy shall be the exception and not the rule. The court shall not make a general reference of the case, but may only request findings of specific facts.

Rule 9–14. Notices.

(*a*) *Notice of meeting of creditors.*—The petitioner shall give all creditors included on the list of creditors and any supplemental list filed pursuant to Rule 9–7 (a) and such other persons as the court may designate at least 30 days' notice by mail of the meeting held

pursuant to Rule 9–17. Such notice shall be published as provided in subdivision (h) of this rule and shall conform substantially to Official Form No. 9–F2.

(*b*) *Twenty-day notice.*—Except as provided hereinafter, the petitioner shall give all creditors included on the list of creditors and any supplemental list filed pursuant to Rule 9–7 (a) and such other persons as the court may designate at least 20 days' notice by mail of (1) the hearing on the dismissal of a case when notice is required by Rule 9–28; and (2) the time fixed for filing objections to confirmation of a plan.

(*c*) *Other notices.*—Except as provided hereinafter, the petitioner shall give notice by mail to all creditors included on the list of creditors and any supplemental list filed pursuant to Rule 9–7 (a) and such other persons as the court may designate of (1) dismissal of the case pursuant to Rule 9–28; (2) the time fixed for filing proofs of claim pursuant to Rule 9–22 (b)(1); (3) the time fixed for accepting or rejecting a plan pursuant to Rule 9–25; (4) the time fixed to reject a modification of a plan pursuant to Rule 9–26; (5) the hearing on confirmation of a plan pursuant to Rule 9–27; (6) confirmation of a plan pursuant to Rule 9–27; and (7) the order approving the deposit pursuant to Rule 9–31.

(*d*) *Notice to record owners of real property.*—Except as provided hereinafter, when a list of record owners of title to real property has been filed pursuant to Rule 9–7 (b) all notices required by this rule shall be mailed to such owners.

(*e*) *Limitation on notices to creditors.*—The court may direct that all notices required by subdivisions (b) and (c) of this rule other than clause (2) of subdivision (c) be mailed only to creditors and listed record owners of real property who file with the court a request that all notices under this rule be mailed to them, or who may be otherwise designated by the court. The notice of the

meeting mailed and published pursuant to subdivisions (a) and (h) of this rule shall state that creditors and listed record owners of real property who do not file such a request may not receive subsequent notices of proceedings in the case.

(*f*) *Addresses of notices.*—All notices to which a creditor or owner of real property 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 to the address so stated.

(*g*) *Notices to the United States and state.*—Notwithstanding subdivision (e) of this rule, copies of all notices required to be mailed to creditors under these rules shall be mailed to the Secretary of the Treasury of the United States, to the Securities and Exchange Commission and to the Secretary of State of the state in which the petitioner is located.

(*h*) *Notice by publication.*

(*1*) *Notice of meeting of creditors or dismissal of the case.*—The notice of the meeting required by subdivision (a) of this rule, or the notice of the dismissal of the case pursuant to Rule 9–28, shall also be published at least once a week for 3 successive weeks in at least one newspaper of general circulation published within the district in which the case is pending, and in such other paper or papers having a general circulation among bond dealers and bondholders as may be designated by the court, and in such other publication as the court may direct. The notice of the meeting shall be first published as soon as practicable after the filing of the petition and shall be completed at least 30 days before the date fixed for the meeting.

(*2*) *Other notices.*—The court may order publication of any notice, other than notice of the meeting of cred-

itors or dismissal of the case, in such form and manner as it may direct.

(*i*) *Caption.*—The caption of every notice given under this rule shall comply with Rule 9–5.

(*j*) *Cost of notice.*—The expense of giving a notice required by this rule shall be paid by the petitioner, unless the court, for cause shown, finds that such expense should be borne by another party.

Rule 9–15. Standing to be heard; intervention.

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

(1) The petitioner, any creditor, and any record owner of title to real property who is included on the lists filed pursuant to Rule 9–7 (b) shall have the right to be heard on all matters arising in a Chapter IX case.

(2) The court may permit, for cause shown, a labor union or employees' association, representative of employees of the petitioner, to be heard on the economic soundness of a plan affecting the interests of the employees.

(*b*) *Right of governmental bodies to intervene.*—The Secretary of the Treasury and the Securities and Exchange Commission may or, if requested by the court, shall intervene in a Chapter IX case. Representatives of the state in which the petitioner is located may intervene in a Chapter IX case. Any person intervening under this subdivision shall be deemed a party in interest with the right to be heard on all matters in the case except that the Securities and Exchange Commission may not appeal from any order of the court.

Rule 9–16. Representation of creditors.

