



U.S. Department of Justice
Office of the United States Trustee

362 Richard Russell Building (404) 331-4437
75 Ted Turner Dr., SW
Atlanta, GA 30303 FAX (404) 730-3534

[DATE 2020]

ATTORNEY NAME, Esq.
ATTORNEY FIRM
ATTORNEY ADDRESS
CITY, STATE ZIP CODE

RE: DEBTOR NAME
CHAPTER _ CASE NO: 17-XXXXX-JUDGE INITIALS

Dear ATTORNEY NAME:

The above-referenced case has been selected for audit pursuant to 28 U.S.C. § 586(f)(1). The petition, schedules and other documents filed by the debtor(s) in this case will be audited by:

[INDEPENDENT AUDITORS FIRM NAME]
[INDEPENDENT AUDITORS ADDRESS]
[PHONE NUMBER]

Enclosed with this letter are a Document Request form and Instructions to Audit Firm Regarding Communications with Debtor(s) (the "Audit Firm-Debtor Communication form"). The debtor(s) must complete the Document Request form as directed and return it to the audit firm with the documents requested by **21 DAYS OUT** ("Response Date"). In addition, please review, sign, and return the Audit Firm-Debtor Communication form to the audit firm at the address noted above *within three business days*. By completing the Audit Firm-Debtor Communication form, you provide instructions to the audit firm about whether the audit firm should contact you or the debtor(s) after the Response Date, if necessary, in order to obtain the documents necessary to complete the audit.

In connection with this audit, the debtor(s) has an affirmative duty to cooperate with and provide information to the audit firm. 11 U.S.C. § 521(a)(3) and (4). Failure to provide the requested information may be cause for dismissal of the case, denial or revocation of the debtor's discharge pursuant to 11 U.S.C. § 727, or other appropriate relief.

January 21, 2020

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I also enclose "Information on Debtor Audits" with this letter. You may forward it to your client for review. If you have questions, please contact either the audit firm or the undersigned.

Sincerely,

NANCY J. GARGULA
UNITED STATES TRUSTEE
Region 21

DAS COORDINATOR NAME
DAS Coordinator
Direct Line [PHONE NUMBER]

Enclosures: Document Request form
Audit Firm-Debtor Communication form
Information on Debtor Audits

cc: [INDEPENDENT AUDITOR NAME]
TRUSTEE NAME, Trustee

Debtor(s): Debtor Name
Attorney: Debtor's Attorney

Case No: 20-xxxxx-xxx

DOCUMENT REQUEST

Please provide copies of the documents listed below. *Do not provide originals.* Return this form and the attached documents by **21 DAYS FROM DATE OF ANI** to: [INDEPENDENT AUDITOR NAME AND ADDRESS].

In the space provided next to each document category listed below, indicate whether all the documents requested are provided by marking Yes, No, or N/A. Explain all No or N/A answers at the end of this form. You do not need to explain a N/A answer to Question No. 4.

1 Payment advices or other evidence of payment from an employer for the six full calendar months preceding the date of the bankruptcy petition, plus those received in the calendar month in which the bankruptcy was filed, from the debtor(s), or from an individual debtor and the individual debtor's non-filing spouse unless the debtor has checked the Boxes on line 1, Form B122A-1 indicating that the debtor is "Married and your spouse is NOT filing with you," <u>AND</u> the debtor and spouse are "living separately or are legally separated." (Chapter 7 cases only).	_____
2 Federal income tax returns, including all schedules and all W-2, 1099, and K-1 forms, for the two most recent taxable periods prior to the date of the bankruptcy petition. If either of the returns has not been filed, provide copies of the two most recently filed federal income tax returns. (If joint case and debtors filed separate returns, provide both returns.)	_____
3 Account statements for the six months preceding the date of the bankruptcy petition for all depository and investment accounts in which the debtor(s) had an interest in any of the six months, including statements (even if received post petition) that reflect activity in the month in which the petition was filed; along with sufficient documentation to explain the source of every deposit or credit over \$500. (Include information for checking, savings, money market, mutual fund, and brokerage accounts. Examples of documentation for deposit transactions include check registers and annotations on or attached to the account statements.) Audit firms may request that you provide additional documentation to sufficiently explain the source or purpose of an account statement entry or entries.	_____
4 If the debtor(s) is divorced, (a) the divorce decree, (b) any orders regarding property settlements entered within the last three years, and (c) any alimony or child support orders currently in effect and amendments thereto.	_____

5

If the debtor(s) is self-employed, then for each business owned by debtor or from which debtor derives self-employment income, (a) business tax returns for the two most recent taxable periods prior to the date of the bankruptcy petition, (b) most recent accounts receivable ledger and aging schedule/report, (c) most recent balance sheet prior to the date of bankruptcy petition, (d) income statement for the most recent period ended prior to the date of the bankruptcy petition, (e) quarterly sales tax return for the most recent period ended prior to the date of the bankruptcy petition, if any, (f) account statements for business depository account(s) for the six months preceding the date of the bankruptcy petition, and the month in which the petition was filed, along with sufficient documentation to explain the source of every deposit or credit, and the purpose of every check, withdrawal, or debit, and (g) most recent business asset listing and depreciation schedule, if any.

