

United States Bankruptcy Court
District of South Carolina

LOCAL RULES
As Amended and Effective October 3, 2006

(Revised to include amendments through July 25, 2008)



JOHN E. WAITES
Chief United States Bankruptcy Judge

HELEN ELIZABETH BURRIS
United States Bankruptcy Judge

DAVID R. DUNCAN
United States Bankruptcy Judge

RULES TABLE OF CONTENTS

LOCAL RULE 1001-1:	SCOPE, CITATION, AND APPLICABILITY OF LOCAL RULES.....	1
LOCAL RULE 1002-1:	FILING OF PETITION.....	2
LOCAL RULE 1006-1:	PAYMENT OF FILING FEE, ADMINISTRATIVE FEE, AND TRUSTEE SURCHARGE FEE IN INSTALLMENTS.....	3
INTERIM BANKRUPTCY RULE 1006:	FILING FEE.....	4
LOCAL RULE 1007-1:	LIST OF CREDITORS.....	5
LOCAL RULE 1007-2:	FILING OF LISTS, SCHEDULES, STATEMENTS AND OTHER DOCUMENTS.	6
INTERIM BANKRUPTCY RULE 1007:	LISTS, SCHEDULES, STATEMENTS, AND OTHER DOCUMENTS; TIME LIMITS.....	7
LOCAL RULE 1009-1:	AMENDMENTS OF VOLUNTARY PETITIONS, LISTS, SCHEDULES AND STATEMENTS.....	9
INTERIM BANKRUPTCY RULE 1009:	AMENDMENTS OF VOLUNTARY PETITIONS, LISTS, SCHEDULES AND STATEMENTS.....	10
LOCAL RULE 1010-1:	INCORPORATION OF INTERIM BANKRUPTCY RULE 1010.....	11
INTERIM BANKRUPTCY RULE 1010:	SERVICE OF INVOLUNTARY PETITION AND SUMMONS; PETITION FOR RECOGNITION OF A FOREIGN NONMAIN PROCEEDING.	12
LOCAL RULE 1011-1:	INCORPORATION OF INTERIM BANKRUPTCY RULE 1011.....	13
INTERIM BANKRUPTCY RULE 1011:	RESPONSIVE PLEADING OR MOTION IN INVOLUNTARY AND CROSS-BORDER CASES.	14
LOCAL RULE 1015-1:	AMENDING PETITIONS TO ADD SPOUSE AND SEPARATING A JOINT PETITION.....	15
LOCAL RULE 1017-1:	INCORPORATION OF INTERIM BANKRUPTCY RULE 1017.....	16
INTERIM BANKRUPTCY RULE 1017:	DISMISSAL OR CONVERSION OF CASE; SUSPENSION	17
LOCAL RULE 1019-1:	DISPOSITION OF FUNDS BY CHAPTER 13 TRUSTEES UPON CONVERSION OR DISMISSAL OF CASE.	18
INTERIM BANKRUPTCY RULE 1019:	CONVERSION OF CHAPTER 11 REORGANIZATION CASE, CHAPTER 12 FAMILY FARMER'S DEBT ADJUSTMENT CASE, OR CHAPTER 13 INDIVIDUAL'S DEBT ADJUSTMENT CASE TO A CHAPTER 7 LIQUIDATION CASE.....	19
LOCAL RULE 1020-1:	INCORPORATION OF INTERIM BANKRUPTCY RULE 1020.....	20
INTERIM BANKRUPTCY RULE 1020:	SMALL BUSINESS CHAPTER 11 REORGANIZATION CASE.	21
LOCAL RULE 1021-1:	INCORPORATION OF INTERIM BANKRUPTCY RULE 1021.....	22
INTERIM BANKRUPTCY RULE 1021:	HEALTH CARE BUSINESS CASE.	23
LOCAL RULE 2002-1:	NOTICES.	24
EXHIBIT A TO SC LBR 2002-1.	.....	25
INTERIM BANKRUPTCY RULE 2002:	NOTICES TO CREDITORS, EQUITY SECURITY HOLDERS, ADMINISTRATORS IN FOREIGN PROCEEDINGS, PERSONS AGAINST WHOM	

	PROVISIONAL RELIEF IS SOUGHT IN ANCILLARY AND OTHER CROSS-BORDER CASES, UNITED STATES, AND UNITED STATES TRUSTEE.....	26
LOCAL RULE 2003-1:	FAILURE TO APPEAR AT MEETING OF CREDITORS OR FAILURE TO PROVIDE DOCUMENTATION AT THE MEETING OF CREDITORS.....	28
INTERIM BANKRUPTCY RULE 2003:	MEETING OF CREDITORS OR EQUITY SECURITY HOLDERS.	29
LOCAL RULE 2007-1:	INCORPORATION OF INTERIM BANKRUPTCY RULE 2007.1	30
INTERIM BANKRUPTCY RULE 2007.1:	APPOINTMENT OF TRUSTEE OR EXAMINER IN A CHAPTER 11 REORGANIZATION CASE.	31
LOCAL RULE 2007-2:	INCORPORATION OF INTERIM BANKRUPTCY RULE 2007.2.	32
INTERIM BANKRUPTCY RULE 2007.2:	APPOINTMENT OF PATIENT CARE OMBUDSMAN IN A HEALTH CARE BUSINESS CASE.	33
LOCAL RULE 2014-1:	EMPLOYMENT OF PROFESSIONALS.....	34
LOCAL RULE 2015-1:	MONTHLY REPORTS.	35
INTERIM BANKRUPTCY RULE 2015:	DUTY TO KEEP RECORDS, MAKE REPORTS, AND GIVE NOTICE OF CASE OR CHANGE OF STATUS	36
LOCAL RULE 2015-2:	INCORPORATION OF INTERIM BANKRUPTCY RULES 2015.1 AND 2015.2	37
INTERIM BANKRUPTCY RULE 2015.1:	PATIENT CARE OMBUDSMAN	38
INTERIM BANKRUPTCY RULE 2015.2:	TRANSFER OF PATIENT IN HEALTH CARE BUSINESS CASE.	39
LOCAL RULE 2081-1:	CHAPTER 11 PROCEDURAL AND ADMINISTRATIVE REQUIREMENTS.	40
LOCAL RULE 2081-2:	ASSIGNMENT OF REFILED, RELATED, OR SIMULTANEOUSLY PENDING CASES.	42
EXHIBIT A TO SC LBR 2081-2.	.....	43
EXHIBIT B TO SC LBR 2081-2..	.....	44
LOCAL RULE 2081-3:	REQUIREMENTS FOR COMPLEX CHAPTER 11 CASE.	45
LOCAL RULE 2082-1:	CHAPTER 12 REQUIREMENTS.	47
EXHIBIT A TO SC LBR 2082-1.	.....	48
LOCAL RULE 2090-2 :	DISCIPLINARY PROCEEDINGS.....	50
LOCAL RULE 3002-1:	INCORPORATION OF INTERIM BANKRUPTCY RULE 3002..	51
INTERIM BANKRUPTCY RULE 3002:	FILING PROOF OF CLAIM OR INTEREST.....	52
LOCAL RULE 3003-1:	PROOFS OF CLAIM OR INTEREST IN CHAPTER 11 CASES.....	53
INTERIM BANKRUPTCY RULE 3003:	FILING PROOF OF CLAIM OR EQUITY SECURITY INTEREST IN CHAPTER 9 MUNICIPALITY OR CHAPTER 11 REORGANIZATION CASES.....	54
LOCAL RULE 3011-1:	DISPOSITION OF UNCLAIMED DIVIDENDS.....	55
EXHIBIT A TO SC LBR 3011-1.	.....	56
LOCAL RULE 3015-1:	CHAPTER 13 REQUIREMENTS.	58

EXHIBIT A TO SC LBR 3015-1	
Effective for all Chapter 13 cases January 1, 2008..	61
EXHIBIT B TO SC LBR 3015-1..	67
EXHIBIT C TO SC LBR 3015-1..	68
EXHIBIT D TO SC LBR 3015-1.	69
EXHIBIT E TO SC LBR 3015-1..	70
EXHIBIT F TO SC LBR 3015-1.	71
EXHIBIT G TO SC LBR 3015-1.	72
EXHIBIT H TO SC LBR 3015-1.	74
EXHIBIT I TO SC LBR 3015-1.	75
EXHIBIT J TO SC LBR 3015-1..	76
EXHIBIT K to SC LBR 3015 - 1..	77
LOCAL RULE 3015-2: PROVIDING DOCUMENTS IN CHAPTER 13 CASES..	79
LOCAL RULE 3015-3: PERIODIC INTEREST RATE IN CHAPTER 13 PLANS..	80
EXHIBIT A TO SC LBR 3015-3.	81
LOCAL RULE 3016-1: INCORPORATION OF INTERIM BANKRUPTCY RULE 3016..	82
INTERIM BANKRUPTCY RULE 3016: FILING OF PLAN AND DISCLOSURE STATEMENT IN A CHAPTER 9 MUNICIPALITY OR CHAPTER 11 REORGANIZATION CASE.	83
LOCAL RULE 3017-1: INCORPORATION OF INTERIM BANKRUPTCY RULE 3017.1.	84
INTERIM BANKRUPTCY RULE 3017-1: COURT CONSIDERATION OF DISCLOSURE STATEMENT IN A SMALL BUSINESS CASE.	85
LOCAL RULE 3018-1: BALLOTS IN CHAPTER 11 CASES.	86
LOCAL RULE 3019-1: INCORPORATION OF INTERIM BANKRUPTCY RULE 3019..	87
INTERIM BANKRUPTCY RULE 3019: MODIFICATION OF ACCEPTED PLAN BEFORE OR AFTER CONFIRMATION IN A CHAPTER 9 MUNICIPALITY OR CHAPTER 11 REORGANIZATION CASE.	88
LOCAL RULE 4001-1: PROCEEDINGS TO MODIFY STAY..	89
EXHIBIT A TO SC LBR 4001-1.	93
EXHIBIT B TO SC LBR 4001-1..	94
EXHIBIT B-1TO SC LBR 4001-1.	96
EXHIBIT C TO SC LBR 4001-1..	97
EXHIBIT D TO SC LBR 4001-1.	98
LOCAL RULE 4001-4: AGREEMENTS RELATING TO RELIEF FROM THE AUTOMATIC STAY, PROHIBITING OR CONDITIONING THE USE, SALE OR LEASE OF PROPERTY, PROVIDING ADEQUATE PROTECTION, USE OF CASH COLLATERAL, AND OBTAINING CREDIT.	99
EXHIBIT A TO SC LBR 4001-4.	102
LOCAL RULE 4001-5: RENTAL DEPOSITS.	105
LOCAL RULE 4002-1: FILING OF TAX INFORMATION.	106
INTERIM BANKRUPTCY RULE 4002: DUTIES OF DEBTOR..	107
LOCAL RULE 4003-1: MOTIONS TO AVOID LIEN..	108
EXHIBIT A TO SC LBR 4003-1.	109
EXHIBIT B TO SC LBR 4003-1..	110
EXHIBIT C TO SC LBR 4003-1..	111
EXHIBIT D TO SC LBR 4003-1.	112

EXHIBIT E TO SC LBR 4003-1.....	113
EXHIBIT F TO SC LBR 4003-1.....	114
INTERIM BANKRUPTCY RULE 4003: EXEMPTIONS.....	115
LOCAL RULE 4004-1: INCORPORATION OF INTERIM BANKRUPTCY RULE 4004.....	116
INTERIM BANKRUPTCY RULE 4004: GRANT OR DENIAL OF DISCHARGE.	117
LOCAL RULE 4006-1: INCORPORATION OF INTERIM BANKRUPTCY RULE 4006.....	118
INTERIM BANKRUPTCY RULE 4006: NOTICE OF NO DISCHARGE.....	119
LOCAL RULE 4007-1: INCORPORATION OF INTERIM BANKRUPTCY RULE 4007.....	120
INTERIM BANKRUPTCY RULE 4007: DETERMINATION OF DISCHARGEABILITY OF A DEBT	121
LOCAL RULE 4008-1: REAFFIRMATION AGREEMENTS.....	122
EXHIBIT A TO LOCAL RULE 4008-1.	123
INTERIM BANKRUPTCY RULE 4008: DISCHARGE AND REAFFIRMATION HEARING	131
LOCAL RULE 5003-1: INCORPORATION OF INTERIM BANKRUPTCY RULE 5003.....	132
INTERIM BANKRUPTCY RULE 5003: RECORDS KEPT BY THE CLERK.....	133
LOCAL RULE 5008-1: INCORPORATION OF INTERIM BANKRUPTCY RULE 5008.....	134
INTERIM BANKRUPTCY RULE 5008: NOTICE REGARDING PRESUMPTION OF ABUSE IN CHAPTER 7 CASES OF INDIVIDUAL DEBTORS.	135
LOCAL RULE 5011-1: WITHDRAWAL OF REFERENCE.....	136
LOCAL RULE 5012-1: INCORPORATION OF INTERIM BANKRUPTCY RULE 5012.....	137
INTERIM BANKRUPTCY RULE 5012: COMMUNICATION AND COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES	138
LOCAL RULE 5073-1: PHOTOGRAPHY, RECORDING DEVICES, CELLULAR TELEPHONES, PORTABLE COMPUTERS, AND BROADCASTING.	139
LOCAL RULE 6004-1: SALE OF PROPERTY.....	140
EXHIBIT A TO SC LBR 6004-1.	141
EXHIBIT B TO SC LBR 6004-1.....	143
EXHIBIT C TO SC LBR 6004-1.....	144
INTERIM BANKRUPTCY RULE 6004: USE, SALE, OR LEASE OF PROPERTY.	145
LOCAL RULE 6007-1: ABANDONMENT OR DISPOSITION OF PROPERTY.	146
EXHIBIT A TO SC LBR 6007-1.	147
EXHIBIT B TO SC LBR 6007-1.....	148
LOCAL RULE 6011-1: INCORPORATION OF INTERIM BANKRUPTCY RULE 6011.....	149
INTERIM BANKRUPTCY RULE 6011: DISPOSAL OF PATIENT RECORDS IN HEALTH CARE BUSINESS CASE.	150
LOCAL RULE 7016-1: ADVERSARY PROCEEDINGS.	151
LOCAL RULE 7026-1: DISCOVERY.	152
LOCAL RULE 7067-1: DEPOSITING FUNDS WITH THE COURT	153
LOCAL RULE 8001-1: INCORPORATION OF INTERIM BANKRUPTCY RULE 8001.....	154
INTERIM BANKRUPTCY RULE 8001: MANNER OF TAKING APPEAL; VOLUNTARY DISMISSAL; CERTIFICATION TO COURT OF APPEALS	

.....	155
LOCAL RULE 8003-1: INCORPORATION OF INTERIM BANKRUPTCY RULE 8003.....	157
INTERIM BANKRUPTCY RULE 8003: LEAVE TO APPEAL.	158
LOCAL RULE 9001-1: DEFINITIONS AND RULES OF CONSTRUCTION.....	159
LOCAL RULE 9006-1: INCORPORATION OF INTERIM BANKRUPTCY RULE 9006.....	160
INTERIM BANKRUPTCY RULE 9006: TIME.	161
LOCAL RULE 9009-1: INCORPORATION OF INTERIM BANKRUPTCY RULE 9009.....	162
INTERIM BANKRUPTCY RULE 9009: FORMS.	163
LOCAL RULE 9010-1: PRACTICE BEFORE THE COURT.	164
LOCAL RULE 9010-2: EFFECT OF NONCOMPLIANCE.....	166
LOCAL RULE 9010-3: REFILEING BANKRUPTCY PETITIONS.	167
LOCAL RULE 9010-4: REQUIREMENT OF DEBTOR TO DISCLOSE ASSISTANCE WHEN FILING BANKRUPTCY CASE OR DOCUMENT <i>PRO SE</i>	168
EXHIBIT A TO SC LBR 9010-4.	169
LOCAL RULE 9014-1: MOTIONS PRACTICE GENERALLY.	171
LOCAL RULE 9014-2: MOTIONS ON PASSIVE NOTICE.....	172
EXHIBIT A TO SC LBR 9014-2.	174
EXHIBIT B TO SC LBR 9014-2.....	176
LOCAL RULE 9014-3: HEARINGS ON CONTESTED MATTERS.	177
LOCAL RULE 9014-4: WRITTEN OBJECTIONS.	178
LOCAL RULE 9014-5: MEMORANDUM OF AUTHORITIES.	179
LOCAL RULE 9015-1: JURY TRIALS.	180
LOCAL RULE 9017-1: CUSTODY OF EXHIBITS.....	181
LOCAL RULE 9019-1: COMPROMISE AND SETTLEMENT.	182
EXHIBIT A TO SC LBR 9019-1.	183
LOCAL RULE 9019-2: MEDIATION.	184
LOCAL RULE 9029-1: OPERATING ORDERS, GUIDELINES REGARDING CASE MANAGEMENT, AND AMENDMENTS TO THE LOCAL BANKRUPTCY RULES.	185

LOCAL RULE 1001-1: SCOPE, CITATION, AND APPLICABILITY OF LOCAL RULES

- (a) **Scope and Citation of Rules.** These local rules of practice apply to all pending and future cases and proceedings in the United States Bankruptcy Court for the District of South Carolina. These local rules shall be used in this District in conjunction with the Federal Rules of Bankruptcy Procedure in all cases and proceedings under Title 11 of the United States Code. Each local rule must be cited as “SC LBR ____.”
- (b) **Construction of Rules.** These local rules are not to be construed to create substantive rights or to modify or abolish rights existing under the Federal Rules of Bankruptcy Procedure, the Federal Rules of Civil Procedure, or any statute, including the United States Bankruptcy Code, or to prohibit or limit the use of the Official Bankruptcy Forms.
- (c) **Applicability to a Person Appearing Without an Attorney.** A person appearing *pro se* in the Bankruptcy Court is bound by these local rules, and any reference in these local rules to "attorney" or "counsel" applies to a party appearing *pro se*.
- (d) **Suspension or Modification of Effect of Local Rules.** A judge may *sua sponte* or upon motion of a party in interest for good cause shown suspend or modify the application of any local rule to a particular case or proceeding.
- (e) **Effect of Interim Bankruptcy Rules.** This Court has adopted as local rules the Interim Bankruptcy Rules approved by the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States. In the instance of an inconsistency between these local rules and those parts designated as an Interim Bankruptcy Rule, the local rules shall govern.

