



## U.S. Department of Justice

Office of the United States Trustee

District of Idaho

720 Park Blvd., Suite 220  
Boise, ID 83712

Voice (208) 334-1300  
Fax (208) 334-9756  
[Sender's e-mail address]

<Date>

VIA EMAIL & U.S. MAIL

<Name & Address>

RE: <Case Name>  
<Case No.>

Dear <Name>:

The United States Trustee has appointed you as trustee in the above-captioned chapter 11 bankruptcy case. This letter outlines your administrative duties as trustee and contains general information. You should confer with competent counsel regarding your duties and powers.

You are required to comply with §1106 (copy enclosed) and other applicable sections of the Bankruptcy Code (Code), the Federal Rules of Bankruptcy Procedure (Rules), local rules, and court orders. Failure to comply with any of the following requirements or deadlines may result in the United States Trustee or another party moving to convert or dismiss the case, seek your removal as trustee, or request other relief.

### 1. QUALIFICATIONS

#### BOND

Obtain a bond and provide it to the United States Trustee immediately. The United States Trustee set the amount of your bond at \$\_\_\_\_\_ in favor of the United States of America when you were appointed. The United States Trustee is responsible for determining the amount of the bond and whether the surety has sufficient capital to ensure performance under the bond. You should consult with this office to discuss bonding requirements. Section 322(a) of the Code requires the bond to be filed with the Court before seven days after your selection, and before beginning official duties. You are not qualified to act as trustee until the bond is filed with the Court. An original bond must be provided to this office.

Your bond is to remain at no less than 125% of the maximum amount of liquid assets under your control at any one time. You are responsible for immediately obtaining a rider to increase the bond if the amount of liquid assets, including cash, over which you have control at any one time exceeds 80% of the face amount of the bond. You may pay the bond premium out of bankruptcy estate funds, *subject to any restrictions on the use of cash collateral*.

### 2. BOOKS AND RECORDS - BANK ACCOUNTS

You should consult with this office to determine what actions should be taken concerning the

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debtor's books and records and any debtor-in-possession bank accounts. You should maintain new books and records to reflect all transactions and activity since your appointment. Bank accounts should be in your name, titled as "Estate of \_\_\_\_\_, Trustee, Case Number \_\_\_\_\_." You must obtain pre-numbered checks and bank statements must be cut off on the last day of each month so that account activity is reported on a calendar month basis. The accounts can only be maintained in depositories that agree to post a bond or pledge securities for all deposits that are not covered by FDIC insurance. Enclosed is a list of United States Trustee approved depositories. If you wish to use a depository which is not on the approved list, call this office for assistance.

You should maintain a separate general account for the purpose of paying bills incurred during the administration of the case. You should also consider maintaining a separate tax trust account so that you can escrow the necessary funds for the payment of post-petition taxes (including, for example, payroll and sales or excise taxes) when such liabilities are incurred. You may also be required to maintain separate accounts for such items as payroll and payments to a secured creditor. You may maintain savings accounts as well as certificates of deposit pursuant to the statutory obligation to obtain a safe yet reasonable return on estate funds.

### **3. MAINTENANCE AND PROOF OF INSURANCE**

To preserve the bankruptcy estate and protect the interests of creditors, you are required to maintain adequate insurance coverage on estate assets. Within **30 days** of your appointment, you must provide this office with proof of insurance coverage for the bankruptcy estate. Such proof shall consist of certificates of insurance or other documents showing that each policy is in full force and effect, and disclosing the type and extent of coverage, effective dates, name of insurance carrier, and the name, address and telephone number of the agent. You are responsible for including the United States Trustee as an addressee on all insurance policy notices. If you retain existing policies, you should direct the insurance company to change the name of the loss payee to "Estate of \_\_\_\_\_, Trustee, Case Number \_\_\_\_\_." Upon expiration or other termination of any coverage, you must **immediately** provide this office with proof of replacement insurance.

The dollar amount of the insurance coverage must be sufficient to cover the fair market value of the estate's property. Depending upon the circumstances of the case, you may be required to maintain all or a combination of fire and extended coverage property insurance, general liability insurance, workers' compensation, employee health insurance, malpractice insurance, and product liability insurance. You must provide this office with notice regarding any change in insurance coverage.

### **4. PRE-PETITION AND POST-PETITION DEBT**

You should not pay pre-petition obligations of the estate, unless authorized by the Code or by court order. You should normally pay post-petition obligations (debts arising on or after the date of the filing of the bankruptcy) in full when due, *subject to any restrictions on the use of cash collateral*.

