

**FILED**

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NORTH CAROLINA**

**MAR 18 2020**

STEPHANIE J. BUTLER, CLERK  
U.S. BANKRUPTCY COURT  
EASTERN DISTRICT OF NC

**IN RE:**

**CHAPTER 12 DEBTOR DUTIES**

**GENERAL ORDER**

Local Rule 4002-1(e) and (f) of the Local Rules of the United States Bankruptcy Court for the Eastern District of North Carolina state the following:

Rule 4002-1  
DEBTOR DUTIES

- (e) CHAPTER 12 - DEBTOR DUTIES. The following shall apply in chapter 12 cases.
- (1) SCHEDULES AND STATEMENTS REQUIRED. The debtor shall comply with the requirements of Local Bankruptcy Rule 1007-1.
  - (2) MONTHLY REPORTS. The debtor shall file with the chapter 12 trustee monthly reports, the first report being due within 30 days following the end of the month in which the petition is filed or date of conversion from another chapter. Subsequent reports are due no later than the fifteenth day of each month thereafter. The reports shall contain:
    - (A) monthly receipts from every source;
    - (B) monthly disbursements by accounting classification;
    - (C) expenses charged and not paid;
    - (D) crop inventory (if applicable);
    - (E) livestock inventory (if applicable);
    - (F) tax deposit statement (if applicable).
  - (3) BOOKS OF ACCOUNT.
    - (A) The debtor shall close the present books of account as of the close of business on the date on which the petition is filed, or date of conversion from another chapter, and open new books of account and a bank account as of the opening of business on the next succeeding business day.
    - (B) In the new books of account, the debtor shall keep proper records of earnings, expenses, receipts, disbursements, and all obligations incurred and transactions had in the operation of the business. The debtor shall preserve proper vouchers for all payments made on account of the disbursements.
  - (4) INSURANCE COVERAGE. The debtor shall keep the property of the debtor and the bankruptcy estate insured in a manner and to the extent as may be deemed necessary with loss payable clauses, in the case of pledged or mortgaged property, in favor of the appropriate secured creditors as their interests may appear.
  - (5) TAX ACCOUNTS.
    - (A) The debtor shall segregate and hold separate and apart from all other funds, all monies withheld from employees or collected from others for taxes,

including social security taxes, under any law of the United States or any state or subdivision thereof.

- (B) The debtor shall deposit the funds so withheld or collected, together with the debtor's share of social security taxes, in a separate bank account simultaneously with the collection or withholding. The debtor shall pay from the bank account to the appropriate taxing authorities the amounts due at the times and in the manner prescribed by law.
  - (6) **BANKING INSTITUTION.** The debtor shall advise the of the name of the bank to be used as the debtor's depository within 14 days of the filing of the petition commencing the case under chapter 12 or date of conversion from another chapter.
  - (7) **FILING OF PLAN.** The debtor shall file a plan of reorganization within 90 days of the order for relief pursuant to 11 U.S.C. § 1221.
  - (8) **RELATIONSHIP WITH CREDITORS.** The debtor shall promptly respond to reasonable inquiries of creditors.
  - (9) **FILING OF AMENDED PLANS OR MODIFICATIONS TO PLANS.** The filing of an amended plan or modification to plan shall be accompanied by either a redlined copy of the plan, illustrating changes made to the last submitted plan, or by a summary or description of changes that the amended plan or modification to plan makes to the last submitted plan.
  - (10) **FILING OF FINAL INTEGRATED PLAN UPON CONFIRMATION.** Upon confirmation, the debtor shall submit with the order confirming plan a final, integrated copy of the confirmed plan, including all amendments or modifications adopted at the time of confirmation.
- (f) **CHAPTER 12 - DEBTOR PROHIBITIONS.**
- (1) **PAYMENTS TO PRINCIPALS.** The debtor shall not compensate or remunerate any of its partners, officers, directors or shareholders in any manner, prior to confirmation of a plan of reorganization or prior approval of the court, except as provided in the interim exception under subparagraph (e)(1)(B) herein.
    - (A) An application for approval of compensation must be signed under oath by an officer of the debtor and must set forth the following:
      - (i) the name and proposed position of the individual sought to be employed along with a detailed description of the duties the individual is to perform, the number of hours the individual will devote to those duties each week, and the reasons why the employment of the individual is necessary to the successful reorganization of the debtor;
      - (ii) the amount of compensation sought on a weekly or monthly basis and details of all perquisites, benefits and consideration of any kind the individual is to receive, examples include use of company vehicles, payment of life or health insurance premiums, and reimbursement of expenses; and
      - (iii) the salary history of the individual to be employed for the year immediately preceding the filing of the petition. Supporting documentary evidence thereof shall be provided directly to the bankruptcy administrator.