LOCAL RULE 1002-1: FILING OF PETITION

- (a) **Required Form.** The petition and all required schedules, statements and lists must be filed using the Official Bankruptcy Forms prescribed for these documents. Any additional forms required by the local rules must also be timely submitted.
- (b) **Petition by Power of Attorney.** When a petition is signed on behalf of the petitioner by a person pursuant to a power of attorney (the “attorney-in-fact”), the following is required:

 - (1) The power of attorney must be: (a) a general power of attorney authorizing the attorney-in-fact to take any action which the person giving the power of attorney could take; or (b) a special power of attorney specifically authorizing the attorney-in-fact to file the petition;
 - (2) The power of attorney must be: (a) notarized and bear the seal of a notary public; or (b) witnessed and bear a notarized probate of at least one witness’ signature; and
 - (3) A copy of the power of attorney must accompany the filing of the petition.

LOCAL RULE 1006-1: PAYMENT OF FILING FEE, ADMINISTRATIVE FEE, AND TRUSTEE SURCHARGE FEE IN INSTALLMENTS

- (a) **Requirements.** A voluntary petition for an individual must be accompanied by full payment of the applicable fees, by a minimum payment upon completion of an application to pay in installments or, in a voluntary chapter 7 case filed by an individual, by an application to waive applicable fees.* The amount of the minimum payment has been established by the Court and shall be equal to certain charges set by statute, rule, or other guidelines and includes the administrative fee, the trustee surcharge (if applicable), and a portion of the filing fee. The specific dollar amount of the minimum payment shall be posted on the Court's web page and in the Clerk's Office.
- (b) **Interim Bankruptcy Rule 1006.** In addition to the above, Interim Rule 1006, adopted by this Court as a local rule effective October 17, 2005, is applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and is to be read in conjunction with any corresponding Federal Rule.

* The alternative submission of an application to waive fees is only applicable to chapter 7 cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

INTERIM BANKRUPTCY RULE 1006: FILING FEE

- (a) **General Requirement.** Every petition shall be accompanied by the filing fee except as provided in subdivisions (b) and (c) of this rule. For the purpose of this rule, “filing fee” means the filing fee prescribed by 28 U.S.C. § 1930(a)(1)-(a)(5) and any other fee prescribed by the Judicial Conference of the United States under 28 U.S.C. § 1930(b) that is payable to the clerk upon the commencement of a case under the Code.
- (b) **Payment of Filing Fee in Installments.**
- (1) **Application to Pay Filing Fee in Installments.** A voluntary petition by an individual shall be accepted for filing if accompanied by the debtor’s signed application, prepared as prescribed by the appropriate Official Form, stating that the debtor is unable to pay the filing fee except in installments.
- * * * * *
- (3) **Postponement of Attorney’s Fees.** All installments of the filing fee must be paid in full before the debtor or chapter 13 trustee may make further payments to an attorney or any other person who renders services to the debtor in connection with the case.
- (c) **Waiver of Filing Fee.** A voluntary chapter 7 petition filed by an individual shall be accepted for filing if accompanied by the debtor’s application requesting a waiver under 28 U.S.C. § 1930(f), prepared as prescribed by the appropriate Official Form.

LOCAL RULE 1007-1: LIST OF CREDITORS

The requirement of filing a list of creditors pursuant to Fed. R. Bank. P. 1007(a)(1) shall be met by the debtor's filing of a mailing matrix as provided herein. The debtor must file with the petition the mailing matrix listing the names and addresses of the creditors who are or will be listed on the debtor's schedules (Official Bankruptcy Form B 6 D-H).

The mailing matrix must be submitted in accordance with the manner set forth for the filing of documents pursuant to Operating Order 06-02/Guidelines for the Filing of Documents.

The mailing matrix shall include all creditors and parties in interest entitled to notice of the particular case for which it is being filed. It is not necessary to include the debtor, joint debtor, attorney for the debtor, case trustee, the United States Trustee, or the judge assigned to the case, because where applicable, these will be automatically added through the Court's Case Management/Electronic Case Filing system. It is the debtor's responsibility to verify and ensure that the information on the mailing matrix is identical to the schedules, statements, and lists.

Please see the court's website for an updated creditor address list located under the "Rule & Exhibit Updates" of the local rules page or by [clicking on this link](#).

LOCAL RULE 1007-2: FILING OF LISTS, SCHEDULES, STATEMENTS AND OTHER DOCUMENTS

- (a) **Dismissal of Case on Failure to File Lists, Schedules, Statements, and Other Documents.** The Court may enter an order dismissing a voluntary case upon the certification by the Clerk's Office that the debtor has failed to file lists, schedules, statements, and other documents pursuant to 11 U.S.C. § 521 within the time periods established herein, by Fed. R. Bankr. P. 1007(c) or, where applicable, IBR 1007(c), or within the period of any extension of time granted pursuant to this local rule.
- (b) **Dismissal of Case on Failure to File Statement of Intention.** If the debtor in a voluntary chapter 7 case who is required to file a statement of intention under 11 U.S.C. § 521(a)(2) fails to timely file such a statement or a motion to extend the time for filing such a statement within the time periods established by 11 U.S.C. § 521(a)(2) or Fed. R. Bankr. P. 1019(1)(B), the Court may enter an order dismissing the case upon certification by the Clerk's Office of such failure.
- (c) **Time Limits.** In a voluntary case, except as provided in subsection (b) and except with respect to the certificate of credit counseling and list of creditors, all schedules, statements, and other documents required to be filed pursuant to 11 U.S.C. § 521 shall be filed with the petition or within fifteen (15) days thereafter.*
- (d) **Interim Bankruptcy Rule 1007.** In addition to the above, Interim Rule 1007, adopted by this Court as a local rule effective October 17, 2005, as amended effective October 1, 2006, is applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and is to be read in conjunction with any corresponding Federal Rule.

* Applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

INTERIM BANKRUPTCY RULE 1007: LISTS, SCHEDULES, STATEMENTS, AND OTHER DOCUMENTS; TIME LIMITS

(a) List of Creditors and Equity Security Holders, and Corporate Ownership Statement.

* * * * *

- (4) Chapter 15 Case.** Unless the court orders otherwise, a foreign representative filing a petition for recognition under chapter 15 shall file with the petition a list containing the name and address of all administrators in foreign proceedings of the debtor, all parties to any litigation in which the debtor is a party and that is pending in the United States at the time of the filing of the petition, and all entities against whom provisional relief is being sought under § 1519 of the Code.
- (5) Extension of Time.** Any extension of time for the filing of lists required by this subdivision may be granted only on motion for cause shown and on notice to the United States trustee and to any trustee, committee elected under § 705 or appointed under § 1102 of the Code, or other party as the court may direct.

(b) Schedules, Statements, and Other Documents Required.

- (1)** Except in a chapter 9 municipality case, the debtor, unless the court orders otherwise, shall file the following schedules, statements, and other documents, prepared as prescribed by the appropriate Official Forms, if any:
- (A)** schedules of assets and liabilities;
 - (B)** a schedule of current income and expenditures;
 - (C)** a schedule of executory contracts and unexpired leases;
 - (D)** a statement of financial affairs;
 - (E)** copies of all payment advices or other evidence of payment, if any, with all but the last four digits of the debtor's social security number redacted, received by the debtor from an employer within 60 days before the filing of the petition; and
 - (F)** a record of any interest that the debtor has in an account or program of the type specified in § 521(c) of the Code.
- (2)** An individual debtor in a chapter 7 case shall file a statement of intention as required by § 521(a) of the Code, prepared as prescribed by the appropriate Official Form. A copy of the statement of intention shall be served on the trustee and the creditors named in the statement on or before the filing of the statement.
- (3)** Unless the United States trustee has determined that the credit counseling requirement of § 109(h) does not apply in the district, an individual debtor must file a statement of compliance with the credit counseling requirement, prepared as prescribed by the appropriate Official Form which must include one of the following:
- (A)** an attached certificate and debt repayment plan, if any, required by § 521(b);
 - (B)** a statement that the debtor has received the credit counseling briefing required by § 109(h)(1) but does not have the certificate required by § 521(b);
 - (C)** a certification under § 109(h)(3); or
 - (D)** a request for a determination by the court under § 109(h)(4).
- (4)** Unless § 707(b)(2)(D) applies, an individual debtor in a chapter 7 case with primarily consumer debts shall file a statement of current monthly income prepared as prescribed by the appropriate Official Form, and, if the debtor has current monthly income greater than the applicable median family income for the applicable state and household size, the calculations in accordance with § 707(b), prepared as prescribed by the appropriate Official Form.

- (5) An individual debtor in a chapter 11 case shall file a statement of current monthly income, prepared as prescribed by the appropriate Official Form.
- (6) A debtor in a chapter 13 case shall file a statement of current monthly income, prepared as prescribed by the appropriate Official Form, and, if the debtor has current monthly income greater than the median family income for the applicable state and family size, a calculation of disposable income in accordance with § 1325(b)(3), prepared as prescribed by the appropriate Official Form.
- (7) An individual debtor in a chapter 7 or chapter 13 case shall file a statement regarding completion of a course in personal financial management, prepared as prescribed by the appropriate Official Form.
- (8) If an individual debtor in a chapter 11, 12, or 13 case has claimed an exemption under § 522 (b)(3)(A) in an amount in excess of the amount set out in § 522(q)(1) in property of the kind described in § 522(p)(1), the debtor shall file a statement as to whether there is pending a proceeding in which the debtor may be found guilty of a felony of a kind described in § 522(q)(1)(A) or found liable for a debt of the kind described in § 522(q)(1)(B).

(c)Time Limits. In a voluntary case, the schedules, statements, and other documents required by subdivision (b)(1), (4), (5), and (6) shall be filed with the petition or within 15 days thereafter, except as otherwise provided in subdivisions (d), (e), (f), and (h) of this rule. In an involuntary case, the list in subdivision (a)(2), and the schedules, statements, and other documents required by subdivision (b)(1) shall be filed by the debtor within 15 days of the entry of the order for relief. In a voluntary case, the documents required by paragraphs (A),(C), and (D) of subdivision (b)(3) shall be filed with the petition. Unless the court orders otherwise, if the debtor has filed a statement under subdivision (b)(3)(B), the documents required by subdivision (b)(3)(A) shall be filed within 15 days of the order for relief. In a chapter 7 case, the debtor shall file the statement required by subdivision (b)(7) within 45 days after the first date set for the meeting of creditors under § 341 of the Code, and in a chapter 13 case no later than the date when the last payment was made by the debtor as required by the plan or the filing of a motion for a discharge under § 1328(b). The debtor shall file the statement required by subdivision (b)(8) no earlier than the date of the last payment made under the plan or the date of the filing of a motion for a discharge under §§ 1141(d)(5)(B), 1228(b), or 1328(b) of the Code. Lists, schedules, statements, and other documents filed prior to the conversion of a case to another chapter shall be deemed filed in the converted case unless the court directs otherwise. Except as provided in § 1116(3) of the Code, any extension of time for the filing of the schedules, statements, and other documents required under this rule may be granted only on motion for cause shown and on notice to the United States trustee, any committee elected under § 705 or appointed under § 1102 of the Code, trustee, examiner, or other party as the court may direct. Notice of an extension shall be given to the United States trustee and to any committee, trustee, or other party as the court may direct.

LOCAL RULE 1009-1: AMENDMENTS OF VOLUNTARY PETITIONS, LISTS, SCHEDULES AND STATEMENTS

- (a) **Statement of Change.** In addition to the requirements under Fed. R. Bankr. P. 1009, when the debtor amends either the petition, lists, schedules, or statements, the debtor must file with the Court and give notice of, to any party in interest affected by the amendment, a statement indicating the changes made by the amendment. The statement of change shall be the first page of the amendment filed.
- (b) **Amendments Adding Creditors.** When the debtor adds a creditor by amending either the schedules or the list of creditors previously filed, or if the debtor initially files schedules that add creditors to the list, in addition to the requirements of subsection (a), the debtor also must simultaneously give notice to that creditor of the following:
- (1) Notice for Meeting of Creditors;
 - (2) Statement of Social Security Number (Official Bankruptcy Form B 21);
 - (3) The order granting discharge (if any); and
 - (4) Any other document filed in the case which affects the rights of the creditor.
- (c) **Supplemental Mailing Matrix.** When making an amendment as set forth in subsection (b), a supplemental mailing matrix or supplemental list of creditors should be filed simultaneously and should contain only creditors which are in addition to any creditors previously listed. Conventional filers should submit the supplemental mailing matrix via hard copy in a scannable format. Electronic filers should submit the supplemental mailing matrix via cd/diskette or CM/ECF. It is the debtor's responsibility to verify and ensure that the information on the supplemental mailing matrix is identical to the schedules, statements, and lists.
- (d) **Address Changes.** When the debtor seeks only to change an address on a petition or lists, or is required to change an address as a result of returned mail, such change shall not be considered an amendment, and the requirements of subsection (a) are not applicable. In instances of returned mail as indicated on the Court's docket, the debtor is required to correct the address by filing a statement providing the Court with the correct address or, in the event the debtor cannot locate the correct address, the debtor shall file a statement that a correct address cannot be found.
- (e) **Interim Bankruptcy Rule 1009.** In addition to the above, Interim Rule 1009, adopted by this Court as a local rule effective October 17, 2005, is applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and is to be read in conjunction with any corresponding Federal Rule.

**INTERIM BANKRUPTCY RULE 1009: AMENDMENTS OF VOLUNTARY PETITIONS, LISTS,
SCHEDULES AND STATEMENTS**

* * * * *

- (b) **Statement of Intention.** The statement of intention may be amended by the debtor at any time before the expiration of the period provided in § 521(a) of the Code. The debtor shall give notice of the amendment to the trustee and to any entity affected thereby.

LOCAL RULE 1010-1: INCORPORATION OF INTERIM BANKRUPTCY RULE 1010

Interim Bankruptcy Rule 1010, adopted by this Court as a local rule effective October 17, 2005, is applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and is to be read in conjunction with any corresponding Federal Rule.

**INTERIM BANKRUPTCY RULE 1010: SERVICE OF INVOLUNTARY PETITION AND SUMMONS;
PETITION FOR RECOGNITION OF A FOREIGN NONMAIN
PROCEEDING**

On the filing of an involuntary petition or a petition for recognition of a foreign nonmain proceeding the clerk shall forthwith issue a summons for service. When an involuntary petition is filed, service shall be made on the debtor. When a petition for recognition of a foreign nonmain proceeding is filed, service shall be made on the debtor, any entity against whom provisional relief is sought under § 1519 of the Code, and on any other parties as the court may direct. The summons shall be served with a copy of the petition in the manner provided for service of a summons and complaint by Rule 7004(a) or (b). If service cannot be so made, the court may order that the summons and petition be served by mailing copies to the party's last known address, and by at least one publication in a manner and form directed by the court. The summons and petition may be served on the party anywhere. Rule 7004 (e) and Rule 4 (*l*) F.R.Civ.P. apply when service is made or attempted under this rule.

LOCAL RULE 1011-1: INCORPORATION OF INTERIM BANKRUPTCY RULE 1011

Interim Bankruptcy Rule 1011, adopted by this Court as a local rule effective October 17, 2005, is applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and is to be read in conjunction with any corresponding Federal Rule.

INTERIM BANKRUPTCY RULE 1011: RESPONSIVE PLEADING OR MOTION IN INVOLUNTARY AND CROSS-BORDER CASES

- (a) **Who May Contest Petition.** The debtor named in an involuntary petition or a party in interest to a petition for recognition of a foreign proceeding may contest the petition. In the case of a petition against a partnership under Rule 1004, a nonpetitioning general partner, or a person who is alleged to be a general partner but denies the allegation, may contest the petition.

LOCAL RULE 1015-1: AMENDING PETITIONS TO ADD SPOUSE AND SEPARATING A JOINT PETITION

- (a) **Joinder of Spouse in Case.** When one spouse has filed a petition under Title 11 of the United States Code and, subsequent to that filing, the other spouse seeks to join as a debtor in the case, the joining debtor must file a petition, with all required statements, lists and schedules, under the same chapter as the pending case, pay the appropriate filing fee, and move for joint administration of the two cases.

The order for joint administration shall not affect the petition date, the date of the order for relief in either case, or the substantive rights of the creditors of the different estates.

- (b) **Separation of Joint Case.** When the debtor in a case commenced by the filing of a joint petition seeks to be separated from that case and to become a debtor in a separate case, the debtor shall file a motion to separate the joint case into two cases and pay the applicable fee pursuant to 28 U.S.C. § 1930. The new case number shall be assigned to the case of the debtor moving to separate the case unless otherwise ordered by the Court.

- (1) **Conversion.** If one of the debtors seeks conversion to a different chapter from the chapter under which the joint case is pending, in addition to filing a motion to separate the joint cases into two cases pursuant to the procedures in the preceding paragraph and paying the applicable fee, a motion to convert must also be filed. The Court will consider the motion to separate before the conversion can occur.

- (2) **Dismissal of debtor from a joint case.** When the debtor or a party in interest seeks to dismiss one debtor from a joint case, a motion to separate the joint case into two cases is not required.

- (3) **Effect of order separating case.** The order separating a previously filed joint case into two separate cases shall not affect the petition date, the date of the order for relief, or any substantive rights of the creditors of the different estates.