(*a*) *Data required.*—Every person, organization, group, or committee representing more than one party in interest shall file a signed statement with the court setting forth (1) the names and addresses of such parties in interest; (2) the amount, class and character of their

securities, if any; and (3) a recital of the pertinent facts and circumstances in connection with the employment of such person or organization, and, in the case of a group or committee, the name or names of the person or persons at whose instance, directly or indirectly, such employment was arranged or the group or the committee was organized or agreed to act. The statement shall include a copy of the instrument or instruments signed by the holders of the securities showing the authority of such holders to enter into the agreement between such person, organization, group, committee, and creditors represented by it or them and a copy of such agreement. The agreement shall disclose all compensation to be received, directly or indirectly, by such person, organization, group, or committee, and such compensation shall be subject to modification and approval by the court. 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, group, organization, or committee or any other impropriety in connection with any solicitation and, if it so determines, the court may refuse to permit any such person, group, organization, or committee to be heard further or to intervene in the case or make such other orders as may be appropriate; (2) may examine any representation provisions of a deposit agreement, proxy, committee, or other authorization, and any claim acquired by such person, group, organization, or committee in contemplation or in the course of a case under the Act and make such other orders as may be appropriate; and (3) may hold invalid any authority or acceptance given, procured, or received by a person,

group, organization, or committee who has not complied with subdivision (a) of this rule.

Rule 9–17. Meeting of creditors.

(*a*) *Date and place.*—A meeting of creditors shall be held not less than 30 nor more than 90 days after the approval of a petition commencing a Chapter IX 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, (1) the petitioner shall report on the status of the case, and (2) the judge may classify claims, may determine which claims are entitled to vote and which have voted for acceptance of a plan and shall preside over the transaction of such other business as is proper under Chapter IX of the Act.

Rule 9–18. Qualification by disbursing agent; bonds.

(*a*) *Qualifying bond or security.*—Every person specially appointed as disbursing agent 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*) *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 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 bond of a disbursing agent more than 2 years after his discharge.

Rule 9–19. Compensation for services and reimbursement of expenses.

(*a*) *Application for compensation and reimbursement.*—A person seeking compensation 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 the petitioner, 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 Chapter IX of the Act. The application 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 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 petitioner.*—Every attorney retained by the petitioner in connection with the Chapter IX case, 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 9–17, 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.*—Reasonable compensation and reimbursement of expenses may be allowed by the court to committees or other representatives of creditors, the attorneys or agents for any of them, and to the attorney for the petitioner, for services rendered and expenses incurred in connection with the case, including services and expenses in obtaining the deposit of securities or preparation of the plan. No compensation for services or reimbursement of expenses shall be assessed against the petitioner or its revenues, property, or funds except as provided in the plan.

(*2*) *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 petitioner, or beneficial interests direct or indirect in such claims, or by whom or for whose account such claims or beneficial interests therein have been otherwise acquired or transferred.

(*d*) *Restriction on sharing of compensation.*—Except as herein provided, a person rendering services in a Chapter IX case or in connection with such a case shall

not in any form or guise share or agree to share the compensation paid or to be paid for such services with any other person, nor shall he share or agree to share in the compensation of any other person rendering services in connection with such a case. This rule does not prohibit an attorney or accountant from sharing his compensation 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 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 9–21 to which he is a party, or may enter such other order as may be appropriate.

Rule 9–20. 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. Notice of such hearing shall be given to the applicants, the petitioner and such other persons and in such manner as the court may direct.

Rule 9–21. Examination of petitioner's transactions with its attorney.

(*a*) *Payment to attorney in contemplation of Chapter IX case.*—On motion by any party in interest or on the court's own initiative, the court may examine any payment by the petitioner, made directly or indirectly and in contemplation of the filing of a petition under Chapter IX of the Act, to an attorney for services rendered or to be rendered.

(*b*) *Invalidation of unreasonable payment.*—Any payment examined under this rule shall be valid only to the extent of a reasonable amount as determined by the court. The court may enter an order in favor of the pe-

titioner in the amount of any excess found to have been paid.

Rule 9–22. Proof of claim.

(*a*) *List of claims.*—The list of claims prepared and filed with the court pursuant to Rule 9–7 shall constitute prima facie evidence of the validity and amount of claims which are not listed as disputed, contingent, or unliquidated as to amount and, except as provided in subdivision (b)(3) of this rule, it shall not be necessary to file a proof of such claim.

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

(*1*) *Time for filing.*—A proof of claim may be filed at any time prior to the confirmation of a plan except that the court may fix a different bar date for the filing of claims on notice as provided in Rule 9–14.

(*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. Within 30 days after the filing of the list pursuant to Rule 9–7, the court shall give notice by mail to all creditors required under this paragraph to file a proof of claim. The notice shall conform substantially to Official Form No. 9–F2A.