### **5. STATEMENT OF INVESTIGATION**

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Sections 1106(a)(3) and 1106(a)(4) of the Code require you to investigate the debtor and debtor's business, except to the extent the Court orders otherwise. You should file a statement of the investigation with the Court **as soon as practicable**. Copies of the statement should be served upon this office and upon any committees appointed by the United States Trustee.

## **6. MONTHLY FINANCIAL REPORTS**

Sections 1106(a)(1) and 704(8) of the Code require you to file periodic reports and summaries of the operation of the business as the Court or United States Trustee requires. You are required to file a monthly financial report which includes a monthly cash receipts and disbursements statement, a profit and loss statement, balance sheet, and supplemental information that includes a schedule of post-petition liabilities, a schedule of post-petition taxes payable (tax reconciliation) and other information. The monthly financial reports must include a copy of the estate's monthly bank statements, **which must be reconciled**. The United States Trustee reserves the right to request additional financial information at any time as circumstances of the case may warrant.

You must sign the monthly reports. The monthly reports are prepared on a calendar month basis and are due on the **21st day** of the subsequent month. Your first report should cover the period from the date of your appointment to the end of that month.

You should also file any reports which the debtor failed to file for previous months to the best of your ability in light of the condition of the debtor's books and records and the availability of such information. The monthly reports must be filed with the Court. Copies must be served on this office, on any governmental unit charged with responsibility for collection or determination of any tax arising out of the operation of the estate's business and on any committees appointed by the United States Trustee. A master copy of the monthly financial report is enclosed. The forms also available in Excel spreadsheet format at <http://www.justice.gov/ust/r18/boise/chapter11.htm>

## **7. TAXES**

You must file timely reports and/or returns for post-petition tax obligations and must pay the full amount of any post-petition tax liability. Such taxes include federal and state payroll withholding taxes, FICA taxes, federal and state unemployment insurance, real property taxes, personal property taxes and sales and use taxes. You must timely deposit sufficient funds in the tax account to pay any liability associated with the payroll.

## **8. USE, SALE, OR LEASE OF ESTATE PROPERTY**

You must obtain prior approval of the Court to use, sell, or lease property of the estate, except in the ordinary course of business. You may not use cash collateral, as defined by section 363(a) of the Code, without the consent of the secured creditor or approval by the Court. Where appropriate, you should record a copy or notice of the petition to protect against bona fide post-petition transfers of property of the estate (Section 549(c) of the Code).

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## **9. OBTAINING CREDIT**

You must obtain court approval before obtaining secured credit or incurring secured debt, or obtaining unsecured credit, other than in the ordinary course of business.

## **10. EMPLOYMENT AND COMPENSATION OF PROFESSIONALS**

You may wish to hire an attorney, accountant or other professional to assist you in performing your duties. The employment of professionals, including but not limited to, attorneys, accountants, realtors, appraisers, or auctioneers, must be approved by the Court before rendering services. No payments may be made to such professionals without court authorization, after notice to creditors and a hearing. The United States Trustee reviews applications for compensation and reimbursement of expenses under section 330 of the Code in accordance with its Procedural Fee Guidelines (copy enclosed).

## **11. TRUSTEE COMPENSATION**

Compensation for your services and reimbursement of your expenses are controlled by sections 330 and 326 of the Code. You may seek interim payment of compensation and reimbursement of expenses as allowed by section 331 of the Code. If you submit an application for interim or final compensation for services or reimbursement of expenses, Rule 2016(a) requires the application to set forth a detailed statement of the services rendered, time expended, and expenses incurred. You must maintain contemporaneous time records.

## **12. UNITED STATES TRUSTEE QUARTERLY FEES**

The bankruptcy estate is required by 28 U.S.C. Section 1930(a)(6) to pay quarterly fees to the United States Trustee. The fee must be paid for each quarter or partial quarter until the case is converted or dismissed. The amount of fees due each quarter is based on total funds disbursed by the estate during the calendar quarter or fraction thereof. A minimum quarterly fee of \$325 is due even if no disbursements are made during the quarter.