LOCAL RULE 1017-1: INCORPORATION OF INTERIM BANKRUPTCY RULE 1017

Interim Bankruptcy Rule 1017, adopted by this Court as a local rule effective October 17, 2005, is applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and is to be read in conjunction with any corresponding Federal Rule.

INTERIM BANKRUPTCY RULE 1017: DISMISSAL OR CONVERSION OF CASE; SUSPENSION

* * * * *

- (e) **Dismissal of an Individual Debtor's Chapter 7 Case or Conversion to a Case under Chapter 11 or 13 for Abuse.** The court may dismiss or, with the debtor's consent, convert an individual debtor's case for abuse under § 707(b) only on motion and after a hearing on notice to the debtor, the trustee, the United States trustee, and any other entities as the court directs.
 - (1) Except as otherwise provided in § 704(b)(2), a motion to dismiss a case for abuse under § 707(b) or (c) may be filed only within 60 days after the first date set for the meeting of creditors under § 341(a), unless, on request filed before the time has expired, the court for cause extends the time for filing the motion to dismiss. The party filing the motion shall set forth in the motion all matters to be considered at the hearing. A motion to dismiss under § 707(b)(1) and (3) shall state with particularity the circumstances alleged to constitute abuse.

LOCAL RULE 1019-1: DISPOSITION OF FUNDS BY CHAPTER 13 TRUSTEES UPON CONVERSION OR DISMISSAL OF CASE¹

Upon the conversion or dismissal of a case under chapter 13 of the Bankruptcy Code, the trustee shall, after first paying the balance of any sanctions as directed by the Court in an Order imposing sanctions and next paying any unpaid filing fees dispose of funds in the following manner, unless otherwise ordered by the Court:

- (a) If there is a confirmed plan in the case, the trustee shall pay any funds received before the conversion or dismissal of the case to creditors pursuant to the terms of the plan. All funds received thereafter shall be paid to the debtor.
- (b) Applicable only to cases not governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, if there is neither a confirmed plan nor an order directing otherwise, the trustee shall pay any remaining funds to the debtor without regard to when the funds were received.
- (c) Applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, if there is neither a confirmed plan nor an order directing otherwise, the chapter 13 trustee shall disburse funds received prior to the entry of an order of dismissal or conversion in the following order:
 - 1. Unless otherwise ordered, disburse the lesser of the amount of debtor's attorney's proof of claim, to the extent that the claim has not been satisfied; \$500.00; or the remaining balance of funds received by the trustee prior to dismissal or conversion. The attorney may seek a greater payment upon timely application to the Court made prior to the disbursement by the chapter 13 trustee; and
 - 2. as adequate protection, disburse funds received prior to entry of an order of dismissal or conversion to the holders of allowed secured claims and allowed claims for executory contracts scheduled to be paid through the most recently filed plan, divided based upon the monthly payments provided therein. Subject to the availability of funds, creditors will be paid a full payment for each full month beginning thirty (30) days after the order for relief and continuing through the date of dismissal or conversion. No payment will be made for partial months; and
 - 3. any funds remaining after these payments, and all funds received after conversion or dismissal, shall be returned to the debtor.
- (d) Subject to the above, the trustee shall pay any funds that would be considered an asset of a converted case to any subsequent trustee, and the trustee shall pay to the Court any remaining balance of the filing fee owed to the Court.
- (e) In addition to the above, Interim Rule 1019, adopted by this Court as a local rule effective October 17, 2005, is applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and is to be read in conjunction with any corresponding Federal Rule.

¹ SC LBR revised May 4, 2007.

**INTERIM BANKRUPTCY RULE 1019: CONVERSION OF CHAPTER 11 REORGANIZATION CASE,
CHAPTER 12 FAMILY FARMER'S DEBT ADJUSTMENT CASE,
OR CHAPTER 13 INDIVIDUAL'S DEBT ADJUSTMENT CASE TO
A CHAPTER 7 LIQUIDATION CASE**

* * * * *

- (2) **New Filing Periods.** A new time period for filing a motion under § 707(b) or (c), a claim, a complaint objecting to discharge, or a complaint to obtain a determination of dischargeability of any debt shall commence under Rules 1017, 3002, 4004, or 4007, provided that a new time period shall not commence if a chapter 7 case had been converted to a chapter 11, 12, or 13 case and thereafter reconverted to a chapter 7 case and the time for filing a motion under § 707(b) or (c), a claim, a complaint objecting to discharge, or a complaint to obtain a determination of the dischargeability of any debt, or any extension thereof, expired in the original chapter 7 case.

LOCAL RULE 1020-1: INCORPORATION OF INTERIM BANKRUPTCY RULE 1020

Interim Bankruptcy Rule 1020, adopted by this Court as a local rule effective October 17, 2005, is applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and is to be read in conjunction with any corresponding Federal Rule.

INTERIM BANKRUPTCY RULE 1020: SMALL BUSINESS CHAPTER 11 REORGANIZATION CASE

- (a) **Small Business Debtor Designation.** In a voluntary chapter 11 case, the debtor shall state in the petition whether the debtor is a small business debtor. In an involuntary chapter 11 case, the debtor shall file within 15 days after entry of the order for relief a statement as to whether the debtor is a small business debtor. Except as provided in subdivision (c), the status of the case with respect to whether it is a small business case shall be in accordance with the debtor's statement under this subdivision, unless and until the court enters an order finding that the debtor's statement is incorrect.
- (b) **Objecting to Designation.** Except as provided in subdivision (c), the United States trustee or a party in interest may file an objection to the debtor's statement under subdivision (a) not later than 30 days after the conclusion of the meeting of creditors held under § 341(a) of the Code, or within 30 days after any amendment to the statement, whichever is later.
- (c) **Appointment of Committee of Unsecured Creditors.** If the United States trustee has appointed a committee of unsecured creditors under § 1102(a)(1), the case shall proceed as a small business case only if, and from the time when, the court enters an order determining that the committee has not been sufficiently active and representative to provide effective oversight of the debtor and that the debtor satisfies all the other requirements for being a small business. A request for a determination under this subdivision may be filed by the United States trustee or a party in interest only within a reasonable time after the failure of the committee to be sufficiently active and representative. The debtor may file a request for a determination at any time as to whether the committee has been sufficiently active and representative.
- (d) **Procedure for Objection or Determination.** Any objection or request for a determination under this rule shall be governed by Rule 9014 and served on the debtor, the debtor's attorney, the United States trustee, the trustee, any committee appointed under § 1102 or its authorized agent, or, if no committee of unsecured creditors has been appointed under § 1102, on the creditors included on the list filed under Rule 1007(d), and on such other entities as the court may direct.

LOCAL RULE 1021-1: INCORPORATION OF INTERIM BANKRUPTCY RULE 1021

Interim Bankruptcy Rule 1021, adopted by this Court as a local rule effective October 17, 2005, is applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and is to be read in conjunction with any corresponding Federal Rule.

INTERIM BANKRUPTCY RULE 1021: HEALTH CARE BUSINESS CASE

- (a) **Health Care Business Designation.** Unless the court orders otherwise, if a petition in a case under chapter 7, chapter 9, or chapter 11 states that the debtor is a health care business, the case shall proceed as a case in which the debtor is a health care business.
- (b) **Motion.** The United States trustee or a party in interest may file a motion for a determination as to whether the debtor is a health care business. The motion shall be transmitted to the United States trustee and served on the debtor, the trustee, any committee elected under § 705 or appointed under § 1102 of the Code or its authorized agent, or, if the case is a chapter 9 municipality case or a chapter 11 reorganization case and no committee of unsecured creditors has been appointed under § 1102, on the creditors included on the list filed under Rule 1007(d), and such other entities as the court may direct. The motion shall be governed by Rule 9014.

LOCAL RULE 2002-1: NOTICES

- (a) **Verification.** Upon the filing of a proof of claim and/or notice of appearance utilizing CM/ECF and applicable procedures, the filing party shall place the address listed therein on the mailing matrix for purposes of notice. Failure to comply may be deemed a waiver.
- (b) **Designation of Addresses.** In a case under chapter 7 or 13, the filing of a notice of preferred address pursuant to 11 U.S.C. § 342(f) by a creditor directly with the agency or agencies that provide noticing services for the Court will constitute the filing of such a notice with the Court. Such filing must be accomplished through the agency that provides noticing services for the Court and shall not be filed with the Court. Forms and registration information are available on the Court's web page.

In a case under chapter 7 or 13 in which the debtor is an individual, the filing of a notice of case specific address pursuant to 11 U.S.C. § 342(e) by a creditor must be accomplished by filing a local form attached hereto as Exhibit A and, when filed electronically, must be filed pursuant to applicable CM/ECF procedures governing such filings. Any notice in such case required to be provided to such creditor by the debtor or the Court later than five (5) days after the Court and the debtor receive such notice of address shall be provided to such address. Upon request for receipt of a matrix pursuant to CM/ECF, the case specific address shall override a corresponding preferred address filed pursuant to 11 U.S.C. § 342(f).

- (c) **Interim Bankruptcy Rule 2002.** In addition to the above, Interim Rule 2002, adopted by this Court as a local rule effective October 17, 2005, is applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and is to be read in conjunction with any corresponding Federal Rule.

EXHIBIT A TO SC LBR 2002-1

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____

CHAPTER: _____

NOTICE OF CASE SPECIFIC ADDRESS
PURSUANT TO 11 U.S.C. § 342(e) AND
SC LBR 2002-1

Debtor(s).

Pursuant to 11 U.S.C. § 342(e) and SC LBR 2002-1, (*creditor*) files this notice of address to be used to provide notice in the above-captioned case. (*Creditor*) is aware that, pursuant to 11 U.S.C. § 342(e)(2), any notice in such case required to be provided to such creditor by the debtor or the Court will not be provided to the address designated herein until after five (5) days following receipt of (*creditor's*) notice of address by the Court and the debtor.

Address to be changed (if applicable):

Name: _____
Address1: _____
Address2: _____
Address3: _____
Address4: _____
City, State, Zip _____

Address to be used for further noticing:

Name: _____
Address1: _____
Address2: _____
Address3: _____
Address4: _____
City, State, Zip _____

Authorization: Under penalty of perjury, I, the undersigned affirm that I am authorized to request this address change.

Name: _____

Signature: _____

Date: _____

**INTERIM BANKRUPTCY RULE 2002: NOTICES TO CREDITORS, EQUITY SECURITY HOLDERS,
ADMINISTRATORS IN FOREIGN PROCEEDINGS, PERSONS
AGAINST WHOM PROVISIONAL RELIEF IS SOUGHT IN
ANCILLARY AND OTHER CROSS-BORDER CASES, UNITED
STATES, AND UNITED STATES TRUSTEE**

- (a) **Twenty-day Notices to Parties in Interest.** Except as provided in subdivisions (h), (i), (l), (p), and (q) of this rule, the clerk, or some other person as the court may direct, shall give the debtor, the trustee, all creditors and indenture trustees at least 20 days' notice by mail of:

* * * * *

- (b) **Twenty-five-day Notices to Parties in Interest.** Except as provided in subdivision (l) of this rule, the clerk, or some other person as the court may direct, shall give the debtor, the trustee, all creditors and indenture trustees not less than 25 days notice by mail of (1) the time fixed for filing objections and the hearing to consider approval of a disclosure statement or, under § 1125(f), to make a final determination whether the plan provides adequate information so that a separate disclosure statement is not necessary; and (2) the time fixed for filing objections and the hearing to consider confirmation of a chapter 9, chapter 11, or chapter 13 plan.

- (c) **Content of Notice.**

- (1) **Proposed Use, Sale, or Lease of Property.** Subject to Rule 6004 the notice of a proposed use, sale, or lease of property required by subdivision (a)(2) of this rule shall include the time and place of any public sale, the terms and conditions of any private sale and the time fixed for filing objections. The notice of a proposed use, sale, or lease of property, including real estate, is sufficient if it generally describes the property. The notice of a proposed sale or lease of personally identifiable information under § 363(b)(1)(A) or (B) of the Code shall state whether the sale is consistent with a policy prohibiting the transfer of the information.

* * * * *

- (f) **Other Notices.** Except as provided in subdivision (l) of this rule, the clerk, or some other person as the court may direct, shall give the debtor, all creditors, and indenture trustees notice by mail of: (1) the order for relief; (2) the dismissal or the conversion of the case to another chapter, or the suspension of proceedings under § 305; (3) the time allowed for filing claims pursuant to Rule 3002; (4) the time fixed for filing a complaint objecting to the debtor's discharge pursuant to § 727 of the Code as provided in Rule 4004; (5) the time fixed for filing a complaint to determine the dischargeability of a debt pursuant to § 523 of the Code as provided in Rule 4007; (6) the waiver, denial, or revocation of a discharge as provided in Rule 4006; (7) entry of an order confirming a chapter 9, 11, or 12 plan; (8) a summary of the trustee's final report in a chapter 7 case if the net proceeds realized exceed \$1,500; (9) a notice under Rule 5008 regarding the presumption of abuse; (10) a statement under § 704(b)(1) as to whether the debtor's case would be presumed to be an abuse under § 707(b); and (11) the time to request a delay in the entry of the discharge under §§ 1141(d)(5)(C), 1228(f), and 1328(h). Notice of the time fixed for accepting or rejecting a plan pursuant to Rule 3017(c) shall be given in accordance with Rule 3017(d).

* * * * *

- (g) **Addressing Notices.**

* * * * *

- (2) Except as provided in § 342(f) of the Code, if a creditor or indenture trustee has not filed a request designating a mailing address under Rule 2002(g)(1), the notices shall be mailed to the address shown on the list of creditors or schedule of liabilities, whichever is filed later. If an equity security holder has not filed a request designating a mailing address under Rule 2002(g)(1), the notices shall be mailed to the address shown on the list of equity security holders.

* * * * *

(p) Notice to a Foreign Creditor.

- (1)** If, at the request of a party in interest or the United States trustee, or on its own initiative, the court finds that a notice mailed within the time prescribed by these rules would not be sufficient to give a creditor with a foreign address to which notices under these rules are mailed reasonable notice under the circumstances, the court may order that the notice be supplemented with notice by other means or that the time prescribed for the notice by mail be enlarged.
- (2)** Unless the court for cause orders otherwise, a creditor with a foreign address to which notices under this rule are mailed shall be given at least 30 days' notice of the time fixed for filing a proof of claim under Rule 3002(c) or Rule 3003(c).

(q) Notice of Petition for Recognition of Foreign Proceeding and of Court's Intention to Communicate with Foreign Courts and Foreign Representatives.

- (1) Notice of Petition for Recognition.** The clerk, or some other person as the court may direct, shall forthwith give the debtor, all administrators in foreign proceedings of the debtor, all entities against whom provisional relief is being sought under § 1519 of the Code, all parties to any litigation in which the debtor is a party and that is pending in the United States at the time of the filing of the petition, and such other entities as the court may direct, at least 20 days' notice by mail of the hearing on the petition for recognition of a foreign proceeding. The notice shall state whether the petition seeks recognition as a foreign main proceeding or foreign nonmain proceeding.
- (2) Notice of Court's Intention to Communicate with Foreign Courts and Foreign Representatives.** The clerk, or some other person as the court may direct, shall give the debtor, all administrators in foreign proceedings of the debtor, all entities against whom provisional relief is being sought under § 1519 of the Code, all parties to any litigation in which the debtor is a party and that is pending in the United States at the time of the filing of the petition, and such other entities as the court may direct, notice by mail of the court's intention to communicate with a foreign court or foreign representative as prescribed by Rule 5012.

LOCAL RULE 2003-1: FAILURE TO APPEAR AT MEETING OF CREDITORS OR FAILURE TO PROVIDE DOCUMENTATION AT THE MEETING OF CREDITORS

- (a) **Dismissal.** In a voluntary case, upon certification to the Court by the United States Trustee that either the debtor or attorney for the debtor has not appeared at the meeting of creditors, a continued meeting of creditors, or a special meeting of creditors, or that the debtor or attorney for the debtor has appeared but was unprepared to proceed, the Court may dismiss the case without further notice or hearing. Notice of this local rule shall be provided in the Notice of Meeting of Creditors.
- (b) **Dismissal upon Certification by United States Trustee.** In a voluntary chapter 7 case, upon certification by the United States Trustee that the debtor failed to provide required documentation and financial information, including tax returns, at the meeting of creditors pursuant to IBR 4002, the Court may dismiss the case without further notice or hearing.*
- (c) **Interim Bankruptcy Rule 2003.** In addition to the above, Interim Rule 2003, adopted by this Court as a local rule effective October 17, 2005, is applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and is to be read in conjunction with any corresponding Federal Rule.

* Subsection (b) is only applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

**INTERIM BANKRUPTCY RULE 2003: MEETING OF CREDITORS OR EQUITY SECURITY
HOLDERS**

- (a) **Date and Place.** Except as provided in § 341(e) of the Code, in a chapter 7 liquidation or a chapter 11 reorganization case, the United States trustee shall call a meeting of creditors to be held no fewer than 20 and no more than 40 days after the order for relief. In a chapter 12 family farmer debt adjustment case, the United States trustee shall call a meeting of creditors to be held no fewer than 20 and no more than 35 days after the order for relief. In a chapter 13 individual's debt adjustment case, the United States trustee shall call a meeting of creditors to be held no fewer than 20 and no more than 50 days after the order for relief. If there is an appeal from or a motion to vacate the order for relief, or if there is a motion to dismiss the case, the United States trustee may set a later date for the meeting. The meeting may be held at a regular place for holding court or at any other place designated by the United States trustee within the district convenient for the parties in interest. If the United States trustee designates a place for the meeting which is not regularly staffed by the United States trustee or an assistant who may preside at the meeting, the meeting may be held not more than 60 days after the order for relief.