(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 9–7.

(5) *Form and place of filing.*—A proof of claim shall consist of a statement in writing setting forth a creditor's claim and shall be executed by the creditor or by his authorized agent. Unless otherwise directed, a proof of claim shall be filed with the court.

(6) *Filing by indenture trustee.*—An indenture trustee may file claims of 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 petitioner.

(d) *Duty to examine and object to claims.*—The petitioner 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, a claim filed or listed in accordance with this rule or Rule 9–7, 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 at least 10 days' notice of a hearing thereon shall be mailed or delivered to the claimant and the petitioner.

(g) *Classification of claims.*—For the purposes of the plan and its acceptance, the court, after hearing on such notice as it may direct, may designate classes of creditors whose claims are of substantially similar character and

the members of which enjoy substantially similar rights, except that, for reasons of administrative convenience, the court may create a separate class of creditors having unsecured claims of less than $250.

(*h*) *Reconsideration of claims.*—A party in interest may move for reconsideration of an order allowing or disallowing a claim. If the motion is granted, the court, after hearing on notice, may make such further order as may be appropriate.

(*i*) *Proof of right to record status.*—For the purposes of Rules 9–25 and 9–29 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 9–23. 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 the creditor has accepted 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 petitioner, and on order of the court containing such terms and conditions as the court deems proper.

Rule 9–24. Filing of plan; transmission to creditors.

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

(*b*) *Transmittal of plan to creditors; adjourned meetings.*—If a plan is filed prior to mailing notice of the meeting of creditors, a copy of the plan or a summary thereof approved by the court and any analysis of such plan shall accompany the notice mailed to each creditor whose claim is affected by the plan, to each of the special

taxpayers affected by the plan, and to such other parties in interest as the court may designate. If the petitioner has not filed a plan prior to the first date set for the meeting of creditors, the court, at the meeting or thereafter, shall fix a time for filing a plan. If a plan is not filed prior to the mailing of notice of the meeting of creditors, the court, at the meeting, shall adjourn the meeting to a date certain. When a plan is filed, a copy or summary thereof approved by the court and any analysis of such plan and notice of a subsequent adjourned meeting date shall be mailed to the persons specified in this subdivision at least 10 days prior to such date. The court may adjourn a meeting of creditors from time to time to dates certain. In the event only a summary of the plan is transmitted, notice of the right to receive a copy of the plan on request without charge shall also be transmitted. For the purposes of this subdivision, creditors shall include holders of bonds, debentures, notes, and other securities of record as of the date of the transmittal of information pursuant to this subdivision.

Rule 9–25. Acceptance or rejection of plans.

(*a*) *Persons entitled to accept or reject plan; time for acceptance or rejection.*—At any time prior to the conclusion of the meeting of creditors, any creditor whose claim is deemed allowed pursuant to Rule 9–22 (e) or has been allowed by the court, and any creditor who is a security holder of record as of the date of the transmittal of information under Rule 9–24 (b) whose claim has not been disallowed, may accept or reject a plan. Acceptances may be obtained before or after the filing of the petition and may be filed with the court on behalf of the accepting or rejecting creditor. For cause shown and within the time fixed by this subdivision, the court may permit a creditor to change or withdraw his acceptance or rejection. Notwithstanding objection to a claim, the court may temporarily allow it to such extent

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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 of a plan shall be in writing, shall identify the plan accepted or rejected and shall be signed by the creditor or his authorized agent.

(*c*) *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.

Rule 9–26. Modification of plan before confirmation.

At any time prior to the acceptance of a plan by the requisite majority of creditors, the petitioner may file a modification thereof. After a plan has been so accepted and before its confirmation the petitioner may file a modification of the plan only with leave of court. The petitioner may also submit with the proposed modification written acceptances thereof by creditors. Subject to the provisions of this rule and with the written consent of the petitioner, any creditor may file a modification of a plan. If the court finds that a 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 creditors and other parties in interest at least 10 days before the time fixed in such order for filing rejections of the modification.

Rule 9–27. Confirmation of plan; deposit.

(*a*) *Objection 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 fixes a different time. A copy of any objection shall be mailed or delivered promptly to the petitioner, and to such other persons as may be designated by the court.

(*2*) *Hearing.*—The court shall hold a hearing to rule on confirmation of a plan on at least 20 days' notice to the petitioner, creditors, and other parties in interest as provided in Rule 9–14, whether or not any objections are filed.

(*b*) *Order of confirmation.*—The order of confirmation shall conform substantially to Official Form No. 9–F4 and notice of entry of the order of confirmation shall be mailed promptly to all parties in interest as provided in Rule 9–14.