Explanation for any "No" or "N/A" responses (attach pages as necessary):

I declare under penalty of perjury that the responses to this Document Request are true and correct.

Date: _____

Signature: _____

Debtor

Date: _____

Signature: _____

Joint Debtor, if any

Debtor(s): Debtor Name
Attorney: Debtor's Attorney

Case No: 20-xxxxx-xxx

Instructions to Audit Firm Regarding Communications with Debtors

Part I: Purpose

Pursuant to 28 U.S.C. § 586(f)(1), the audit firm will conduct a review of the accuracy, veracity, and completeness of the petition, schedules, and statements filed by your client in the above-referenced bankruptcy case. Your client is required to cooperate with the audit firm in completing the audit. 11 U.S.C. § 521. A failure to cooperate may result in dismissal of the case or a denial or revocation of discharge. The audit firm may need to interact with your client regarding documents necessary to complete the audit. This document asks you to advise the audit firm how those contacts may occur.

Part II: Waiver Election

_____ The audit firm may contact my client directly to obtain the documents necessary to complete the debtor audit. The audit firm shall provide me with copies of any written communications with my client. The telephone number for my client is _____.

_____ The audit firm may not communicate directly with my client concerning the debtor audit. All contact must be through my office. My telephone number is _____.

Authorization for contact by the audit firm with debtor(s) as provided herein does not release, waive or affect in any manner the duties imposed upon you pursuant to 11 U.S.C. §329, Fed. R. Bankr. P. 2016(b), the Disclosure of Compensation of Attorney for Debtor(s), local court rules, and the applicable rules of professional responsibility.

Debtor's Attorney: Please contact the Office of the United States Trustee immediately if you believe that the Audit Firm is not complying with this election.

Dated:

Attorney for Debtor(s)

Return original of this signed form to the Audit Firm at the address shown below. You should not file this form with the bankruptcy court.

[INDEPENDENT AUDITOR NAME, ADDRESS, PHONE NO.]

U.S. Trustee Program Information Concerning Debtor Audits

The United States Trustee Program is authorized to audit chapter 7 and chapter 13 bankruptcy cases filed by individuals. *See* Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Pub. L. No. 109-8, § 603, 119 Stat. 23 (2005) and 28 U.S.C. § 586(f). A bankruptcy case may be randomly selected for an audit. In addition, a case may be selected for an exception audit if the debtor's income or expenditures deviate from the statistical norms for the district in which the case was filed.

The audit involves the verification of the income, expenses, and assets reported by a debtor in the bankruptcy schedules and statements. A debtor is required to timely provide additional information and records and to cooperate with the audit firm. The debtor has no additional cost for an audit, except for the cost of making copies of required documents for the audit. The information that a debtor provides in connection with a case is subject to examination by the Attorney General or his designee. Additional disclosures of the information may be to contractors engaged to perform debtor audits, to a bankruptcy trustee when the information is needed to perform the trustee's duties, to the appropriate federal, state, local, regulatory, tribal, or foreign law enforcement agency when the information indicates a violation or potential violation of law, or to a credit counseling or debtor education provider when the information is necessary to enable the provider to perform its duties. Other disclosures may be made for routine purposes. For a discussion of the types of routine disclosures that may be made, you may consult the United States Trustee Program's systems of records notice, UST-001, "Bankruptcy Case Files and Associated Records." *See* 71 Fed. Reg. 59,818 et seq. (Oct. 11, 2006). A copy of the notice may be obtained at the following link:

http://www.justice.gov/ust/eo/rules_regulations/index.htm.

The audit firm will file a report containing the results of the audit. 28 U.S.C. § 586(f)(2)(A). If the audit firm finds material misstatements of income, expenses, or assets, the clerk of the bankruptcy court will notify the debtor's creditors. 28 U.S.C. § 586(f)(2)(A). The report is not a legal determination, and the legal effect of the auditor's finding of a material misstatement is a question for the court.

By statute, debtors are required to cooperate with the audit firm. *See* 11 U.S.C. § 521(a)(3) and (4). Failure to cooperate with the audit firm, or failure to reasonably explain to the bankruptcy court any material misstatements contained in the audit firm's report, may result in the dismissal of the case or the denial or revocation of discharge, and, possibly, referral of the matter to the United States Attorney for criminal investigation. 11 U.S.C. § 727 and 28 U.S.C. § 586(f)(2)(B).