LOCAL RULE 2007-1: INCORPORATION OF INTERIM BANKRUPTCY RULE 2007.1

Interim Bankruptcy Rule 2007.1, adopted by this Court as a local rule effective October 17, 2005, is applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and is to be read in conjunction with any corresponding Federal Rule.

* * * * *

(b) Election of Trustee.

* * * * *

(3) Report of Election and Resolution of Disputes.

(A) Report of Undisputed Election. If no dispute arises out of the election, the United States trustee shall promptly file a report certifying the election, including the name and address of the person elected and a statement that the election is undisputed. The report shall be accompanied by a verified statement of the person elected setting forth the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee.

(B) Dispute Arising Out of an Election. If a dispute arises out of an election, the United States trustee shall promptly file a report stating that the election is disputed, informing the court of the nature of the dispute, and listing the name and address of any candidate elected under any alternative presented by the dispute. The report shall be accompanied by a verified statement by each candidate elected under each alternative presented by the dispute, setting forth the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee. Not later than the date on which the report of the disputed election is filed, the United States trustee shall mail a copy of the report and each verified statement to any party in interest that has made a request to convene a meeting under § 1104(b) or to receive a copy of the report, and to any committee appointed under § 1102 of the Code.

(c) Approval of Appointment. An order approving the appointment of a trustee or an examiner under § 1104(d) of the Code, shall be made on application of the United States trustee. The application shall state the name of the person appointed and, to the best of the applicant's knowledge, all the person's connections with the debtor, creditors, any other parties in interest, their respective attorneys and accountants, the United States trustee, or persons employed in the office of the United States trustee. The application shall state the names of the parties in interest with whom the United States trustee consulted regarding the appointment. The application shall be accompanied by a verified statement of the person appointed setting forth the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee.

LOCAL RULE 2007-2: INCORPORATION OF INTERIM BANKRUPTCY RULE 2007.2

Interim Bankruptcy Rule 2007.2, adopted by this Court as a local rule effective October 17, 2005, is applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and is to be read in conjunction with any corresponding Federal Rule.

- (a) **Order to Appoint Patient Care Ombudsman.** In a chapter 7, chapter 9, or chapter 11 case in which the debtor is a health care business, the court shall order the appointment of a patient care ombudsman under § 333 of the Code, unless the court, on motion of the United States trustee or a party in interest filed not later than 20 days after the commencement of the case or within another time fixed by the court, finds that the appointment of a patient care ombudsman is not necessary for the protection of patients under the specific circumstances of the case.
- (b) **Motion for Order to Appoint Ombudsman.** If the court has ordered that the appointment of an ombudsman is not necessary, or has ordered the termination of the appointment of an ombudsman, the court, on motion of the United States trustee or a party in interest, may order the appointment at any time during the case if the court finds that the appointment of an ombudsman has become necessary to protect patients.
- (c) **Appointment of Ombudsman.** If a patient care ombudsman is appointed under § 333, the United States trustee shall promptly file a notice of the appointment, including the name and address of the person appointed. Unless the person appointed is a State Long-Term Care Ombudsman, the notice shall be accompanied by a verified statement of the person appointed setting forth the person's connections with the debtor, creditors, patients, any other party in interest, their respective attorneys and accountants, the United States trustee, and any person employed in the office of the United States trustee.
- (d) **Termination of Appointment.** On motion of the United States trustee or a party in interest, the court may terminate the appointment of a patient care ombudsman if the court finds that the appointment is not necessary for the protection of patients.
- (e) **Motion.** A motion under this rule shall be governed by Rule 9014. The motion shall be transmitted to the United States trustee and served on the debtor, the trustee, any committee elected under § 705 or appointed under § 1102 of the Code or its authorized agent, or, if the case is a chapter 9 municipality case or a chapter 11 reorganization case and no committee of unsecured creditors has been appointed under § 1102, on the creditors included on the list filed under Rule 1007(d), and such other entities as the court may direct.

LOCAL RULE 2014-1: EMPLOYMENT OF PROFESSIONALS

An application for an order approving the employment of a professional pursuant to the requirements of Fed. R. Bankr. P. 2014 must be accompanied by a proposed order approving the employment and will be held for consideration for a minimum of ten (10) days following such filing to allow for comment by the United States Trustee. Upon approval, employment will be effective from the date of filing the application, unless otherwise ordered by the Court.

LOCAL RULE 2015-1: MONTHLY REPORTS

- (a) **Reports.** In accordance with 11 U.S.C. §§ 704(8), 1107(a), 1203, and Fed. R. Bankr. P. 2015, the debtor in possession or, if applicable, the trustee, shall file with the Court a financial report for the preceding month not later than the 20th day of each month. This report must conform to the format provided by the United States Trustee and must contain a statement of all receipts, disbursements, and payments to employees, including, but not limited to, wages and withholding, unemployment, and social security taxes. The original report must be signed by the debtor or, if applicable, the trustee.
- (b) **Interim Bankruptcy Rule 2015.** In addition to the above, Interim Rule 2015, adopted by this Court as a local rule effective October 17, 2005, is applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and is to be read in conjunction with any corresponding Federal Rule.

**INTERIM BANKRUPTCY RULE 2015: DUTY TO KEEP RECORDS, MAKE REPORTS, AND GIVE
NOTICE OF CASE OR CHANGE OF STATUS**

* * * * *

- (d) **Foreign Representative.** In a case in which the court has granted recognition of a foreign proceeding under chapter 15, the foreign representative shall file any notice required under § 1518 of the Code within 15 days after the date when the representative becomes aware of the subsequent information.
- (e) **Transmission of Reports.** In a chapter 11 case the court may direct that copies or summaries of annual reports and copies or summaries of other reports shall be mailed to the creditors, equity security holders, and indenture trustees. The court may also direct the publication of summaries of any such reports. A copy of every report or summary mailed or published pursuant to this subdivision shall be transmitted to the United States trustee.

LOCAL RULE 2015-2: INCORPORATION OF INTERIM BANKRUPTCY RULES 2015.1 AND 2015.2

Interim Bankruptcy Rules 2015.1 and 2015.2, adopted by this Court as a local rule effective October 17, 2005, are applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and are to be read in conjunction with any corresponding Federal Rule.

- (a) **Reports.** Unless the court orders otherwise, a patient care ombudsman, at least 10 days before making a report under § 333(b)(2) of the Code, shall give notice that the report will be made to the court. The notice shall be transmitted to the United States trustee, posted conspicuously at the health care facility that is the subject of the report, and served on the debtor, the trustee, all patients, and any committee elected under § 705 or appointed under § 1102 of the Code or its authorized agent, or, if the case is a chapter 9 municipality case or a chapter 11 reorganization case and no committee of unsecured creditors has been appointed under § 1102, on the creditors included on the list filed under Rule 1007(d), and such other entities as the court may direct. The notice shall state the date and time when the report will be made, the manner in which the report will be made, and, if the report is in writing, the name, address, telephone number, email address, and website, if any, of the person from whom a copy of the report may be obtained at the debtor's expense.
- (b) **Authorization to Review Confidential Patient Records.** A motion by a health care ombudsman under § 333(c) to review confidential patient records shall be governed by Rule 9014, served on the patient and any family member or other contact person whose name and address has been given to the trustee or the debtor for the purpose of providing information regarding the patient's health care, and transmitted to the United States trustee subject to applicable nonbankruptcy law relating to patient privacy. Unless the court orders otherwise, a hearing on the motion may be commenced no earlier than 15 days after service of the motion.

Unless the court orders otherwise, if the debtor is a health care business, the trustee may not transfer a patient to another health care business under § 704(a)(12) of the Code unless the trustee gives at least 10 days' notice of the transfer to the patient care ombudsman, if any, and to the patient and any family member or other contact person whose name and address has been given to the trustee or the debtor for the purpose of providing information regarding the patient's health care subject to applicable nonbankruptcy law relating to patient privacy.

LOCAL RULE 2081-1: CHAPTER 11 PROCEDURAL AND ADMINISTRATIVE REQUIREMENTS

(a) Requirements of Debtor and Plan Proponents and Effect of Failure to Comply:

- (1) **Disclosure statement and plan.** Unless otherwise ordered by the Court, a disclosure statement and plan of reorganization shall be filed by the debtor or trustee not later than one hundred eighty (180) days after the entry of the order for relief. The debtor, trustee, or other plan proponent shall prosecute its disclosure statement and plan in a timely manner.

The Court may consider for approval written amendments made prior to the hearing on the disclosure statement or plan at that hearing.

If any plan of reorganization or disclosure statement filed by the debtor, trustee, or other plan proponent is not confirmed or approved by the Court, any amendment, modification, or supplement necessary to correct the deficiency must be filed within ten (10) days or whatever time period the Court may require. Failure to timely comply may be deemed a failure to prosecute the case and may constitute grounds for dismissal or conversion without further notice or hearing or other sanction.

- (2) **Bank accounts and insurance.** The debtor must provide to the United States Trustee before the first date set for the meeting of creditors such information as the United States Trustee reasonably requests regarding bank accounts and insurance policies maintained by the debtor. This information must be kept current by the debtor at all times.
- (3) **Post confirmation reports.** Following the entry of an order confirming a plan of reorganization, the debtor or trustee, pursuant to Fed. R. Bankr. P. 2015(a) and SC LBR 2015-1, shall continue to file monthly operating reports until such time as the case is closed by the Court. These reports shall be filed with the Court in a form satisfactory to the United States Trustee. Within ninety (90) days after the date the order confirming plan of reorganization is entered, or whatever time period the Court may require, the debtor, trustee, or other plan proponent shall file a report of substantial consummation, a final report and an application for a final decree which indicates that, upon the approval of the application for final decree, the case will have been fully administered. Failure to timely comply may be deemed a failure to prosecute the case and may constitute grounds for dismissal or conversion without further notice or hearing or other sanction.

(b) United States Trustee Procedures:

- (1) **Deficiencies.** In addition to the procedures set forth in subsection (a), if the debtor fails to timely file a document or to furnish information required by subsection (a) of this rule or SC LBR 2015-1, or fails to timely pay United States Trustee quarterly fees as required pursuant to 28 U.S.C. § 1930(a)(6), the United States Trustee may provide written notice to the debtor and the attorney for the debtor of the default. The notice must be filed with the Court and shall provide ten (10) days from the date of the notice to cure the deficiency. If the deficiency is not cured within the ten (10) day period, the United States Trustee may apply to the Court for dismissal or conversion without further notice or hearing.
- (2) **Subsequent deficiencies.** In the event of a subsequent deficiency in the case, the United States Trustee may apply for dismissal or conversion by filing and serving on the debtor and the attorney for the debtor a certification of default which states that there has been a failure to comply with the terms of this rule, and which recommends either dismissal or conversion and states the grounds for that recommendation. The certification shall state specifically the provisions of this rule which have been violated and that the United States Trustee has complied with the terms of this rule.

Upon receipt of the certification, the Court may enter an order dismissing the case or converting the case to one under chapter 7 without further notice or hearing.

Nothing in this rule prohibits the United States Trustee from seeking sanctions or other relief for a failure to comply with the terms of this rule or on other grounds.

(c) **Other Provisions:**

(1) **Delegation of noticing responsibilities.** Pursuant to Fed. R. Bankr. P. 2002(m), and IBR 3019, notice of the following may be delegated by the Court to an appropriate party:

- (A) Order/notice setting disclosure statement hearing;
- (B) Order approving disclosure statement/setting confirmation hearing;
- (C) Hearing notice on motion to extend time to file plan or disclosure statement; and
- (D) Hearing notice on motion to prohibit use of cash collateral.
- _____ (E) Time fixed for filing objections and, if an objection is filed, the hearing to consider a proposed modification to plan pursuant to 11 U.S.C. § 1127(e).

_____(2) **Retainers held by professional persons and fee applications.** In a chapter 11 case, a trustee, examiner, attorney for the debtor or any professional person employed under 11 U.S.C. §§ 327 or 1103 may apply for allowance of compensation and reimbursement of expenses on or after thirty (30) days after the date of the order for relief. A second application may be made on or after sixty (60) days after the first application, and a third application may be made on or after ninety (90) days after the second application. After one hundred eighty (180) days following the date of the order for relief, applications may not be made more than once every one hundred twenty (120) days, unless the Court orders otherwise. In a chapter 11 case, a retainer held by a professional as described above shall be maintained in a trust account and not be drawn against post-petition unless the Court orders otherwise.

LOCAL RULE 2081-2: ASSIGNMENT OF REFILED, RELATED, OR SIMULTANEOUSLY PENDING CASES

- (a) **Certification.** This rule applies to refiled chapter 11 cases and chapter 12 cases and to cases relating to previously filed or pending chapter 11, chapter 12, or chapter 7 cases, and to cases under any chapter pending simultaneously by the same debtor. The existence of refiled, related, or simultaneously pending cases shall be evidenced by a certification by the attorney for the debtor, or debtor appearing *pro se*, attached as Exhibits A and B. The certification shall be submitted to the Court simultaneously with the filing of the refiled or related cases, or filing of a case by the same debtor that is already pending, the purpose of which is to further the Court's policy that such cases should be assigned to the same judge. Failure to submit a proper certification may be grounds for sanctions or other relief.
- (b) **Determination of Common Assignment.** The following principles shall govern whether such cases as described in subsection (a) shall result in common assignment:
- (1) Where the case being filed is a refiling of an entity or relates to a pending case before a judge or a case that has been pending within one (1) year prior to the new filing, the new filing should be assigned to the judge assigned to the pending or previously filed case;
 - (2) Where a case is filed for a subsidiary of a parent entity or is an affiliate of an entity that has filed a separate bankruptcy case in this District, the case shall be assigned to the judge assigned the parent or affiliate case;
 - (3) Where none of the above stated conditions exists and one or more related cases are to be filed simultaneously, the attorney for those debtors may state other grounds that would indicate a lead case. Once the lead case is randomly assigned, the related cases would also be assigned to the judge who is assigned the lead case. Examples of grounds indicating a lead case may include the following: the entity holds the primary assets or business operations and the entity will fund the reorganization of all cases, or the entity has the largest number of employees, creditors or significant debt; and
 - (4) Where there is a conflict among these provisions, the assignment of a parent entity's case shall have precedence in determining the assignment of related cases.
- (c) **Effect of Common Assignment.** The common assignment of cases shall not constitute consolidation or joint administration pursuant to Fed. R. Bankr. P. 1015 nor shall it constitute substantive consolidation. Such a determination shall be made only upon proper motion and notice.

EXHIBIT A TO SC LBR 2081-2

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____

CHAPTER: _____

CERTIFICATION REGARDING
RELATED CASES

Debtor(s).

The undersigned certifies the following pursuant to SC LBR 2081-2 and subject to Fed. R. Bankr. P. 9011.

- (1) As attorney for the debtor or debtor appearing *pro se* named below that is filing one or more related chapter 11, chapter 12, or chapter 7 cases in the District of South Carolina, the undersigned asserts that there are grounds to consider those debtors related, that it is in the best interest of the debtors and their creditors and that it aids the administration of these bankruptcy cases for all of the related cases to be assigned to the same judge at the time of their filing.
- (2) The entities filing are: (Designate parent, subsidiary, and affiliate entity if applicable.)

- (3) The entities filing are subsidiaries of the following parent entity or are affiliates of an entity that has previously filed or has pending a bankruptcy case in this District.
_____ (Designate case numbers and date of filing).
- (4) The following bankruptcy case relate to these entities filing, and the case is pending in this District or has been pending within one year of the anticipated filing date: (Designate case numbers and date of filing).

- (5) While there is no previously filed case pending in this District nor a simultaneous filing of the parent entity, the following grounds indicate a lead case to which all other cases should relate for purposes of case assignment.

- (6) The undersigned recognizes that the common assignment of related cases shall not constitute consolidation or joint administration pursuant to Fed. R. Bankr. P. 1015 nor shall it constitute substantive consolidation.
- (7) The undersigned recognizes that sanctions may be imposed for an improper certification.

Date: _____

Signature of Attorney/*Pro Se* Debtor

Typed/Printed Name

Address

Telephone/Facsimile/E-mail

District Court I.D. Number

EXHIBIT B TO SC LBR 2081-2

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____

CHAPTER: _____

CERTIFICATION REGARDING
REFILED CASES

Debtor(s).

The undersigned certifies the following pursuant to SC LBR 2081-2 and subject to Fed. R. Bankr. P. 9011.

- (1) The undersigned advises that the debtor has filed a previous bankruptcy case in this District that has been dismissed, confirmed, or otherwise closed within one (1) year of the filing of the above-captioned case and that this filing constitutes a refiling for that entity.
- (2) The above-captioned debtor had previously filed a bankruptcy case in this District, or currently has a pending bankruptcy case in this District, as follows:
_____ (Designate case numbers and date of filing).
- (3) The undersigned recognizes that sanctions may be imposed for an improper certification.