(*c*) *Deposit.*—At the hearing on confirmation, the court shall (1) designate as disbursing agent the petitioner or a person specially appointed to distribute, subject to the control of the court, the consideration, if any, to be deposited by the petitioner; and (2) fix a time before final decree within which the petitioner shall deposit with the court or the disbursing agent, or in such place as shall be designated by and subject to the order of the court, the money or other consideration which under the plan is to be distributed to creditors after entry of the final decree.

Rule 9–28. Dismissal of case after approval of petition.

(*a*) *Permissive dismissal.*—The court may enter an order, after hearing on notice as provided in Rule 9–14, dismissing the case—

(1) for want of prosecution; or

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

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

(4) when the court has retained jurisdiction after confirmation of a plan—

(A) if the petitioner defaults in any of the terms of the plan; or

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

(*b*) *Mandatory dismissal.*—The court shall dismiss the case if confirmation is refused.

(*c*) *Notice to creditors.*—Promptly after entry of an order of dismissal under this rule notice thereof shall be given to creditors in the manner provided in Rule 9–14 (c).

Rule 9–29. Participation and distribution under plan.

(*a*) *Distribution.*—Subject to the provisions of subdivision (b) of this rule, and after entry of the order approving the deposit pursuant to Rule 9–31, distribution shall be made, in accordance with the provisions of the plan, to holders of bonds, debentures, notes, and other securities of record at the date the order confirming the plan becomes final whose claims have not been disallowed, to other creditors whose claims have been allowed, and to indenture trustees who have filed claims pursuant to Rule 9–22 (b)(6) which have been 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, such action shall be taken not later than 5 years after the entry of the order of confirmation. 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 9–30. Distributions; unclaimed money and securities.

(*a*) *Distributions.*—Except as otherwise provided in the plan, Bankruptcy Rule 308 applies in Chapter IX 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*) *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 9–29 (b), or any extension thereof, shall be delivered to the petitioner.

Rule 9–31. Order approving deposit; final decree; title.

(*a*) *Order approving deposit.*—After confirmation of the plan, and after the making of the deposit of the money, securities, or other consideration pursuant to Rule 9–27 to be distributed to creditors, and after the court finds that deposited securities, if any, are lawfully authorized, constitute valid obligations of petitioner and the provisions therein to pay and secure payment are valid, the court shall enter an order substantially conforming to Official Form No. 9–F9 approving the deposit, which order shall be mailed promptly to all parties in interest as provided in Rule 9–14.

(*b*) *Final decree.*—On execution of the plan, the court shall enter a final decree which shall contain provisions by way of injunction or otherwise as may be equitable and closing the case.

(*c*) *Evidence of title.*—A certified copy of an order providing for the transfer of title to any property dealt

with by the plan shall constitute conclusive evidence of such transfer of title.

Rule 9–32. Issuance of certificates of indebtedness.

When a motion is made for the issuance of a certificate of indebtedness, the court shall set a hearing on notice to such parties in interest as the court may direct.

Rule 9–33. 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 9–34. Preservation of voidable transfer.

Whenever any transfer is voidable by the petitioner, the court may determine, in an adversary proceeding in which are joined persons claiming interests or rights in the property subject to the transfer, whether the transfer shall be avoided only or shall be preserved for the benefit of the estate.

Rule 9–35. Proceeding to avoid indemnifying lien or transfer to surety.

If a lien voidable under § 67a of the Act has been dissolved by the furnishing of a bond or other obligation and the surety thereon has been indemnified by the transfer of, or the creation of a lien upon, property of the petitioner, the surety shall be joined as a defendant in any proceeding to avoid the indemnifying transfer or lien. Such proceeding is governed by Rule 9–37. If an order is entered for the recovery of indemnifying property in kind or for the avoidance of an indemnifying lien, the court, on motion by any party in interest, shall ascertain the value of such property or lien; if such value is less than the amount for which such property or lien is indemnity, the surety may elect to retain the property or lien on payment of the value so ascertained to the petitioner within such time as the court may fix.

Rule 9–36. Adversary proceedings.

Rule 9–37 governs any proceeding instituted by a party in a Chapter IX case to (1) recover money or property other than a proceeding under Rule 9–21; (2) determine the validity, priority, or extent of a lien or other interest in property; (3) obtain an injunction; or (4) obtain relief from a stay as provided in Rule 9–4. Such a proceeding shall be known as an adversary proceeding.

Rule 9–37. Applicability of Federal Rules of Civil Procedure and Bankruptcy Rules to adversary proceedings.

(*a*) *Federal Rules of Civil Procedure.*—Rules 3, 5, 7 (a), 8–10, 12–21, 22 (1), 23–26, 28–37, 41, 42, 52, 54–56, 64–65, and 67–71 of the Federal Rules of Civil Procedure apply to adversary proceedings in Chapter IX cases, except that:

(1) The reference in Rule 5 to Rule 4 shall be read as a reference to Bankruptcy Rule 704.