- (B) If the debtor has filed an application for an interim payment for post-petition services which substantially conforms to the requirements of subsection (e)(1)(A) above, the debtor may make an interim payment in an amount not to exceed the ordinary pre-petition salary or wages for a 14 day period to those individuals who were employed on the date of the filing of the bankruptcy petition, or date of conversion from another chapter, and for whom approval is being sought.
- (C) The court may reconsider orders to compensate principals *sua sponte* or at the request of the bankruptcy administrator, any creditor or other party in interest.
- (2) PAYMENT OF PRE-PETITION DEBT. The debtor shall not pay pre-petition unsecured debt including pre-petition wages without approval of the court.

Effective immediately, Local Rule 4002-1(e) and (f) are hereby amended as follows:

Rule 4002-1  
DEBTOR DUTIES

- (e) CHAPTER 12 - DEBTOR DUTIES. The following shall apply in chapter 12 cases:
  - (1) SCHEDULES AND STATEMENTS REQUIRED. The debtor shall comply with the requirements of Local Bankruptcy Rule 1007-1.
  - (2) MONTHLY REPORTS. The debtor shall file monthly reports with the chapter 12 trustee. The first report is due within 30 days following the end of the month in which the petition is filed or conversion from another chapter. Subsequent reports are due no later than the fourteenth day of each month. The reports shall be submitted in a format acceptable to the bankruptcy administrator and shall contain the following:
    - (A) monthly receipts from every source;
    - (B) monthly disbursements by accounting classification;
    - (C) expenses charged and not paid;
    - (D) crop inventory (if applicable);
    - (E) livestock inventory (if applicable);
    - (F) tax deposit statement (if applicable); and
    - (G) bank statements.
  - (3) BOOKS OF ACCOUNT.
    - (A) The debtor shall close the present books of account as of the close of business on the date on which the petition is filed, or date of conversion from another chapter, and open new books of account and a bank account as of the opening of business on the next business day.
    - (B) In the new books of account, the debtor shall keep proper records of earnings, expenses, receipts, disbursements, and all obligations incurred and transactions had in the operation of the business. The debtor shall preserve proper vouchers for all payments made on account of the disbursements.
  - (4) INSURANCE COVERAGE. The debtor shall maintain adequate insurance coverage on property of the debtor and the bankruptcy estate. The debtor shall have loss payable clauses in favor of the appropriate secured creditors for any pledged or

mortgaged property. The debtor must provide proof of insurance to the trustee within fourteen days of the filing of the case.

(5) TAX ACCOUNTS.

(A) If the debtor has more than five employees, the debtor shall segregate from all other funds, all monies withheld from employees or collected from others for taxes, including social security taxes, under any law of the United States or any state or subdivision thereof.

(B) The debtor shall simultaneously deposit the withheld or collected funds, together with the debtor's share of social security taxes, in a separate bank account with the collection or withholding. The debtor shall pay from the bank account to the appropriate taxing authorities the amounts due at the times and in the manner prescribed by law.

(6) BANKING INSTITUTION. The debtor shall advise the trustee of the name of the bank and the account number to be used as the debtor's depository within 14 days of the filing of the petition commencing the case under chapter 12 or date of conversion from another chapter.