Date: _____

Signature of Attorney/*Pro Se* Debtor

Typed/Printed Name

Address

Telephone/Facsimile/E-mail

District Court I.D. Number

LOCAL RULE 2081-3: REQUIREMENTS FOR COMPLEX CHAPTER 11 CASE

- (a) **Designation as Complex.** A debtor filing a chapter 11 bankruptcy petition² who believes that the case should be classified as a complex chapter 11 case shall file with the petition a motion for designation as complex chapter 11 case. Factors to be considered in determining whether to move for designation as complex chapter 11 case must be addressed in the motion for consideration by the Court and must include:
- (1) The need for hearings or orders on an emergency or expedited basis following the filing of the petition;
 - (2) The size of the case, either in number of parties, creditors, or employees, or amount of indebtedness (usually total debt of more than \$10 million), whether claims against the debtor and/or equity interests are publicly traded; and
 - (3) The need for simplification of noticing or hearing procedures.
- (b) **Affidavit in Support.** A debtor in a chapter 11 case filing a motion for designation as complex shall file an affidavit accompanying the motion setting forth:
- (1) The nature of the debtor's business and a concise statement of the circumstances leading to the debtor's filing under chapter 11;
 - (2) The following information with respect to each of the holders of the twenty (20) largest unsecured claims, excluding insiders: the name, address, telephone number, name of the person familiar with the debtor's account, the amount of the claim, and an indication of whether the claim is contingent, unliquidated, disputed, or partially secured;
 - (3) The following information with respect to each of the holders of the five largest secured claims: the name, address, the amount of the claim, a brief description and an estimate of the value of the collateral securing the claim, and whether the claim or lien is disputed; and
 - (4) The names of the individuals who comprise the debtor's existing senior management, their tenure with the debtor, and a brief summary of their relevant responsibilities and experience.
- (c) **Determination of Case as Complex Chapter 11.** When a debtor has filed a chapter 11 petition and a motion for designation as complex chapter 11, the case shall be randomly assigned to a judge using the established case assignment system, and the Clerk's Office shall immediately deliver the petition and all related schedules and statements to the judge. Upon case assignment, the attorney for the debtor shall immediately deliver to the judge two binders containing complete sets of all motions, applications, and other applicable documents that are known at that time to be sought on an emergency or expedited basis following the filing of the petition, indexed and separated by labeled tabs, along with proposed orders which shall be considered by the Court. The principal attorney for the debtor shall further be available to discuss immediate scheduling needs with the Court.
- (d) **Content of Order Designating Case as Complex Chapter 11.** If the Court determines that the case qualifies for treatment as a complex chapter 11 case, the initial order for complex chapter 11 case will address:
- (1) Emergency or expedited hearings to be held within the first two (2) business days, or whatever time period demonstrated by the attorney for the debtor as necessary, of the filing of the petition and the filing and service of the necessary motions and notices related thereto;
 - (2) Hearings to be held within the first two (2) weeks after the filing of the petition and the filing and service of the necessary motions and notices;
 - (3) Omnibus hearings to be held monthly to consider, among other things, other expedited motions filed, served, and noticed at least seven (7) business days prior to the date being used for the omnibus

² Despite references to "a debtor filing a chapter 11 bankruptcy petition," "debtor," and "attorney for the debtor," this rule is contemplated to include a party filing an involuntary petition.

hearing, unless otherwise ordered by the Court; and

- (4) Final hearings on the foregoing matters and other matters to be scheduled and heard as the Court deems appropriate.

Notices relating to such hearings are to be served by the attorney for the debtor unless otherwise directed.

Parties seeking emergency or expedited relief shall strictly comply with SC LBR 9014-1(d). Misuse of the expedited scheduling process may subject a party to sanctions.

- (e) **Shortened Mailing Matrix and Service of Notices.** The debtor may within five (5) days after the filing date of the petition, file and serve on all parties in the case a motion and notice, using the passive notice procedures of SC LBR 9014-2, to establish a shortened mailing list that will apply to noticing certain events in the case as provided in Fed. R. Bankr. P. 2002(I) and for which Fed. R. Bankr. P. 2002 does not provide that notice must be provided to all creditors and equity security holders in the case. The notice shall provide parties with the option of receiving notices served by debtor or other party in interest via electronic mail or by facsimile, pursuant to Fed. R. Bankr. P. 9036, in lieu of service by first class mail. For those parties that elect to receive notice via electronic mail or facsimile, the shortened mailing list shall additionally include those parties' mailing addresses for notices to be served by the Clerk's Office.
- (f) **Initial Status Conference.** The Court, in its initial order for complex chapter 11 cases, may set a status conference to be held within six (6) weeks of the filing of the petition, and following the meeting of creditors held pursuant to 11 U.S.C. § 341, or at such other times as designated by the Court. The status conference will be conducted pursuant to 11 U.S.C. § 105(d) and may include issues addressed by the Court in its initial order for complex chapter 11 cases, and may include other scheduling and procedural issues addressed by any other party in the case which files a motion entitled "Motion Regarding Administrative Issues to be Heard at Status Conference" not later than seven (7) days prior to the date set for the status conference. Such a motion will be served upon debtor's counsel, all secured creditors, the twenty (20) largest unsecured creditors (or unsecured creditors' committee, if one is appointed), any existing official committees, and any party that files a request specifically seeking notice of such status conferences.

LOCAL RULE 2082-1: CHAPTER 12 REQUIREMENTS

- (a) **Filing of Plan.** The chapter 12 plan attached as Exhibit A must be filed in each chapter 12 case in this District within the time limits set forth in 11 U.S.C. § 1221.
- (b) **Liquidation Analysis.** The debtor must attach as an exhibit to the proposed plan a liquidation analysis on the form provided to the debtor by the trustee after the commencement of the case.
- (c) **Feasibility Analysis.** The debtor must attach as an exhibit to the plan a feasibility analysis setting forth the feasibility of the plan which shall include, at a minimum, the following:
 - (1) The projected income for the family farming operation during the year in which the debtor's first plan payment is due;
 - (2) An itemized list of the sources of such income including the amount of property to be sold and the anticipated price per unit therefore;
 - (3) An itemized statement of the debtor's expenses of doing business and living costs;
 - (4) The amount available for payment to the trustee under the terms of the confirmed plan; and
 - (5) Any amount to be retained by the debtor for expenditure as operating capital in the ensuing year.
- (d) **Notice.** The Clerk's Office, or some other person as the Court may direct, shall provide to the debtor or attorney for the debtor a notice to be served on the trustee, all creditors and all equity security holders, setting forth the date and time fixed for the pre-confirmation conference, the deadline for filing objections to the plan, and the date and time of the hearing to consider confirmation of a plan. Unless the Court fixes a shorter period, the notice shall be served at least thirty (30) days before the confirmation hearing. A copy of the plan and all exhibits shall accompany the notice.
- (e) **Objections.** Objections to confirmation of the plan must be filed with the Court and served on the debtor, attorney for the debtor, the trustee, and on any other entity designated by the Court, at or before the time fixed for the pre-confirmation conference. An objection to confirmation is governed by Fed. R. Bankr. P. 9014 and SC LBR 9014-4. The Court may refuse to consider an objection that does not comply with these rules.
- (f) **Summary of Operations.** The debtor shall serve on the trustee, at least five (5) days before the pre-confirmation conference, a completed summary of operations in a form to be provided by the trustee to the debtor after commencement of the case.
- (g) **Pre-Confirmation Conference.** A conference between the debtor, the attorney for the debtor, creditors, the trustee, equity security holders, and parties in interest shall be held at least twenty (20) days before the hearing on confirmation of the debtor's plan. The purpose of the conference is to attempt to resolve objections to the plan and to narrow the issues for the Court. The trustee shall preside at the conference. Any amended plan resulting from the conference must be filed with the Court and served on the trustee and all creditors and equity security holders at least ten (10) days before the hearing on confirmation of the debtor's plan, in order to be considered at the confirmation hearing. Objections to the amended plan, if any, must be filed and served on the debtor, attorney for the debtor, and the trustee prior to the confirmation hearing to be considered at the confirmation hearing.

EXHIBIT A TO SC LBR 2082-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____

CHAPTER: _____

CHAPTER 12 PLAN

Debtor(s).

The debtor certifies that:

- (1) All motions to establish the value of collateral have been filed or are filed contemporaneously herewith.
- (2) All motions to avoid liens have been filed or are filed contemporaneously herewith.
- (3) All fees, charges and amounts required to be paid before confirmation pursuant to chapter 12 of Title 28 of the United States Code have been paid.

FUNDING OF PLAN

(INSTRUCTION: INCLUDE THE APPLICABLE FUNDING LANGUAGE)

The debtor hereby submits his/her future income in the amount of _____ per month for a period of _____ beginning _____.

The debtor hereby submits his/her future income in the amount of _____ per quarter for _____ beginning _____.

The debtor hereby submits his/her future income in the amount of _____ per year for a period of _____ years. Annual payments are to begin on _____ and on _____ each year for a period of _____ years.

After deduction of ten (10%) percent from the above amount, to be applied towards administrative expenses, the trustee shall make disbursements as follows:

- (1) To the attorney's fees of the debtor in an amount not to exceed _____, after approval by the Court, at the rate of ten (10%) percent of the gross payment, until paid in full. This percentage may be reduced or increased by the trustee as necessary.
- (2) Payments to secured creditors, as follows: [INSTRUCTION: THE LANGUAGE SET FORTH IS TO BE REPEATED FOR EACH SECURED CREDITOR AND FOR EACH CLASS OF COLLATERAL HELD BY A SECURED CREDITOR.]

Name of Creditor: _____

Claim No: _____ Claim Amount: _____

Collateral: _____

The Court established the value of this creditor's collateral as \$ _____ by order dated _____.

or

Motions to value collateral are filed contemporaneously herewith.

This creditor is wholly secured in the amount of or _____ as of the effective date of confirmation.

The unsecured portion of this creditor's claim is \$ _____.

This creditor is to be paid \$ _____ per _____ for a period of _____ which includes interest at _____% per annum.

The collateral held by this creditor is hereby surrendered to it. No payment will be made to this creditor.

Payments to this creditor shall be based on any unsecured deficiency claim that may be filed.

Other provisions for this creditor: _____

- (3) Subsequent to the above, dividends to priority creditors, including tax claims, will be paid on a pro-rata basis until paid in full. These are as follows: [INSTRUCTION: THE FOLLOWING SHOULD BE COMPLETED FOR EACH PRIORITY CREDITOR.]

Name: _____

Claim No: _____ Claim Amount: _____

Payment Amount: _____ (monthly, quarterly or annually)

This creditor shall be paid no interest on its claim.

This creditor shall be paid interest at or _____% per annum on its claim.

- (4) Subsequent to the above, unsecured creditors will be paid on a pro-rata basis.

- (5) The following leases or executory contracts will be treated as follows:

Upon confirmation of the plan, property of the estate will remain property of the estate, but title to the property shall revert in the debtor. Unless the plan otherwise provides, secured creditors shall retain their liens upon their collateral until the allowed amounts of their claims are paid in full.

The automatic stay provisions of 11 U.S.C. § 362(a) shall remain in effect until the case is closed.

The effective date of confirmation is the date upon which the order of confirmation becomes final.

Date: _____

Signature of Debtor

Signature of Debtor

Signature of Attorney

Typed/Printed Name/Address/Telephone/

Facsimile/E-mail

District Court I.D. Number

LOCAL RULE 2090-2 : DISCIPLINARY PROCEEDINGS¹

United States District Court Local Civil Rule 83.1.08 DSC shall govern attorney discipline and disbarment in the bankruptcy court.

¹ SC LBR revised April 10, 2008 to add this Rule.

LOCAL RULE 3002-1: INCORPORATION OF INTERIM BANKRUPTCY RULE 3002

Interim Bankruptcy Rule 3002, adopted by this Court as a local rule effective October 17, 2005, is applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and is to be read in conjunction with any corresponding Federal Rule.

INTERIM BANKRUPTCY RULE 3002: FILING PROOF OF CLAIM OR INTEREST

* * * * *

- (c) **Time for Filing.** In a chapter 7 liquidation, chapter 12 family farmer's debt adjustment, or chapter 13 individual's debt adjustment case, a proof of claim is timely filed if it is filed not later than 90 days after the first date set for the meeting of creditors called under § 341(a) of the Code, except as follows:

- (1) A proof of claim filed by a governmental unit, other than for a claim resulting from a tax return filed under § 1308, is timely filed if it is filed not later than 180 days after the date of the order for relief. On motion of a governmental unit before the expiration of such period and for cause shown, the court may extend the time for filing of a claim by the governmental unit. A proof of claim filed by a governmental unit for a claim resulting from a tax return filed under § 1308 is timely filed if it is filed not later than 180 days after the date of the order for relief or 60 days after the date of the filing of the tax return, whichever is later.

* * * * *

- (6) If notice of the time for filing a proof of claim has been mailed to a creditor at a foreign address, on motion filed by the creditor before or after the expiration of the time, the court may extend the time by not more than 60 days if the court finds that the notice was not sufficient under the circumstances to give the creditor a reasonable time to file a proof of claim.

LOCAL RULE 3003-1: PROOFS OF CLAIM OR INTEREST IN CHAPTER 11 CASES

- (a) **Time.** Proofs of claim or interest of nongovernmental entities required or permitted to be filed under Fed. R. Bankr. P. 3003(c) must be filed not later than ninety (90) days after the first date set for the § 341 meeting of creditors, and such proofs of claim or interest of governmental entities must be filed within one hundred eighty (180) days after the date of the order for relief, except as otherwise specified in the Bankruptcy Code or Federal Rules of Bankruptcy Procedure or ordered by the Court.
- (b) **Interim Bankruptcy Rule 3003.** In addition to the above, Interim Rule 3003, adopted by this Court as a local rule effective October 17, 2005, is applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and is to be read in conjunction with any corresponding Federal Rule.

**INTERIM BANKRUPTCY RULE 3003: FILING PROOF OF CLAIM OR EQUITY SECURITY INTEREST
IN CHAPTER 9 MUNICIPALITY OR CHAPTER 11
REORGANIZATION CASES**

* * * * *

(c) Filing Proof of Claim.

- (1) Who May File.** Any creditor or indenture trustee may file a proof of claim within the time prescribed by subdivision (c)(3) of this rule.
- (2) Who Must File.** Any creditor or equity security holder whose claim or interest is not scheduled or scheduled as disputed, contingent, or unliquidated shall file a proof of claim or interest within the time prescribed by subdivision (c)(3) of this rule; any creditor who fails to do so shall not be treated as a creditor with respect to such claim for the purposes of voting and distribution.
- (3) Time for Filing.** The court shall fix and for cause shown may extend the time within which proofs of claim or interest may be filed. Notwithstanding the expiration of such time, a proof of claim may be filed to the extent and under the conditions stated in Rule 3002(c)(2), (c)(3), (c)(4), and (c)(6).
- (4) Effect of Filing Claim or Interest.** A proof of claim or interest executed and filed in accordance with this subdivision shall supersede any scheduling of that claim or interest pursuant to § 521(a)(1) of the Code.
- (5) Filing by Indenture Trustee.** An indenture trustee may file a claim on behalf of all known or unknown holders of securities issued pursuant to the trust instrument under which it is trustee.

LOCAL RULE 3011-1: DISPOSITION OF UNCLAIMED DIVIDENDS

- (a) **Procedure.** All unclaimed funds submitted to the Court by a trustee in a chapter 7, 12, or 13 case pursuant to 11 U.S.C. § 347(a) shall be deposited into the United States Treasury. Any creditor/debtor seeking the release of funds to which it may be entitled must file a motion for payment of unclaimed dividend attached as Exhibit A, accompanied by the required information and documentation stated therein, and serve a copy of the motion on the United States Attorney for the District of South Carolina. Proof of service upon the United States Attorney for the District of South Carolina must also be filed. If no objection is filed with the Court within twenty (20) days after the filing of the motion, the motion and accompanying documents may be considered by the Court with or without hearing.

Any movant seeking to collect unclaimed funds pursuant to a Power of Attorney must be represented by an attorney admitted to practice before this Court in accordance with SC LBR 9010-1.

- (b) **Failure to Comply.** Failure to properly execute the motion for payment of unclaimed dividend and/or to provide the necessary information or documentation may result in denial of the requested relief at any time.
- (c) **Fraud.** Any indication of fraud by persons/entities filing a motion seeking the release of unclaimed funds will be promptly reported to the United States Attorney.

EXHIBIT A TO SC LBR 3011-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____
CHAPTER: _____

MOTION FOR PAYMENT
OF UNCLAIMED DIVIDENDS

Debtor(s).

NOW APPEARS the movant, _____, and states that on *date*, _____ (*name*) became entitled to receive \$ _____ as a distribution in the above-named case, and now appears on the records of this Court as the owner of said funds. The amount requested is being held in the United States Treasury as unclaimed funds pursuant to 11 U.S.C. § 347(a). The reason that the original disbursement was not presented for payment was because _____

(specifically state reason and include brief history of creditor/claimant from filing of claim to present).¹

The movant represents that he/she/it is entitled to receive the requested funds and that no other party is entitled to the funds based upon: (check the statement(s) that apply):²

_____ movant is the creditor/claimant/self-representative of said funds and is the owner of the funds appearing on the records of this Court;

_____ movant is a representative of the estate of a deceased claimant (owner of the funds), as evidenced in the attached documents, including copies of probate documents establishing a right to act on behalf of the decedent's estate;

_____ movant is a duly authorized corporate officer (if a corporation) or a general partner (if a partnership) and is the representative of the owner of the funds, as evidenced by attached affidavit; if creditor/claimant is a successor corporation or partnership, the creditor/claimant has attached copies of documents establishing the derivation of entitlement to the funds;

_____ movant has been assigned the claim, as evidenced in the attached documents;

_____ movant is named in the attached notarized Power of Attorney by the owner of the funds, valid under the laws of the State of South Carolina, that empowers movant to collect the unclaimed funds described above on behalf of the owner.

WHEREFORE, the movant submits to the jurisdiction of this Court and requests that an order be entered directing payment of the unclaimed funds described above to the movant.

¹ Specific and sufficient details of any transfer of the original claim, change of name or address of original claimant (such as through sale or merger) must be provided or the motion will be denied.

² Any attorney representing a movant seeking payment of unclaimed dividends must be admitted to practice before this Court as set forth in SC LBR 9010-1.

I, _____, hereby declare under penalty of perjury that the foregoing is true and correct and state that I am a creditor/debtor in the above-named case and request payment of my unclaimed dividend/refund check or am authorized to request payment of the above dividend and that I have served a copy of this motion and attachments to the United States Attorney for the District of South Carolina on (date).

Name _____
Current Phone No. _____
Last Four Digits of Social Security No. _____
Previous Mailing Address _____
Current Mailing Address _____
Driver's License No. _____

Signature of Creditor/Debtor
(Corporate Seal Required for Corporation)³

_____, I, a notary public for the State of _____, certify that I have examined the motion for payment of unclaimed dividend and documentation of the movant which establishes identity, and the above motion was subscribed and sworn to before me in _____,
(city/town), _____ (state), this _____ day of _____, _____.