(2) The reference in Rule 8 to Rule 11 shall be read as a reference to Bankruptcy Rule 911.

(3) The reference in Rule 10 to "caption" shall be read as "caption conforming substantially to the caption of Official Form 9–F1."

(4) The following words shall be added at the beginning of Rule 12 (h)(3): "Subject to Bankruptcy Rule 915."

(5) The following clause shall be added at the end of the last sentence of Rule 13 (a): "(3) a party sued by the petitioner need not state as a counterclaim any claim which he has against the petitioner"; and the following words shall be added at the end of the last sentence of Rule 13 (f): "or by commencing a new adversary proceeding or separate action."

(6) The reference in Rule 30 (a) to Rule 4 (e) shall be read as a reference to Bankruptcy Rule 704 (d)(1).

(7) The following is added at the end of paragraph one of Rule 65 (c): "The court may excuse compli-

ance with this subdivision when the applicant is the petitioner."

(*b*) *Bankruptcy Rules.*—Bankruptcy Rules 704, 719 (b), 727, and 782 apply to adversary proceedings in a Chapter IX case, except that:

(1) The reference in Bankruptcy Rule 704 (a) to "and shall forthwith issue a summons" shall be read as "and the district judge or clerk shall forthwith issue a summons." The reference in Bankruptcy Rule 704 (f)(2) to Rule 220 shall be read as a reference to Rule 9–21.

(2) The reference in Bankruptcy Rule 719 (b) to "subdivision (a)" shall be read as a reference to "Rule 19 (a) of the Federal Rules of Civil Procedure."

(3) The references in Bankruptcy Rule 727 to Bankruptcy Rules 734 and 735 shall be read as references to Rules 34 and 35 of the Federal Rules of Civil Procedure.

(4) The second sentence of Bankruptcy Rule 782 is deleted.

Rule 9–38. General definitions.

The definitions of words and phrases in § 81 of the Act govern their use in the Chapter IX Rules to the extent they are not inconsistent therewith. In addition, the following words used in these rules have the meanings herein indicated unless they are inconsistent with the context:

(1) "Accountant" includes an accounting partnership or corporation.

(2) "Act" means the Bankruptcy Act.

(3) "Application" includes any request to the court for relief that is not a pleading or proof of claim. An application not made in open court shall be in writing unless a writing is excused by the court. An application for an order against another party may be required to be made by motion.

(4) "Attorney" includes a law partnership or corporation.

(5) "Claims" includes all claims of whatever character against the petitioner or the property of the petitioner, whether or not such claims are provable under § 63 of the Act and whether secured or unsecured, liquidated or unliquidated, fixed or contingent.

(6) "Court" means the United States district court or a judge thereof.

(7) "Creditor" means the holder of any claim.

(8) "Judge" means the United States district court or a judge thereof.

(9) "Motion" means an application to the court for an order in an adversary proceeding or in a proceeding on a contested petition or to determine any other contested matter. Unless made during a hearing or trial, a motion shall be made in writing, shall conform substantially to a pleading in form, shall state with particularity the grounds therefor, and shall set forth the relief or order sought.

(10) "Person" includes an individual, corporation, partnership, association, joint-stock company, unincorporated organization, or a government or unit thereof.

(11) "Special tax payer" means record owner or holder of title, legal or equitable, to real estate against which has been levied a special assessment or special tax the proceeds of which are the sole source of payment for obligations issued by the petitioner to defray the costs of local improvements.

Rule 9–39. Meanings of words in the Federal Rules of Civil Procedure and Bankruptcy Rules when applicable in Chapter IX Cases.

The following words and phrases used in the Federal Rules of Civil Procedure or Bankruptcy Rules made applicable in Chapter IX cases by these rules have the meanings herein indicated unless they are inconsistent with the context:

(1) Federal Rules of Civil Procedure.

"Action" or "civil action" means an adversary proceed-

ing or, when appropriate, a Chapter IX case, or a proceeding on a contested petition or to determine any other litigated matter.

(*2*) *Bankruptcy Rules.*

(A) "Bankrupt" means "petitioner."

(B) "Bankruptcy" or "bankruptcy case" means "Chapter IX case."

(C) "Court," "referee," or "bankruptcy judge" means the United States district court or a judge thereof.

(D) "Receiver," "trustee," "receiver in bankruptcy," or "trustee in bankruptcy" means "petitioner."

Rule 9–40. Applicability of Federal Rules of Civil Procedure and Bankruptcy Rules.