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<b>STATUTORY FEE SCHEDULE</b>		
<b>If the debtor's disbursements for the calendar quarter are within these amounts. . .</b>		<b><u>Then the quarterly fee due is. . .</u></b>
<b><u>From</u></b>	<b><u>To</u></b>	
<u>-0-</u>	<u>\$14,999.99</u>	<u>\$325</u>
<u>\$15,000</u>	<u>\$74,999.99</u>	<u>\$650</u>
<u>\$75,000</u>	<u>\$149,999.99</u>	<u>\$975</u>
<u>\$150,000</u>	<u>\$224,999.99</u>	<u>\$1,625</u>
<u>\$225,000</u>	<u>\$299,999.99</u>	<u>\$1,950</u>
<u>\$300,000</u>	<u>\$999,999.99</u>	<u>\$4,875</u>
<u>\$1,000,000</u>	<u>\$1,999,999.99</u>	<u>\$6,500</u>
<u>\$2,000,000</u>	<u>\$2,999,999.99</u>	<u>\$9,750</u>
<u>\$3,000,000</u>	<u>\$4,999,999.99</u>	<u>\$10,400</u>
<u>\$5,000,000</u>	<u>\$14,999,999.99</u>	<u>\$13,000</u>
<u>\$15,000,000</u>	<u>\$29,999,999.99</u>	<u>\$20,000</u>
	<u>\$30,000,000 or more</u>	<u>\$30,000</u>

Rule 2015(a)(5) requires you to file with the United States Trustee, on or before the last day of the month after each calendar quarter until the case is converted or dismissed, a statement of disbursements made during such calendar quarter and a statement of the fee required pursuant to 28 U.S.C. Section 1930(a)(6) that has been paid for such calendar quarter. Section 1129(a)(12) of the Code provides that for a plan to be confirmed, all quarterly fees must be paid timely or the plan must provide for payment of all fees on the effective date of the plan. Quarterly fee payments must be paid no later than thirty (30) days after the end of the calendar quarter. Under Section 1112(b)(10) of the Code, a failure to pay quarterly fees is cause for conversion or dismissal of the case. Quarterly fee payments should be mailed with a remittance form which will be provided by the United States Trustee at the end of each quarter to:

U.S. Trustee Program Payment Center  
Post Office Box 530202  
Atlanta, GA 30353-0202

If a remittance form is not received when payment is due, you should contact this office immediately.

#### **14. FINAL REPORT AND FINAL ACCOUNT**

Sections 1106(a)(1) and 704(9) of the Code require you to make a final report and file a final account of the administration of the estate with the Court. Copies should be served upon the United States Trustee and upon any committees appointed by the United States Trustee.

For your convenience, a list of some of the general administrative requirements with due dates is enclosed. The list, however, should not be construed to be a comprehensive accounting of all of your obligations in the case. At the bottom of the list is a second list which identifies the enclosures to this letter.

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## **15. REQUESTS FOR WAIVERS OF THE ABOVE REQUIREMENTS**

If you desire a waiver or modification of any of the above referenced requirements, a request must be submitted in writing stating the reason a waiver is requested. This office will approve or deny the request in writing. The United States Trustee reserves the right to modify these guidelines, as circumstances of the case may warrant.

Thank you for your attention to these matters. If you or your staff have any questions about this request, please contact either the undersigned or Jerad Crawford, Bankruptcy Analyst, at 208-334-1300, or by email at [jerad.crawford@usdoj.gov](mailto:jerad.crawford@usdoj.gov).

Yours truly,

GREGORY M. GARVIN  
Acting United States Trustee, Region 18

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<NAME>

Assistant United States Trustee

Enclosures (see list)

copy to: Mr. Crawford

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**LIST OF ENCLOSURES**

Summary of General Administrative Requirements

Section 1106 of the Bankruptcy Code

List of Authorized Bank Depositories

Chapter 11 Guidelines and Reporting Requirements for Chapter 11 Debtors

Handbook for Chapter 11 Trustees

Bankruptcy Accounts Release Form

**SUMMARY OF GENERAL ADMINISTRATIVE REQUIREMENTS**

<b><u>Duty</u></b>	<b><u>Deadline</u></b>
File a copy of the bond with the Court and provide the original to the United States Trustee	Before 7 days after your selection
Submit completed Affidavit, Tax Check Waiver, and Fingerprint Cards to the United States Trustee	Within 10 working days of your appointment
Consult with the United States Trustee re debtor's books and records	As soon as possible after your appointment
Consult with the United States Trustee re debtor's bank accounts	As soon as possible after your appointment
Submit proof of insurance of estate assets to the United States Trustee	Within 30 days of your appointment
File monthly financial reports with the Court and with the United States Trustee	By the 21st day of the subsequent month
File a statement of investigation with the Court and with the United States Trustee	As soon as practicable after your appointment
Notify the United States Trustee of any significant increase in cash (and maintain a 125% bond coverage)	Prior to receipt of funds or increase of bond
Pay United States Trustee Quarterly Fees to Atlanta, Georgia	As required by billing statement
File final report and account with the Court and with the United States Trustee	Within 30 days after your appointment ends