(seal)
Notary Public
My commission expires: _____

³ If corporate seal is not affixed or available, then appropriate documentation is required which indicates that the person signing the motion is authorized to do so.

LOCAL RULE 3015-1: CHAPTER 13 REQUIREMENTS

- (a) **Form of Plan.** The Notice, Chapter 13 Plan and Related Motions (“the Form Plan”) attached as Exhibit A must be filed in each chapter 13 case in this District.

A debtor wishing to propose a plan with provisions different from those in the Form Plan must complete the section of the Form Plan labeled: “**NOTICE (TO BE COMPLETED ONLY IF FORM PLAN IS ALTERED)**” and highlight the changes made in the plan. However, provisions of the Form Plan may not be deleted. A debtor or attorney for the debtor who signs and files a plan without such statement and highlighting represents to the Court that the Form Plan has not been altered, and will be subject to appropriate sanctions if the Form Plan has been altered.

- (b) **Filing and Service of Form Plan.** Unless the Court orders otherwise, the debtor shall file a Form Plan in accordance with Fed. R. Bankr. P. 3015(b), contemporaneously serve copies of the Form Plan upon all creditors and other interested parties, and file a certificate of its service with the Court.
- (c) **Related Motions.** In order to obtain a determination of the value of a claim or collateral pursuant to 11 U.S.C. § 506(a), to avoid a lien pursuant to 11 U.S.C. § 522(f), or to assume or reject executory contracts pursuant to 11 U.S.C. § 365 in a chapter 13 case, the debtor shall include such motion in the Form Plan.
- (d) **Modification of Plan or Related Motions.** A debtor who seeks to modify a chapter 13 plan or related motions prior to confirmation, or a debtor seeking to modify the same after confirmation pursuant to 11 U.S.C. § 1329 and Fed. R. Bankr. P. 3015(g), must comply with one of the following:

- (1) **Sole purpose of amended plan– to increase base of plan.** When the sole purpose of an amendment to a chapter 13 plan is to increase the monthly plan payment amount to the chapter 13 trustee and/or to increase the number of months of payments (Paragraph 1 in the Form Plan) AND no other amendment to plan has been proposed in accordance with this paragraph, the debtor may file, depending on whether the amendment is before or after confirmation, a “Pre-Confirmation Amendment to Chapter 13 Plan for the Purpose of Increasing Base” attached as Exhibit D or a “Post-Confirmation Amendment to Chapter 13 Plan for the Purpose of Increasing Base” attached as Exhibit E, hereinafter referred to as a “Base Amendment.” The attorney for the debtor or debtor appearing *pro se* must certify on the Base Amendment that the amendment does not adversely affect the plan treatment of any creditor or party in interest. The following procedure is required:

- (A) The Base Amendment must be completed in its entirety and signed by the attorney for the debtor or debtor appearing *pro se* and filed with the Court, and notice to the chapter 13 trustee will be effected by a notice of electronic filing; and
- (B) If recommended by the chapter 13 trustee, the amendment may be approved without further notice or hearing and without the filing or service of an entirely new plan. The filing of an amendment which does not adversely affect the plan treatment of any creditor or party in interest shall be deemed to meet the notice requirements of Fed. R. Bankr. P. 3015(g).

- (2) **Other amendments.** Any subsequent amendments to the plan, or any amendments which make changes to the plan other than those delineated above, must be made in conformity to subparagraphs (A) and (B) below.

- (A) **Modification of plan before confirmation for any reason not mentioned in paragraph (1).** The debtor must complete a Form Plan inserting language to identify it as an amendment, and a notice conforming to attached Exhibit B. The debtor shall file with the Court and serve the amended plan and notice on all parties which might be adversely affected by the amendment, together with proof of such service.

(B) Modification of plan after confirmation for any reason not mentioned in paragraph (1).

A motion to modify the confirmed plan must be filed, and must comply with SC LBR 9014-1. If filed by the debtor, the proposed amended plan must be attached to the motion seeking modification of the plan, and must be in the form of a completed Form Plan with language inserted that it is an amended plan after confirmation. The party seeking the modification must also complete a notice conforming to attached Exhibit C. The notice, motion, and attachments must be served in order to meet the requirements of Fed. R. Bankr. P. 3015(g) and the notice, motion and attachments must be filed with the Court, together with proof of service.

If the Court denies a motion to modify a plan after confirmation, the previously confirmed plan will remain in full force and effect.

- (3) Failure to file modified plan.** The chapter 13 trustee may notify the attorney for the debtor or if *pro se*, the debtor, in writing that a modified plan is necessary and state why the modification is required. Failure to file a modified plan, conforming to the above, within ten (10) days of the written notice may constitute grounds to dismiss the case upon motion by the chapter 13 trustee.

(e) Objections to Confirmation of Plan or to Related Motions.

- (1) Deadline for filing:** Any objection to confirmation of the chapter 13 plan or related motions must be filed not later than twenty-five (25) days after the filing of the Form Plan or from the date of service of any amended Form Plan according to the notices attached as Exhibits B and C, respectively.
- (2) Content of objection.** Any objection to confirmation of the plan must be written¹ and properly captioned in accordance with SC LBR 9014-4 and Fed. R. Bankr. P. 9004. It must set forth with particularity the reasons for opposition, citing applicable statutes, rules and controlling case law, and parties may be limited to arguing the matters raised in the documents. Any objection to interest rate shall comply with SC LBR 3015-3(c).
- (3) Service and filing of objection:** The objecting party shall file the objection with the Court and serve a copy on the debtor and attorney for the debtor. The objection must be accompanied by proof of service.
- (4) Hearing on objection.** If a timely objection is filed before the date of the confirmation hearing, the objection will be considered at that hearing. If the deadline for filing objections occurs after the date of the confirmation hearing, a hearing on any timely objection filed after that date will be scheduled and noticed by the Court.
- (f) Confirmation of Chapter 13 Plan and Approval of Related Motions If No Objection.** If the time for filing objections has passed and all timely filed objections have been considered by the Court or otherwise resolved, the Court, without hearing, may enter an order confirming the chapter 13 plan and granting the relief sought in the related motions.
- (g) Post-Petition Domestic Support Obligations in Chapter 13 Cases.** The timely payment of domestic support obligations arising post-petition shall be a requirement of all plans, and a certificate indicating the status of such payments attached as Exhibit F shall be required and submitted to the chapter 13 trustee (but not filed with the Court) as a condition of confirmation and at any time thereafter upon request of the trustee.

¹ Objections by a chapter 13 trustee to a chapter 13 plan may, but need not, be a writing filed with the Court, but shall be communicated to the plan proponent prior to the confirmation hearing. *See* SC LBR 9014-4. Written notice of deficiencies typically are provided by the trustee at a debtor's 11 U.S.C. § 341 meeting of creditors or, if developments require, several days in advance of the hearing on confirmation of a debtor's plan.

(h) **Dismissal for Failure to Timely File or Distribute Plan.** The Court may enter an order dismissing a chapter 13 case upon the certification by the Clerk's Office that the debtor has failed to timely meet the filing requirements of Fed. R. Bankr. P. 3015(b) and subsection (b) of this local rule.

(i) **Payments Required Under 11 U.S.C. § 1326(a) shall be paid as follows:**

- (1) In the event of dismissal or conversion of the case prior to confirmation, payment to holders of allowed claims shall be in the manner described in SC LBR 1019-1 not as set out in § 1326(a).
- (2) Following confirmation of a plan, all funds in possession of the trustee shall be disbursed pursuant to the terms of the confirmed plan.

(j) **Discharge Pursuant to 11 U.S.C. § 1328(a)².** Upon filing by the Trustee of the Notice of Plan Completion, the Trustee shall contemporaneously serve on the debtor and the attorney for the debtor (if any) the Trustee's Notice to Debtor of Plan Completion and Notification of Need to File Request for Discharge (Trustee's Notice, attached as Exhibit K), giving notice that the Certification of Plan Completion and Request for Discharge and Notice (attached as Exhibits G and H) must be completed, filed and served before a discharge can be entered.

The debtor shall complete and file with the Court within fifteen (15) days of the date of the Trustee's Notice:

- (1) The Certification of Plan Completion and Request for Discharge (attached as Exhibit G);
- (2) The Notice of Certification of Plan Completion and Request for Discharge (attached as Exhibit H); and
- (3) A certificate of service of the items set forth above upon all creditors and parties and interest.

If no response is filed and no hearing is requested within fifteen (15) days of service of the Certification and Notice, the Court shall issue a discharge.

In the event that the debtor fails to timely file the Certification and Notice, the Clerk's Office will issue a deficiency notice to the debtor, attorney for the debtor, and the trustee. If the deficiency is not cured within the required time period, the Clerk's Office will close the case without issuing a discharge.

(k) **Discharge Pursuant to 11 U.S.C. § 1328(b)².** Upon the filing of a motion by the debtor for a "hardship discharge" pursuant to 11 U.S.C. § 1328(b), the debtor shall contemporaneously therewith complete and file with the Court:

- (1) The Certification of Debtor Information and Request for Hardship Discharge (attached as Exhibit I);
- (2) The Notice of Certification of Debtor Information and Request for Hardship Discharge (attached as Exhibit J); and
- (3) A certificate of service of the items set forth above upon all creditors and parties in interest.

Failure to file items (1) - (3) with the motion for hardship discharge may result in denial of the relief sought.

² The requirements of subsection (j) and (k) are only applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, and are inapplicable to cases in which the Court has made a finding that the debtor will not be receiving a discharge.

EXHIBIT A TO SC LBR 3015-1
Effective for all Chapter 13 cases January 1, 2008.

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____
CHAPTER: 13

NOTICE, CHAPTER 13 PLAN AND RELATED
MOTIONS

Debtor(s).

**NOTICE OF: 1) DEADLINE FOR FILING OBJECTIONS TO CONFIRMATION OF CHAPTER 13 PLAN;
2) MOTION FOR VALUATION; 3) MOTION TO AVOID CERTAIN LIENS; AND
4) ASSUMPTION OR REJECTION OF EXECUTORY CONTRACTS**

The following chapter 13 plan (the "Chapter 13 Plan") and related motions (the "Related Motions") have been filed in the above-captioned case. They will be considered at the Confirmation Hearing, notice of which is given in the Notice of Meeting of Creditors. Any objections to the confirmation of the plan, to the payment of attorney's fees in accordance with the distribution set forth herein, to the Motion to Value Security, to the Motion to Avoid Judicial Lien or to Avoid a Nonpurchase Money, Nonpossessory Security Interest and Lien, or to the assumption or rejection of an executory contract, all as requested herein, must be made in writing, served upon the debtor(s), the undersigned counsel for the debtor(s), and filed with the Court, United States Bankruptcy Court, 1100 Laurel Street, Columbia, SC 29201, within twenty-five (25) days from the date of filing this Notice, Chapter 13 Plan and Related Motions. All objections must comply with South Carolina Local Bankruptcy Rule 9014-4 (SC LBR 9014-4). The Confirmation hearing is not required to be held unless a response, return, and/or objection is timely filed and served.

The Notice and Chapter 13 Plan shall be served on or before the date they are filed with the Court and according to Federal Rules of Bankruptcy Procedure, Rules 3015 and 2002. Related Motions shall be served on or before the date of their filing with the Court and according to Federal Rules of Bankruptcy Procedure, Rule 7004.

The Chapter 13 Plan and Related Motions propose to value the security of the following creditors:

The Chapter 13 Plan and Related Motions propose to avoid a judicial lien or to avoid a nonpurchase money, nonpossessory security interest and lien of the following creditors:

The Chapter 13 Plan and Related Motions propose the assumption of executory contracts as follows:

**NOTE THAT A FAILURE TO OBJECT TO CONFIRMATION MAY CONSTITUTE AN IMPLIED
ACCEPTANCE OF THE PLAN.**

**REVIEW THE PLAN AND RELATED MOTIONS CAREFULLY
TO DETERMINE TREATMENT OF YOUR CLAIM**

If an objection is filed within twenty-five (25) days after the date of filing and such timely objection is filed before the Confirmation Hearing, the objection will be heard at the Confirmation Hearing, notice of which is given in the Notice of Meeting of Creditors. If an objection is filed within twenty-five (25) days after the date of filing and such timely objection is filed after the Confirmation Hearing, a hearing on the objection will be scheduled and notice of such hearing will be given.

If no objection is timely filed in accordance with SC LBR 9014-4, the Court, upon the recommendation of the chapter 13 trustee and without further hearing or notice, may enter an order confirming the plan following the Meeting of Creditors (11 U.S.C. § 341 meeting) and granting the other relief requested therein.

NOTICE
(TO BE COMPLETED ONLY IF FORM PLAN IS ALTERED)

The plan below contains language that is in addition to that approved for use in the Chapter 13 Plans in the United States Bankruptcy Court for the District of South Carolina, or otherwise alters the approved Form Plan. Such language is highlighted by ____ (state whether by bold type, italics, or underlining).

The unapproved language referred to above appears in Paragraph _____. Parties wishing to object to the inclusion of unapproved language or any other provision of the plan should review the Notice, Chapter 13 Plan and Related Motions for the correct procedure to be followed.

CHAPTER 13 PLAN AND RELATED MOTIONS

1. The future earnings and income of the debtor(s) are submitted to the supervision and control of the chapter 13 trustee, and the debtor(s) shall pay to the chapter 13 trustee the sum of \$_____ per month for a period of ____ () months, or longer if necessary, for completion of this plan according to its terms, but not to exceed 60 months. The debtor's(s') total obligation under this plan will not be less than (the base amount), regardless of the unsecured dividend stated in paragraph 6. In addition to the above, the debtor(s) will pay any portion of a recovery under a pre-petition claim or cause of action, that constitutes disposable income or is not exempt, to the chapter 13 trustee.
2. After the deduction from all disbursements of the allowed chapter 13 trustee's commission and expenses, the chapter 13 trustee shall make disbursements as follows:
3. Fees and expenses of the attorney for the debtor(s) shall be treated as follows:
 - (a) _____ The attorney for the debtor(s) has received \$_____ in fees and costs prior to the filing of this case and has agreed to an additional fee and cost reimbursement in the amount of \$_____, which latter sum shall be paid under this plan. Additional fees may be sought by Application under the Expedited Fee Procedure.
 - (b) _____ The attorney for the debtor(s) has received a retainer and cost advance of \$_____ prior to the filing of this case. The attorney has agreed to file fee applications for compensation and expenses in this case and will hold the retainer and cost advance in trust until fees and expense reimbursements are approved by the Court. For plan confirmation purposes only, the fees and expenses of counsel are estimated at \$_____ or less.

Following confirmation of the plan and unless the Court orders otherwise, the chapter 13 trustee shall disburse \$500.00 to the attorney from the initial disbursement made by the chapter 13 trustee.¹ In addition to the initial disbursement by the chapter 13 trustee, the balance of the attorney's compensation as allowed under paragraphs (a) or (b) above and the terms of the Operating Order shall be paid, to the extent then due, with all funds remaining each month after payment to secured and domestic support creditors as set forth herein.

In instances where an attorney assumes representation in pending pro se cases and a plan is confirmed, a separate order may be entered by the Court, without further notice, which allows for the payment of a portion of the attorney's fees in advance of payments to other creditors.

¹
The chapter 13 trustee shall not disburse more than the unpaid balance of the fee to be paid under the plan pursuant to (a), the balance of the fee previously applied for and authorized pursuant to (b), or the unpaid balance to be paid together with any supplemental fee then applied for and authorized under the terms of the Operating Order, as applicable.

4. Secured creditors will be treated as follows:

(a) Long term or mortgage debt - ARREARAGE ONLY (including, but not limited to, all past due payments and escrow amounts), to be paid to _____ at \$ _____ or more per month, along with _____% interest. Regular payments will be made directly by the debtor(s), beginning _____ 20 ____.

(b) Long term or mortgage debt - ARREARAGE ONLY (including, but not limited to, all past due payments and escrow amounts), to be paid to _____ at \$ _____ or more per month, along with _____% interest. Regular payments will be made directly by the debtor(s), beginning _____ 20 ____.

(c) The liens of the following creditors shall be satisfied as follows:

Payments of \$ _____ or more per month, to _____ until the net balance/value of the lien, plus _____% interest has been paid in full. If the lien is to be valued, the debtor(s) hereby move(s) to value the lien at \$ _____ in accordance with SC LBR 3015-1 and the notice attached hereto. The basis of the debtor's(s') value is as follows: valuation source, vehicle mileage (if applicable). Liens senior to the above-named creditor are held by the following creditors in the following amounts: _____.

Payments of \$ _____ or more per month, to _____ until the net balance/value of the lien, plus _____% interest has been paid in full. If the lien is to be valued, the debtor(s) hereby move(s) to value the lien at \$ _____ in accordance with SC LBR 3015-1 and the notice attached hereto. The basis of the debtor's(s) value is as follows: vehicle mileage (if applicable). Liens senior to the above-named creditor are held by the following creditors in the following amounts: _____.

Payments of \$ _____ or more per month, to _____ until the net balance/value of the lien, plus _____% interest has been paid in full. If the lien is to be valued, the debtor(s) hereby move(s) to value the lien at \$ _____ in accordance with SC LBR 3015-1 and the notice attached hereto. The basis of the debtor's(s) value is as follows: vehicle mileage (if applicable). Liens senior to the above-named creditor are held by the following creditors in the following amounts: _____.

Secured tax debt: Payments of \$ _____ or more per month, to _____ on its claim secured by a tax lien until the net balance/value of lien plus _____% interest has been paid in full. If the lien is to be valued, the debtor(s) hereby move(s) to value the lien at \$ _____ in accordance with SC LBR 3015-1 and the notice attached hereto. The basis of the debtor's(s) value is as follows: _____ Liens senior to the above-named creditor are held by the following creditors in the following amounts: \$ _____. Of the remaining tax claim, the amount of \$ _____ will be accorded priority unsecured tax status and the balance of the claim will be accorded general nsecured status and paid in accordance with paragraph 6(a) if a proof of claim is timely filed.