(*a*) *Federal Rules of Civil Procedure.*—Rules 6, 43–46, 58–63, 65.1, 77, 79, and 80 of the Federal Rules of Civil Procedure apply in Chapter IX cases, except that:

(1) The references in Rule 6 (b) to various rules shall also include a reference to Rule 9–17 (a).

(2) The following shall be added to Rule 6: "(f) Reduction. When by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for cause shown may in its discretion with or without application or notice order the period shortened; but it may not reduce the time for taking any action under Rules 9–14 (a) and 9–17 (a)."

(3) The reference in Rule 43 (e) to "Evidence on Motions" shall be read as "Evidence on Motions or Applications," and the reference to "When a motion is based on facts not appearing in the record" shall be read as "When a motion or application is based on facts not appearing in the record."

(4) The following clause shall be added at the end of the second sentence of Rule 60 (b): "except that a motion to reopen a case or for reconsideration of an order allowing or disallowing a claim against the petitioner

entered without a contest is not subject to the one-year limitation."

(5) The following shall be added to Rule 62: "(i) Effect of Appeal on Unstayed Order. Unless an order approving the issuance of a certificate of indebtedness is stayed pending appeal, 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 holder knows of the pendency of the appeal."

(6) The sentence in Rule 65.1 "His liability may be enforced on motion without the necessity of independent action" shall be read as "His liability may be enforced in an adversary proceeding governed by Rule 9–37."

(7) The reference in Rule 79 to "civil docket" shall be read as "bankruptcy docket."

(*b*) *Bankruptcy Rules.*—Bankruptcy Rules 508, 903, 904, 906 (e), 907–909, 911, 912, 915, 918, 927, and 928 apply in Chapter IX cases, except that the reference in Rule 915 to Rule 112 shall be read as a reference to Rule 9–10.

Rule 9–41. Service and filing of applications, motions, and other papers.

(*a*) *Service on petitioner: When required.*—Except as otherwise provided in these rules or by order of the court, every order required by its terms to be served, every appearance, objection, application, motion, or paper relating to discovery, other than an application or motion which may be heard ex parte, shall be served on the petitioner.

(*b*) *Service: How made.*—Whenever under these rules service is required or permitted to be made on a person represented by an attorney the service shall be made upon the attorney unless service on the person himself is ordered by the court. Service on the attorney or on the person shall be made by delivering a copy to him or by mailing it to him at his last known address or, if no address is known, by leaving it with the clerk of the

court. Delivery of a copy within this rule means: handing it to the attorney or to the person to be served; or leaving it at his office with his clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. Service by mail is complete on mailing.

(*c*) *Filing.*—All papers after the petition required to be served shall be filed with the court either before service or within a reasonable time thereafter. The court may prescribe the number of copies to be filed.

(*d*) *Filing with the court.*—The filing of papers with the court as required by these rules shall be made by filing them with the clerk of the court, except that the judge may permit the papers to be filed with him, in which event he shall note thereon the filing date and forthwith transmit them to the office of the clerk.

Rule 9–42. Procedure in contested matters not otherwise provided for.

In a contested matter in a Chapter IX case not otherwise governed by these rules, relief shall be requested by motion, and reasonable notice and opportunity for hearing shall be afforded the party against whom relief is sought. No responsive pleading is required under this rule, but the court may order an answer to a motion. In all such matters, unless the court otherwise directs, the following Federal Rules of Civil Procedure shall apply: 21, 25, 26, 28, 29, 30 as modified by Rule 9–37, 31–37, 41, 42, 52, 54–56, 62, 64, 69, and 71. The court may at any stage in a particular matter direct that one or more of the Federal Rules of Civil Procedure, as incorporated and modified by Rule 9–37, shall apply. A person who desires to perpetuate his own testimony or that of another person regarding any matter that may be cognizable and relevant in a contested matter in a

pending Chapter IX case may proceed in the same manner as provided in Bankruptcy Rule 727 for the taking of a deposition before an adversary proceeding. Notice of an order or direction under this rule shall be given when necessary or appropriate to assure to the parties affected a reasonable opportunity to comply with the procedures made applicable by the order.

Rule 9–43. Representation and appearances; power of attorney.

(*a*) *Authority to act personally or by attorney.*—Subject to the provisions of Rule 9–16, the petitioner, a creditor, indenture trustee, committee or group, or other person may in a Chapter IX case (1) appear and act in his own behalf or by an attorney authorized to practice in the court, and (2) perform any act not constituting the practice of law, by an authorized agent, attorney in fact, or proxy.

(*b*) *Notice of appearance.*—An attorney appearing in a Chapter IX case shall file a notice of appearance with his name, business address, and telephone number unless his appearance is otherwise noted in the record.