(7) FILING OF PLAN. The debtor shall file a plan of reorganization within 90 days of the order for relief pursuant to 11 U.S.C. § 1221.

(8) RELATIONSHIP WITH CREDITORS. The debtor shall promptly respond to reasonable inquiries of creditors.

(9) FILING OF AMENDED PLANS OR MODIFICATIONS TO PLANS. The filing of an amended plan or modification to plan shall be accompanied by either a red-lined copy of the plan, illustrating changes made to the last submitted plan, or by a summary or description of changes to the last submitted plan made by the amended plan or modification to the plan.

(10) FILING OF FINAL INTEGRATED PLAN UPON CONFIRMATION. Upon confirmation, the debtor shall submit with the order confirming plan a final, integrated copy of the confirmed plan, including all amendments or modifications adopted at the time of confirmation.

(f) CHAPTER 12 - DEBTOR PROHIBITIONS.

(1) PAYMENTS TO PRINCIPALS. If the debtor is a partnership, corporation or limited liability corporation, the debtor shall not compensate any of its partners, officers, directors, shareholders or members in any manner, prior to confirmation of a plan of reorganization or without prior approval of the court, except as provided in the interim exception under subparagraph (f)(1)(B) herein.

(A) An application for approval of compensation must be signed under oath by an officer of the debtor and must set forth the following:

(i) the name and proposed position of the individual sought to be employed along with a detailed description of the duties the individual is to perform, the number of hours the individual will devote to those duties each week, and the reasons why the employment of the individual is necessary to the successful reorganization of the debtor;

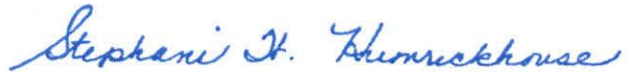
(ii) the amount of compensation sought on a weekly or monthly basis and details of all perquisites, benefits and consideration of any kind the

individual is to receive, examples include use of company vehicles, payment of life or health insurance premiums, and reimbursement of expenses; and

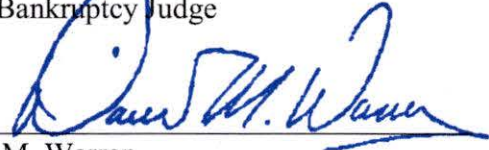
- (iii) the salary history of the individual to be employed for the year immediately preceding the filing of the petition. Supporting documentary evidence thereof shall be provided directly to the bankruptcy administrator and the trustee.
  - (B) If the debtor has filed an application for an interim payment for post-petition services substantially conforming to the requirements of subsection (f)(1)(A), the debtor may make an interim payment in an amount not to exceed the ordinary pre-petition salary or wages for a 14-day period to those individuals who were employed on the date of the filing of the bankruptcy petition, or date of conversion from another chapter, and for whom approval is being sought.
  - (C) The court may reconsider orders to compensate principals *sua sponte* or at the request of the trustee, any creditor or other party in interest.
- (2) PAYMENT OF PRE-PETITION DEBT. The debtor shall not pay pre-petition unsecured debt, including pre-petition wages, without approval of the court.

A red-lined copy of the amendments is attached hereto as Exhibit A.

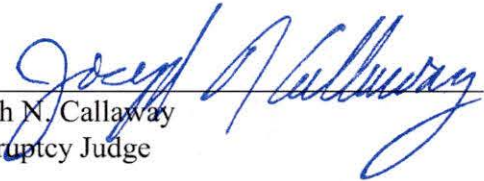
Entered this 18<sup>th</sup> day of March, 2020.