(d) Other secured debt(s) to be treated as follows:

(e) The following payments to mortgage creditors are current and the debtor(s) will continue making regular payments directly to:

(f) The debtor(s) hereby move(s) to avoid the following non-possessory, on-purchase-money security interest liens pursuant to 11 U.S.C. § 522(f), and SC LBR 3015-1, and the notice attached hereto. If the debtor(s) intend(s) to avoid a security interest pursuant to other applicable sections of the United States Bankruptcy Code (Code), then the debtor(s) shall so state below and shall file and serve necessary pleadings on or before the date set for the initial meeting of creditors.

Name of Creditor

Amount of Security
Interest

Amount of Security Interest Not
Avoided and to be Paid as Set in
Paragraph 4(c) Above

(g) The debtor(s) hereby move(s) to avoid the following judicial liens pursuant to 11 U.S.C. § 522(f), SC LBR 3015-1, and the notice attached hereto. If debtor(s) intend(s) to avoid a judicial lien pursuant to other applicable sections of the Code, the debtor(s) shall so state below and shall file and serve the necessary pleadings on or before the date set for the initial meeting of creditors.²

<u>Name of Creditor</u>	Amt of Judicia l Lien [+]	Total amt of All Other	Amt of Exemption Claimed [=]	<u>Enter Amt [-</u>]	Value Debtor's Interest in <u>Property</u>	Value of Judicial Lien <u>to be</u> <u>Avoided</u>	Amt of Judicial Lien Not to be <u>Avoided</u>
-----------------------------	------------------------------------	---------------------------------	---------------------------------------	--------------------------	---	---	--

5. (a) All 11 U.S.C. § 507(a)(1) priority creditors (pre-petition domestic support obligations) shall be treated as follows:

To _____, the pre-petition domestic support obligations shall be paid in full, by paying \$ _____ or more per month until the balance is paid in full, except as set forth in Paragraphs 2 and 3.

All post-petition domestic support obligations will be paid by the debtor(s) outside the plan and shall be kept current.

(b) Except as set forth in Paragraphs 2 and 3 *and* subsequent to the above, all other 11 U.S.C. § 507 priority creditors (including, but not limited to, pre-petition taxes or other claims by governmental units) will have the allowed amounts of their pre-petition claims paid on a pro-rata basis. The debtor(s) shall pay all similar post-petition priority obligations to such creditors as they come due directly to such creditors.

6. Subsequent to the above, unsecured creditors will be treated as follows:

(a) General unsecured creditors will be paid not less than _____ % of their allowed claims, on a pro-rata basis. If no percentage is stated, then general unsecured claims will be paid 100% of their allowed claims, on a pro-rata basis. If the unsecured claims are entitled to full payment on their claims plus interest, then interest shall be paid at the rate of _____ %.

(b) The following creditors who hold unsecured consumer claims with co-debtors will be paid _____ % of their allowed claims plus _____ % interest on a pro-rata basis: _____.

(c) The following creditors who hold unsecured claims of the kind specified in 11 U.S.C. § 1328(a) will be paid _____ % of their allowed claims plus _____ % interest on a pro-rata basis: _____.

² In certain cases, the Court's equity analysis for co-owned property pursuant to In re Ware, 274 B.R. 206 (Bankr. D.S.C. 2001) may be applicable. In such instances, the formula provided in Exhibit C to SC LBR 4003-1 may be utilized.

7. The debtor(s) move(s) for the assumption of the executory contracts and leases listed below. The debtor agrees to abide by all terms of the agreements and to cure any pre-petition arrearage or defaults in the manner listed below.

<u>Creditor</u>	<u>Amt of regular pmt</u>	<u>Amt of Default</u> <u>(state if none)</u>	<u>Cure Provisions</u>	<u>Regular pmts and</u> <u>cure pmts paid by</u> <u>debtor(s)/by trustee</u>
-----------------	---------------------------	---	------------------------	--

An executory contract or lease not specifically mentioned above is treated as rejected.

8. Upon confirmation of the plan, property of the estate will remain property of the estate, but title to the property shall revert in the debtor(s). With respect to secured claims being paid through the plan, the holders of secured claims shall retain liens until the earlier of payment of the underlying debt, as determined under non-bankruptcy law, or discharge under 11 U.S.C. § 1328(a). If this case is dismissed or converted without completion of the plan, all liens shall be retained to the extent recognized by non-bankruptcy law. The terms of the debtor(s) pre-petition agreement with a secured creditor shall continue to apply except as provided for in this plan, the Order confirming the plan or other Order of the Court. Completion of all plan payments shall impose an affirmative duty on secured creditors paid under the plan to satisfy liens as required by applicable law. Any party entitled to collect child support or alimony under applicable non-bankruptcy law may collect post-petition obligations from the income or assets of the debtor-parent/spouse without further order or relief from the automatic stay. Any claim for pre-petition child support or alimony must be collected in accordance with 11 U.S.C. § 507(a)(1) and 11 U.S.C. § 1322(a)(2).

To receive payment from the chapter 13 trustee, a secured creditor must file a proof of claim. Secured claims which are not filed within the time required by Fed. R. Bankr. P. 3002(c) may be disallowed or subordinated to other claims upon further order of the Court.

Confirmation of this plan does not bar a party in interest from objecting to a claim which is not filed in accordance with Fed. R. Bankr. P. 3001 or Fed. R. Bankr. P. 3002.

If property is to be released or otherwise surrendered pursuant to this plan, the creditors holding a lien on, or interest in, the property to be released must provide the chapter 13 trustee with acceptable evidence of perfection of the lien or interest, otherwise the property may not be released or surrendered.

Any creditor holding a claim secured by property which is removed from the protection of the automatic stay, whether by judicial action, voluntary surrender, or through operation of the plan, will receive no further distribution from the chapter 13 trustee, unless an itemized proof of claim for any deficiency is filed within a reasonable time after the removal of the property from the protection of the automatic stay. The preceding language does not apply if the sole reason for its application arises under 11 U.S.C. § 362(c)(3) or (c)(4). Any funds that would have been paid to such a creditor will be distributed to other creditors, unless the Court orders otherwise. This also applies to creditors who may claim an interest in, or lien on, property which is removed from the protection of the automatic stay by another lienholder or released to another lienholder, unless the Court orders otherwise.

If a tax creditor files a claim which is allegedly a secured claim but does not timely object to confirmation of this plan, then the claim may be paid as a priority claim.

If a claim is listed in the plan as secured, and the creditor files a proof of claim as an unsecured creditor, the creditor may be treated as unsecured for purposes of distribution under the plan.

The debtor(s) will not incur indebtedness or sell property outside the ordinary course of business without permission of the Court.

The debtor(s) is/are responsible for protecting the non-exempt value of all property of the estate and for protecting the estate from any liability resulting from operation of a business by the debtor(s).

If a claim is scheduled as unsecured, and the creditor files a proof of claim alleging that the claim is secured, but does not timely object to the confirmation of the plan, then the creditor may be treated as unsecured for purposes of distribution under the Plan. This paragraph is not intended to limit the right of a creditor affected by this paragraph to seek relief from the stay or to object to the discharge of the debt. Nothing in this paragraph shall be deemed to affect the lien rights of the creditor except as otherwise specifically provided under the plan or by order of the Court.

Nothing herein is intended to waive or affect adversely any rights of the debtor, chapter 13 trustee, or party with respect to any causes of action.

9. Pay order request or other plan provisions not inconsistent with the above:

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he/she served the foregoing Notice, Plan and Related Motions on all creditors and parties in interest entitled to such notice. The parties served are individually listed on the accompanying list or mailing matrix.

Date: _____

BY: _____

District Court I.D.

Attorney for the Debtor/*Pro Se* Debtor

Debtor

Debtor

EXHIBIT B TO SC LBR 3015-1

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____

CHAPTER: 13

NOTICE OF PLAN MODIFICATION BEFORE
CONFIRMATION

Debtor(s).

TO: Trustee

Affected Creditor: _____

PLEASE TAKE NOTICE that pursuant to 11 U.S.C. § 1323 and Fed. R. Bankr. P. 2002(a)(6), the debtor is filing the attached modified plan and that the above-identified creditor is adversely affected thereby.

Any creditor wishing to object to the proposed modification of the plan must file an objection with the Court, United States Bankruptcy Court, 1100 Laurel Street, Columbia, South Carolina 29201 within twenty-five (25) days from the date of filing.

Pursuant to SC LBR 9014-4, any objection must be written and properly captioned in accordance with Fed. R. Bankr. P. 9004, set forth with particularity the reasons for the objection and be served on the attorney below, the chapter 13 trustee, and other parties in interest and filed with the Court not later than the deadline given above. Any objecting party failing to comply with this procedure may be denied the opportunity to appear and be heard by the Court and the modified plan may be confirmed.

If the modified plan adversely affects any party and the adversely affected party files an objection within twenty-five (25) days after the date of filing, the objection will be heard at the confirmation hearing, notice of which is given in the Notice of Meeting of Creditors. If the modified plan adversely affects any party and the adversely affected party files an objection within twenty-five (25) days after the date of filing and such timely objection is filed after the confirmation hearing, a hearing on the objection will be scheduled and notice of such hearing will be given.

The undersigned hereby certifies that he/she has properly served this notice and the accompanying plan and related motions on the parties listed above.

Date: _____

Signature of Attorney/*Pro Se* Debtor

Typed/Printed Name

Address/Telephone/Facsimile/E-mail

District Court I.D. Number

EXHIBIT C TO SC LBR 3015-1

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____
CHAPTER: 13

NOTICE OF PLAN MODIFICATION AFTER
CONFIRMATION

Debtor(s).

TO: Debtor, Trustee, All Creditors, and other Parties in Interest

PLEASE TAKE NOTICE that pursuant to 11 U.S.C. § 1329(a), Fed. R. Bankr. P. 3015(g), and Fed. R. Bankr. P. 2002(a)(6), the moving party is filing the attached motion to modify confirmed plan, memorandum, and modified plan.

Any party wishing to object to the proposed modification of the plan must file an objection with the Court, United States Bankruptcy Court, 1100 Laurel Street, Columbia, South Carolina 29201 within twenty-five (25) days from the date of filing.

Pursuant to SC LBR 9014-4, any objection must be written and properly captioned in accordance with Fed. R. Bankr. P. 9004, set forth with particularity the reasons for the objection, and be served on the attorney below, the chapter 13 trustee, and other parties in interest and filed with the Court not later than the deadline given above. Any objecting party failing to comply with this procedure may be denied the opportunity to appear and be heard by the Court, and the modified plan may be confirmed.

If an objection is filed within twenty-five (25) days after the date of filing, a hearing on the objection will be scheduled and notice of such hearing will be given.

The undersigned hereby certifies that he/she has properly served this notice and the accompanying plan and related motions on the parties listed above.

Date: _____

Signature of Attorney/*Pro Se* Debtor

Typed/Printed Name

Address/Telephone/Facsimile/E-mail

District Court I.D. Number

EXHIBIT D TO SC LBR 3015-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____
CHAPTER: 13

PRE-CONFIRMATION AMENDMENT TO
CHAPTER 13 PLAN FOR THE PURPOSE OF
INCREASING BASE

Debtor(s).

The debtor in this case has proposed a chapter 13 plan that was filed with the Court on _____
(hereinafter "the plan"). The debtor now seeks to modify the plan.

The terms and conditions of the plan are incorporated herein by reference as if fully set out, except that paragraph one (1) of that plan is hereby amended to change the payment amount and/or the number of months that payment is required as follows:

1. Monthly payment at this time, and through the month of (Month/ Year), is/ will be \$ _____.
Check one: ☐ This payment amount will not change with the amendment.
☐ The monthly payment beginning (Month/ Year of first payment at this payment amount) will be increased to \$ _____.
☐ The monthly payment beginning (Month/ Year of first payment at this payment amount) will be increased to \$ _____.
☐ The monthly payment beginning (Month/ Year of first payment at this payment amount) will be increased to \$ _____.
2. The previous plan provided for payments over _____ months. Number of months will increase to _____ total.

The undersigned certifies that this change does not adversely affect the plan treatment of any creditor or party in interest in this matter and requests that this amendment be approved upon recommendation of the chapter 13 trustee without further notice or hearing.

Date: _____

Signature of Attorney/*Pro Se* Debtor

Typed/Printed Name/Address/Telephone
Facsimile/E-mail

District Court I.D. Number

EXHIBIT E TO SC LBR 3015-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____
CHAPTER: 13

POST-CONFIRMATION AMENDMENT TO
CHAPTER 13 PLAN FOR THE PURPOSE OF
INCREASING BASE

Debtor(s).

The debtor in this case has proposed a chapter 13 plan that was filed on _____ and confirmed by the Court on _____, (hereinafter "the plan"). The debtor now seeks to modify the plan, pursuant to 11 U.S.C. § 1329(a), and in conformity with Federal Rules of Bankruptcy Procedure, Rule 3015(g).

The terms and conditions of the plan are incorporated herein by reference as if fully set out, except that paragraph one (1) of that plan is hereby amended to change the payment amount and/or the number of months that payment is required as follows:

1. Monthly payment at this time, and through the month of (Month/ Year), is/ will be \$_____.

Check one: ☐ This payment amount will not change with the amendment.

 ☐ The monthly payment beginning (Month/ Year of first payment at this payment amount) will be increased to \$_____.

2. The previous plan provided for payments over _____ months. Number of months will increase to _____ total.

The undersigned certifies that, upon information and belief, this change does not adversely affect the plan treatment of any creditor or party in interest in this matter and requests that this amendment be approved upon recommendation of the chapter 13 trustee without further notice or hearing.

Date: _____

Signature of Attorney/*Pro Se* Debtor

Typed/Printed Name/Address/Telephone
Facsimile/E-mail

District Court I.D. Number

EXHIBIT F TO SC LBR 3015-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____

CHAPTER: 13

CERTIFICATION

Debtor(s).

The above-captioned debtor hereby certifies that, if there is a post-petition obligation to pay any domestic support obligation, any such payments coming due after filing of the bankruptcy petition and continuing through the date of the confirmation hearing have been paid.

Debtor

Debtor

Date: _____

EXHIBIT G TO SC LBR 3015-1

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA**

IN RE:

Debtor(s).

CASE NO: _____

CHAPTER 13

**CERTIFICATION OF PLAN COMPLETION AND
REQUEST FOR DISCHARGE**

The above-captioned debtor certifies under penalty of perjury that the following are true and correct:

- 1) All plan payments have been completed and the debtor is entitled to a discharge.
- 2) Pursuant to 11 U.S.C. § 1328(a), all amounts payable for domestic support obligations due on or before the date set forth below (including any amounts due before the filing of the bankruptcy petition to the extent provided for by the plan) have been paid to:

Name: _____

Address: _____

(repeat for multiple payees)

The debtor's employer and address:

Name: _____

Address: _____

Claims that were not discharged pursuant to 11 U.S.C. § 523(a)(2) or (4): _____

Debts that were reaffirmed under 11 U.S.C. § 524 (c): _____

- 3) The provisions of 11 U.S.C. § 522(q)(1) are not applicable to this case under 11 U.S.C. § 1328(h) and there are no proceedings pending against the debtor of the kind described in 11 U.S.C. § 522(q)(1)(A) or 522(q)(1)(B).
- 4) The debtor has not received a discharge in a case filed under 7, 11, or 12 of this title during the 4-year period preceding the date of the order for relief under this chapter, or in a case filed under chapter 13 of this title during the 2-year period preceding the date of such order.
- 5) The debtor has completed an instructional course concerning personal financial management described in 11 U.S.C. § 111 and has either previously filed Official Form 23 so certifying with the Court, or such certification and accompanying documents are being contemporaneously filed herewith.

The undersigned requests that a discharge be granted in accordance with 11 U.S.C. § 1328.

DATE: _____

Debtor

Debtor

EXHIBIT H TO SC LBR 3015-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____

CHAPTER 13

Debtor(s).

NOTICE OF CERTIFICATION OF PLAN
COMPLETION AND
REQUEST FOR DISCHARGE

To the Trustee and to all creditors and parties in interest:

YOU ARE HEREBY NOTIFIED that the above- referenced debtor has requested a discharge pursuant to 11 U.S.C. § 1328(a) in the above case. A copy of the Certification of Plan Completion and Request for Discharge is attached.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you have any reason to believe that the provisions of 11 U.S.C. § 522(q)(1) apply to this debtor or that there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in 11 U.S.C. § 522(q)(1)(A) or liable for a debt of the kind described in 11 U.S.C. § 522(q)(1)(B) or that the debtor is otherwise not entitled to a discharge, then you or your attorney must:

1. File with the Court a written response to the Certification, specifying the basis for your response, no later than fifteen (15) days from the date of service of this Notice, and mail a copy to:

(insert debtor's attorney name and address) and

(insert debtor's name and address); and
2. Attend the hearing to be held as indicated below.

PLEASE TAKE FURTHER NOTICE that no hearing will be held on the Request for Discharge unless a response is timely filed and served, in which case, the Court will conduct a hearing on _____, __, at __.m., at _____ (Court street address and city), South Carolina. No further notice of this hearing will be given.

IF YOU OR YOUR ATTORNEY DO NOT TAKE THESE STEPS, THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF REQUESTED.

Date of Service: _____

Signature of Attorney/ *Pro Se* Debtor

Typed/ printed Name

Address/ Telephone/Facsimile/ E-mail

District Court I.D. Number

EXHIBIT I TO SC LBR 3015-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____

CHAPTER 13

Debtor(s).