(*c*) *Power of attorney.*—The authority of any agent, attorney in fact, or proxy for any purpose other than the execution and filing of a proof of claim or any acceptance or rejection of a plan shall be evidenced by a written power of attorney acknowledged before an officer authorized to administer oaths in proceedings before courts of the United States or under laws of the state where the oath is to be taken, or a diplomatic or consular officer of the United States in any foreign country.

OFFICIAL CHAPTER IX 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, made applicable by Rule 9–40.]

FORM No. 9–F1

CHAPTER IX PETITION

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

In re
.....,
Petitioner.
Chapter IX Case No. .....

CHAPTER IX PETITION

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

2. Petitioner is located within this district.

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

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

5. Petitioner is authorized by State law to file this petition under Chapter IX of the Act.

6. [Petitioner has successfully negotiated a plan of adjustment of its debts with creditors holding at least a majority in amount of the claims of each class which are affected by that plan] *or*

[Petitioner has negotiated in good faith with its creditors and has failed to obtain, with respect to a plan of adjustment of its debts, the agreement of creditors holding at least a majority in amount of the claims of each class which are affected by that plan] *or*

[Negotiation of a plan of adjustment of petitioner's debts with creditors holding at least a majority in amount of the claims of each class affected by the plan is impracticable for the following reasons: .....
.....
.....] *or*

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

[Petitioner has a reasonable fear that a creditor may attempt to obtain a preference, as follows .....
.....
.....].

7. A copy of petitioner's proposed plan, dated ....., is attached [*or* Petitioner intends to file a plan pursuant to Chapter IX of the Act].

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

Signed: .....,
Attorney for Petitioner.
Address: .....,
.....,
Telephone number: .....

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

I, ..., the .....
[*state official title or an authorized agent*] of the political subdivision [or public agency *or* instrumentality] 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 ..... has been authorized.

.....

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

FORM NO. 9–F2

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

[*Caption, other than designation, as in Form No. 9–F1*]

ORDER FOR MEETING OF CREDITORS AND HEARING ON APPROVAL OF THE PETITION, COMBINED WITH NOTICE THEREOF AND OF AUTOMATIC STAY

To the petitioner, its creditors, and other parties in interest:

A petition having been filed on ..... by ....., the above-named petitioner of *....., seeking relief under Chapter IX of the Bankruptcy Act, it is ordered, and notice is hereby given, that:

1. The meeting of creditors shall be held at..... ....., on ..... at ..... o'clock .... M.

2. The last date for filing an answer to the petition by any party in interest 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 meeting of creditors].

3. The petitioner has filed or will file a list of claims pursuant to Rule 9–7. 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 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 claims on or before the date above fixed for the meeting [*or* 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 his claim is accurately listed.

4. [*If appropriate*] The hearing on confirmation of the plan, a copy of which is attached hereto, shall be held at a date to be later fixed [*or* at a date to be fixed at the meeting *or* at .... on ..... at .... *or* immediately following the conclusion of the meeting].

5. Creditors may file written objections to confirmation on or before ..... [*or* by a date to be later fixed].

You are further notified that:

The meeting [*if appropriate* and the hearing on confirmation] may be continued or adjourned from time to time by order made in open court, without further written notice to creditors.

At the meeting creditors may transact such business as may

**State post-office address.*

properly come before the meeting [*if appropriate* and file their acceptances or rejections of the plan].

The filing of the petition by the petitioner above-named operates as a stay of the commencement or the continuation of any action against the petitioner, its property, or an officer or inhabitant of the petitioner, which seeks to enforce any claim against the petitioner, or of any act or the commencement or continuation of any court or other proceeding to enforce a lien on the property of the petitioner, or a lien on or arising out of taxes or assessments due the petitioner, and of the enforcement of any set-off or counterclaim relating to a contract, debt, or obligation of the petitioner.

As provided in Rule 9–14 the court may direct that certain notices will not be mailed to creditors who do not file a written request with the court for receipt of all notices.

Dated: .....

.....,
District Judge.

FORM NO. 9–F2A

NOTICE TO CREDITORS WHOSE CLAIMS ARE LISTED AS DISPUTED, CONTINGENT, OR UNLIQUIDATED

[*Caption, other than designation, as in Form No. 9–F1*]

NOTICE TO CREDITORS WHOSE CLAIMS ARE LISTED AS DISPUTED, CONTINGENT, OR UNLIQUIDATED

To creditors whose claims are listed as disputed, contingent, or unliquidated as to amount:

You are hereby notified that:

The ....., petitioner, filed a petition on ..... seeking relief under Chapter IX of the Bankruptcy Act.

As required by Chapter IX Rule 9–7 of the Rules of Bankruptcy Procedure, a list of creditors has been filed which includes the amount and character of the petitioner's obligation to each creditor. You appear on this list as a creditor whose claim is listed as disputed, contingent, or unliquidated as to amount.