Stephani W. Humrickhouse  
Chief Bankruptcy Judge



David M. Warren  
Bankruptcy Judge



Joseph N. Callaway  
Bankruptcy Judge

Exhibit A

Rule 4002-1  
DEBTOR DUTIES

- (e) CHAPTER 12 - DEBTOR DUTIES. The following shall apply in chapter 12 cases:
- (1) SCHEDULES AND STATEMENTS REQUIRED. The debtor shall comply with the requirements of Local Bankruptcy Rule 1007-1.
  - (2) MONTHLY REPORTS. The debtor shall file **monthly reports** with the chapter 12 trustee. ~~monthly reports~~, ~~T~~the first report is **being** due within 30 days following the end of the month in which the petition is filed or ~~date of~~ conversion from another chapter. Subsequent reports are due no later than the ~~fourteenth~~ **fifteenth** day of each month ~~thereafter~~. The reports shall be submitted in a format acceptable to the **bankruptcy administrator and shall contain the following**:
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    - (D) crop inventory (if applicable);
    - (E) livestock inventory (if applicable);
    - (F) tax deposit statement (if applicable); and:
    - (G) **bank statements**.
  - (3) BOOKS OF ACCOUNT.
    - (A) The debtor shall close the present books of account as of the close of business on the date on which the petition is filed, or date of conversion from another chapter, and open new books of account and a bank account as of the opening of business on the next ~~succeeding~~ business day.
    - (B) In the new books of account, the debtor shall keep proper records of earnings, expenses, receipts, disbursements, and all obligations incurred and transactions had in the operation of the business. The debtor shall preserve proper vouchers for all payments made on account of the disbursements.
  - (4) INSURANCE COVERAGE. The debtor shall **maintain adequate insurance coverage on** ~~keep the~~ property of the debtor and the bankruptcy estate. **The debtor shall have insured in a manner and to the extent as may be deemed necessary with** loss payable clauses; ~~in the case of pledged or mortgaged property,~~ in favor of the appropriate secured creditors for any pledged or mortgaged property ~~as their interests may appear~~. The debtor must provide proof of insurance to the trustee within fourteen days of the filing of the case.
  - (5) TAX ACCOUNTS.
    - (A) If the debtor has more than five employees, ~~t~~The debtor shall segregate **and hold separate and apart** from all other funds, all monies withheld from employees or collected from others for taxes, including social security taxes, under any law of the United States or any state or subdivision thereof.
    - (B) The debtor shall **simultaneously deposit the withheld or collected funds** ~~so withheld or collected~~, together with the debtor's share of social security taxes,



in a separate bank account ~~simultaneously~~ with the collection or withholding. The debtor shall pay from the bank account to the appropriate taxing authorities the amounts due at the times and in the manner prescribed by law.

- (6) **BANKING INSTITUTION.** The debtor shall advise the trustee of the name of the bank **and the account number** to be used as the debtor's depository within 14 days of the filing of the petition commencing the case under chapter 12 or date of conversion from another chapter.
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    - (A) An application for approval of compensation must be signed under oath by an officer of the debtor and must set forth the following:
      - (i) the name and proposed position of the individual sought to be employed along with a detailed description of the duties the individual is to perform, the number of hours the individual will devote to those duties each week, and the reasons why the employment of the individual is necessary to the successful reorganization of the debtor;
      - (ii) the amount of compensation sought on a weekly or monthly basis and details of all perquisites, benefits and consideration of any kind the individual is to receive, examples include use of company vehicles, payment of life or health insurance premiums, and reimbursement of expenses; and
      - (iii) the salary history of the individual to be employed for the year immediately preceding the filing of the petition. Supporting documentary evidence thereof shall be provided directly to the bankruptcy administrator **and the trustee.**
    - (B) If the debtor has filed an application for an interim payment for post-petition services **which** substantially conforming to the requirements of subsection

(fe)(1)(A) ~~above~~, the debtor may make an interim payment in an amount not to exceed the ordinary pre-petition salary or wages for a 14-day period to those individuals who were employed on the date of the filing of the bankruptcy petition, or date of conversion from another chapter, and for whom approval is being sought.

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(2) PAYMENT OF PRE-PETITION DEBT. The debtor shall not pay pre-petition unsecured debt, including pre-petition wages, without approval of the court.