A creditor whose claim is shown on the list as disputed, contingent, or unliquidated as to amount must file a proof of claim within the time prescribed in this notice. If a proof of claim is not

filed, you will not be entitled to share in any distribution under a plan or to vote on a plan.

Pursuant to an order entered in this case on ....., proofs of claim must be filed on or before ....., with ..... at ..... [*or, if appropriate,* proofs of claim must be filed prior to the confirmation of a plan]. A proof of claim must comply with the formalities specified in Rule 9–22 (b)(5).

Dated: .....

....., *District Judge.*

FORM NO. 9–F3

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

[*Caption, other than designation, as in Form No. 9–F1*]

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

To the petitioner, its creditors, and other parties in interest:

A modification of the plan dated ..... having been proposed 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.

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

....., *District Judge.*

FORM No. 9–F4

ORDER CONFIRMING PLAN

[*Caption, other than designation, as in Form No. 9–F1*]

ORDER CONFIRMING PLAN

The petitioner's plan having been filed on ....., [*if appropriate,* as modified by a modification filed on ....,]; 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; and

2. That the provisions of Chapter IX have been complied with; that the proposal of the plan and its acceptance are in good faith; that there has been no illegal agreement or practice proscribed by § 86 (b) of the Act; that the plan is fair and equitable and feasible, and does not discriminate unfairly in favor of any creditor or class of creditors; and that the petitioner is not prohibited by law from taking any action necessary to be taken by it to carry out the plan; and

3. That all amounts to be paid by petitioner or by any person not including governmental entities, for services and expenses in the case or incident to the plan have been fully disclosed and are reasonable:

It is ordered that:

A. The petitioner's plan filed on ....., [*if appropriate,* as modified by a modification filed on ....,] a copy of which is attached hereto, is confirmed.

B. On or before ..... petitioner shall deposit with the court [*or* ..... of *....., the disbursing agent, *or* in .....] the money or other consideration which is to be distributed to creditors under the plan.

Dated: .....

....., *District Judge.*

**State post-office address and telephone number.*

FORM No. 9–F5

ORDER APPOINTING DISBURSING AGENT AND FIXING AMOUNT OF HIS BOND

[*Caption, other than designation, as in Form No. 9–F1*]

ORDER APPOINTING DISBURSING AGENT AND FIXING AMOUNT OF HIS BOND

1. ....., of *....., is hereby appointed disbursing agent in this case.

2. The amount of the bond of the disbursing agent is fixed at $.....

Dated: .....

....., *District Judge.*

FORM No. 9–F6

NOTICE TO DISBURSING AGENT OF HIS APPOINTMENT

[*Caption, other than designation, as in Form No. 9–F1*]

NOTICE TO DISBURSING AGENT OF HIS APPOINTMENT

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

You are hereby notified of your appointment as disbursing agent in this case. The amount of your bond has been fixed at $.....

Dated: .....

....., *District Judge.*

**State post-office address.*

FORM No. 9–F7

BOND OF DISBURSING AGENT

[*Caption, other than designation, as in Form No. 9–F1*]

BOND OF 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 disbursing agent in this case.

Dated: .....

....., ...

FORM No. 9–F8

ORDER APPROVING DISBURSING AGENT'S BOND

[*Caption, other than designation, as in Form No. 9–F1*]

ORDER APPROVING DISBURSING AGENT'S BOND

The bond filed by ..... of *..... as disbursing agent in this case is hereby approved.

Dated: .....

....., *District Judge.*

State post-office address.

FORM NO. 9–F9

ORDER APPROVING DEPOSIT AND DISCHARGING PETITIONER

[*Caption, other than designation, as in Form No. 9–F1*]

ORDER APPROVING DEPOSIT AND DISCHARGING PETITIONER

The petitioner having made the deposit required by the order of this court dated ..... confirming petitioner's plan [*and it having been determined after hearing on notice:

1. That the deposited securities are lawfully authorized and constitute valid obligations of petitioner; and

2. That the provisions in such securities to pay and secure payment are valid]:

It is ordered that:

A. The deposit is approved.

B. The plan is binding on all creditors affected by it, whether secured or unsecured, whether or not their claims have been filed or allowed, and whether or not such creditors have accepted the plan.

C. The petitioner is discharged from all debts and liabilities dealt with in the plan except as provided therein or in § 95 (b) (2) (B) of the Act, whether secured or unsecured, whether the claims have been filed or allowed, and whether or not the creditors holding such claims have accepted the plan.

Dated: .....

....., *District Judge.*

*The bracketed material should be included in the order if the deposit consists in whole or in part of securities.