CERTIFICATION OF DEBTOR INFORMATION
AND REQUEST FOR HARDSHIP DISCHARGE

The above-captioned debtor certifies under penalty of perjury that the following are true and correct:

- 1) All of the requirements of 11 U.S.C. § 1328(b) have been met and the debtor is entitled to a hardship discharge.
- 2) Pursuant to 11 U.S.C. § 1328(a), all amounts payable for domestic support obligations due on or before the date set forth below (including any amounts due before the filing of the bankruptcy petition to the extent provided for by the plan) have/ have not (select one) been paid to:

Name: _____

Address: _____

(repeat for multiple payees)

The Debtor's employer and address:

Name: _____

Address: _____

Claims that were not discharged pursuant to 11 U.S.C. § 523(a)(2) or (4): _____

Debts that were reaffirmed under 11 U.S.C. § 524(c): _____

- 3) The provisions of 11 U.S.C. § 522(q)(1) are not applicable to this case under 11 U.S.C. § 1328(h) and there are no proceedings pending against the debtor of the kind described in 11 U.S.C. § 522(q)(1)(A) or 522(q)(1)(B).
- 4) The debtor has completed an instructional course concerning personal financial management as described in 11 U.S.C. § 111 and has either previously filed Official Form 23 so certifying with the Court, or such certification and accompanying documents are being contemporaneously filed herewith.

The undersigned requests that a discharge be granted in accordance with 11 U.S.C. § 1328(b).

DATE: _____

Debtor

Debtor

EXHIBIT J TO SC LBR 3015-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____

CHAPTER 13

Debtor(s).

NOTICE OF CERTIFICATION OF DEBTOR
INFORMATION AND REQUEST FOR HARDSHIP
DISCHARGE

To the Trustee and all creditors and parties in interest:

YOU ARE HEREBY NOTIFIED that the above- referenced debtor has moved for a hardship discharge pursuant to 11 U.S.C. § 1328(b) in the above case. A copy of the Certification of Debtor Information and Request for Hardship Discharge is attached.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you have any reason to believe that the provisions of 11 U.S.C. § 522(q)(1) apply to this debtor or that there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in 11 U.S.C § 522(q)(1)(A) or liable for a debt of the kind described in 11 U.S.C. § 522(q)(1)(B) or that the debtor is otherwise not entitled to a discharge, then you or your attorney must:

1. File with the Court a written response to the Certification, specifying the basis for your response, no later than fifteen (15) days from the date of service of this Notice, and mail a copy to:

(insert debtor's attorney name and address) and

(insert debtor's name and address); and
2. If a response is filed, attend the hearing to be held on the same date (unless another date is separately noticed) set forth on the notice of hearing on motion for "hardship discharge" pursuant to 11 U.S.C. § 1328(b). No further notice of this hearing will be given.

IF YOU OR YOUR ATTORNEY DOES NOT TAKE THESE STEPS, THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF REQUESTED.

Date of Service: _____

Signature of Attorney/ *Pro Se* Debtor

Typed/ printed Name

Address/ Telephone/Facsimile/ E-mail

District Court I.D. Number

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____

CHAPTER 13

Debtor(s).

TRUSTEE'S NOTICE TO DEBTOR OF PLAN
COMPLETION AND NOTIFICATION OF NEED
TO FILE REQUEST FOR DISCHARGE

TO: DEBTOR AND ATTORNEY FOR THE DEBTOR

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

THE CHAPTER 13 TRUSTEE HAS FILED NOTICE WITH THE COURT THAT THE PLAN IN THE ABOVE CASE HAS BEEN COMPLETED.

YOU ARE HEREBY NOTIFIED that, pursuant to Local Rule 3015(j), IF YOU BELIEVE YOU ARE ENTITLED TO A DISCHARGE, you must prepare, sign and file, within fifteen (15) days of the date of this notice, a Certification of Plan Completion and Request for Discharge and Notice (Exhibits G and H, copies of which are attached) as they are required before a discharge can be entered. Your failure to file the required documents timely could result in the closing of the case without a discharge.

The Certification indicates that you understand and agree to the following:

1) All plan payments have been made and you are entitled to a discharge.

You agree that there has been no Court order which would deny you the right to a discharge, and that you meet all of the requirements for a discharge, as provided in the Bankruptcy Code. If you are not certain, please consult an attorney for advice.

2) All amounts payable for domestic support obligations due on or before the date of your certification (including any amounts due before the filing of the bankruptcy petition to the extent provided for by the plan) have been paid. Your certification must state the current name and address of each domestic support obligation payee)

The term "domestic support obligation" means a debt "in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child of the debtor or such child's parent, without regard to whether such debt is expressly designated" that accrues *before, on, or after* the date of the order for relief in a case under Title 11, including interest that accrues on that debt as provided under applicable nonbankruptcy law notwithstanding any other provision of Title 11, that is -- owed to or recoverable by--a spouse, former spouse, or child of the debtor or such child's parent, legal guardian, or responsible relative; or (ii) a governmental unit. 11 U.S.C. § 101(14A)

3) The provisions of 11 U.S.C. § 522(q)(1) are not applicable to your case and there are no proceedings pending against you of the kind described in 11 U.S.C. § 522(q)(1)(A) or 522(q)(1)(B).

11 U.S.C. § 522(q) applies:

if "...the debtor has been convicted of a felony (as defined in [section 3156 of title 18](#)), which under the circumstances, demonstrates that the filing of the case was an abuse of the provisions of this title (Title 11);"

11 U.S.C. § 522(q) also applies:

if “the debtor owes a debt arising from--(i) any violation of the Federal securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934), any State securities laws, or any regulation or order issued under Federal securities laws or State securities laws; (ii) fraud, deceit, or manipulation in a fiduciary capacity or in connection with the purchase or sale of any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 or under section 6 of the Securities Act of 1933; (iii) any civil remedy under [section 1964 of title 18](#); or (iv) any criminal act, intentional tort, or willful or reckless misconduct that caused serious physical injury or death to another individual in the preceding 5 years.

4) You have completed an instructional course concerning personal financial management as described in 11 U.S.C. § 111.

The debtor is not entitled to a discharge unless after filing a petition the debtor completes an instructional course concerning personal financial management. 11 U.S.C. § 1328(g)(1). This is *in addition to* the budget and credit counseling session you undertook before the bankruptcy case was filed.

Your signature on the certification is under penalty of perjury.

Attachments: Exhibit G & H to SC LBR 3015-1

LOCAL RULE 3015-2: PROVIDING DOCUMENTS IN CHAPTER 13 CASES.

Pursuant to 11 U.S.C. §§ 521 and 1308, Fed. R. Bankr. P. 1007 and 4002, and SC LBR 1007-2 and 4002-1, certain information and documentation are required to be filed or provided to the chapter 13 trustee within the time periods prescribed therein. The case may be dismissed, without further notice or hearing, upon the filing of an affidavit of any such default and proposed order by the chapter 13 trustee.

Certain additional information and documents listed in subsection (d) below have also been determined by the Court to be necessary to consideration of the confirmation of a chapter 13 plan. Therefore the debtor and the attorney for the debtor shall timely provide same to the chapter 13 trustee upon request.

- (a) **Requirement to Provide.** If the chapter 13 trustee has requested any of the information/documents listed below at the 11 U.S.C. § 341 meeting, or at any time thereafter in writing, it must be provided to the trustee at least five (5) days prior to the original confirmation hearing.
- (b) **Dismissal.** If the requested documents have not been timely provided, the case may be dismissed, without further notice or hearing, upon the filing of an affidavit of such default and proposed order by the chapter 13 trustee or upon request at the confirmation hearing.
- (c) **Burden on Debtor/Attorney for the Debtor.** The responsibility of ensuring that the required documents are provided to the chapter 13 trustee (and filed, as necessary) belongs to the attorney for the debtor or debtor appearing *pro se*.
- (d) **Documents which may be Requested:**
 - (1) The most recent real estate tax appraisals covering all parcels of debtor's real property.
 - (2) Post-petition domestic support certificate signed and dated through the month of the confirmation hearing.
 - (3) The amount of the most recent year's income tax refund received by debtor, for both state and federal returns.
 - (4) Proof that all required income tax returns have been filed.
 - (5) Final, signed copies of the most recent year's federal and state income tax returns (including all attached schedules).
 - (6) Amended Schedules if identified as necessary by the chapter 13 trustee.
 - (7) Amended Statement of Financial Affairs if identified as necessary by the chapter 13 trustee.
 - (8) Amended Petition or Form 21 correcting the debtor's name and/or social security number if identified as necessary by the chapter 13 trustee.
 - (9) In any case involving a self-employed debtor, a completed self-employment questionnaire, business budget, and final, signed copies of the business's most recent year's federal and state income tax returns (including all attached schedules).
 - (10) Proof of charitable contributions made by the debtor.
 - (11) An itemization of unreimbursed medical expenses.
 - (12) An itemization of a non-filing spouse's monthly expenses, including the balance owed on each debt.
 - (13) Copies of the debtor's pay stubs and W-2 forms.
 - (14) Any other item not specified above which is reasonably related to the administration of the case and which the chapter 13 trustee requested either orally at the 11 U.S.C. § 341 meeting or in writing prior to the confirmation hearing.

LOCAL RULE 3015-3: PERIODIC INTEREST RATE IN CHAPTER 13 PLANS

- (a) **Presumption of Reasonableness.** In order to expedite the determination of an effective interest rate to be used by debtors in meeting the requirement of 11 U.S.C. § 1325, a presumed effective interest rate (“Periodic Interest Rate”) will be set by the Court with the assistance of a committee of trustees and members of the consumer bar. If applied to a secured claim in a chapter 13 plan, there will be a rebuttable presumption that the Periodic Interest Rate – for plan confirmation purposes – is reasonable.
- (b) **Presumption that Plan Pays Present Value.** A debtor who, in a chapter 13 plan, proposes to pay the Periodic Interest Rate on a secured claim (including, but not limited to, an arrearage on a real estate mortgage loan, an automobile loan, a mobile home loan, or a personal property loan) is presumed to be paying the present value of that claim as required by 11 U.S.C. § 1325(a)(5)(B)(ii), except as provided in subsection (c) below.
- (c) **Objections to Periodic Interest Rate.** A party in interest objecting to the Periodic Interest Rate proposed in a chapter 13 plan must, within twenty-five (25) days after filing of the plan:
 - (1) **File an objection.** File with the Court an Objection and Certification of Interest Rate attached as Exhibit A, thereby indicating the objection and stating the interest rate to which the party in interest claims entitlement, and
 - (2) **Serve the objection.** Serve the Objection and Certification of Interest Rate on the debtor and the attorney for the debtor.
- (d) **Response to Objection to Periodic Interest Rate.** If the debtor opposes the interest rate claimed in the Objection and Certification of Interest Rate, the debtor must, within fifteen (15) days after service thereof on the debtor, file a response to the objection so that the dispute may be resolved at the hearing on the confirmation of the plan. If no response is filed, the Court may require that the debtor amend the chapter 13 plan to reflect the interest rate claimed by the party in interest.

EXHIBIT A TO SC LBR 3015-3

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____
CHAPTER: 13

OBJECTION AND
CERTIFICATION OF INTEREST RATE

Debtor(s).

TO: Chapter 13 Trustee and Debtor

_____, a secured creditor in this case, hereby objects to the interest rate proposed by the debtor in the chapter 13 plan, dated _____, and claims entitlement to a rate of interest greater than the rate proposed in the chapter 13 plan; and, in support of its claim of entitlement to the interest rate set out below, certifies:

Contractual rate of interest: (copy of the obligation attached) _____

Market rate of interest for similar loans in creditors' lending market: _____

Arrearage amount (if applicable): _____ (as of) _____

Payoff balance, as of date of filing: _____

Hypothetical cost, in dollars, of liquidating collateral: _____

Hypothetical cost, in dollars, of making a new loan: _____

Interest rate to which creditor is entitled under plan: _____

If the debtor opposes the interest rate claimed in the Objection and Certification of Interest Rate, the debtor must, within fifteen (15) days after service thereof on the debtor, file a response to the objection so that the dispute may be resolved at the hearing on confirmation of the plan. If no response is filed, the Court may require the debtor to amend the chapter 13 plan to reflect the interest rate claimed by the creditor.

Date: _____

Signature of Attorney

Typed/Printed Name

Address/Telephone/Facsimile/E-mail

District Court I.D. Number

LOCAL RULE 3016-1: INCORPORATION OF INTERIM BANKRUPTCY RULE 3016

Interim Bankruptcy Rule 3016, adopted by this Court as a local rule effective October 17, 2005, is applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and is to be read in conjunction with any corresponding Federal Rule.

**INTERIM BANKRUPTCY RULE 3016: FILING OF PLAN AND DISCLOSURE STATEMENT IN A
CHAPTER 9 MUNICIPALITY OR CHAPTER 11
REORGANIZATION CASE**

* * * * *

- (b) **Disclosure Statement.** In a chapter 9 or 11 case, a disclosure statement under § 1125 or evidence showing compliance with § 1126(b) of the Code shall be filed with the plan or within a time fixed by the court, unless the plan is intended to provide adequate information under § 1125(f)(1). If the plan is intended to provide adequate information under § 1125(f)(1), it shall be so designated and Rule 3017.1 shall apply as if the plan is a disclosure statement.

LOCAL RULE 3017-1: INCORPORATION OF INTERIM BANKRUPTCY RULE 3017.1

Interim Bankruptcy Rule 3017.1, adopted by this Court as a local rule effective October 17, 2005, is applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and is to be read in conjunction with any corresponding Federal Rule.

- (a) **Conditional Approval of Disclosure Statement.** In a small business case, the court may, on application of the plan proponent or on its own initiative, conditionally approve a disclosure statement filed in accordance with Rule 3016. On or before conditional approval of the disclosure statement, the court shall:
- (1) fix a time within which the holders of claims and interests may accept or reject the plan;
 - (2) fix a time for filing objections to the disclosure statement;
 - (3) fix a date for the hearing on final approval of the disclosure statement to be held if a timely objection is filed; and
 - (4) fix a date for the hearing on confirmation.
- (b) **Application of Rule 3017.** Rule 3017(a), (b), (c), and (e) do not apply to a conditionally approved disclosure statement. Rule 3017(d) applies to a conditionally approved disclosure statement, except that conditional approval is considered approval of the disclosure statement for the purpose of applying Rule 3017(d).
- (c) **Final Approval.**
- (1) **Notice.** Notice of the time fixed for filing objections and the hearing to consider final approval of the disclosure statement shall be given in accordance with Rule 2002 and may be combined with notice of the hearing on confirmation of the plan.
 - (2) **Objections.** Objections to the disclosure statement shall be filed, transmitted to the United States trustee, and served on the debtor, the trustee, any committee appointed under the Code and any other entity designated by the court at any time before final approval of the disclosure statement or by an earlier date as the court may fix.
 - (3) **Hearing.** If a timely objection to the disclosure statement is filed, the court shall hold a hearing to consider final approval before or combined with the hearing on confirmation of the plan.

LOCAL RULE 3018-1: BALLOTS IN CHAPTER 11 CASES

At least five (5) days prior to the hearing on confirmation of a chapter 11 plan, the debtor, trustee, or other plan proponent shall file with the Court a ballot tally of the votes cast for or against the plan, and shall certify to the Court in writing the amount and number of allowed claims or allowed interests of each class accepting or rejecting the plan. The ballot tally shall include an identification of each class and whether or not it is impaired; for each impaired class, the number of ballots received, the number of ballots voting to accept, and their aggregate dollar amount; a concluding paragraph indicating whether the plan has received sufficient acceptance to be confirmed; a completed ballot report and, appended thereto, copies of all ballots not counted for any reason and a statement why the same were not counted; and a representation that all ballots were counted for the classes for which those ballots were filed except for ballots appended to the report. A copy of the ballot tally and certification shall be served simultaneously upon the debtor (if applicable), the trustee (if any), and each committee.

The Court may refuse to consider, in connection with the confirmation of a plan, a timely filed ballot which is not signed, which does not clearly indicate acceptance or rejection of the plan, or which does not clearly indicate its inclusion in a specific class of claims or interests under the plan.

Upon motion at the confirmation hearing, the Court may extend the time for balloting and may permit the modification or withdrawal of ballots.

LOCAL RULE 3019-1: INCORPORATION OF INTERIM BANKRUPTCY RULE 3019

Interim Bankruptcy Rule 3019, adopted by this Court as a local rule effective October 17, 2005, is applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and is to be read in conjunction with any corresponding Federal Rule.

**INTERIM BANKRUPTCY RULE 3019: MODIFICATION OF ACCEPTED PLAN BEFORE OR AFTER
CONFIRMATION IN A CHAPTER 9 MUNICIPALITY OR
CHAPTER 11 REORGANIZATION CASE**

- (a) In a chapter 9 or chapter 11 case, after a plan has been accepted and before its confirmation, the proponent may file a modification of the plan. If the court finds after hearing on notice to the trustee, any committee appointed under the Code, and any other entity designated by the court that the proposed modification does not adversely change the treatment of the claim of any creditor or the interest of any equity security holder who has not accepted in writing the modification, it shall be deemed accepted by all creditors and equity security holders who have previously accepted the plan.
- (b) If the debtor is an individual, a request to modify the plan under § 1127(e) of the Code shall identify the proponent and shall be filed together with the proposed modification. The clerk, or some other person as the court may direct, shall give the debtor, the trustee, and all creditors not less than 20 days' notice by mail of the time fixed for filing objections and, if an objection is filed, the hearing to consider the proposed modification, unless the court orders otherwise with respect to creditors who are not affected by the proposed modification. A copy of the notice shall be transmitted to the United States trustee. A copy of the proposed modification shall be included with the notice. Any objection to the proposed modification shall be filed and served on the debtor, the proponent of the modification, the trustee, and any other entity designated by the court, and shall be transmitted to the United States trustee. An objection to a proposed modification is governed by Rule 9014.

LOCAL RULE 4001-1: PROCEEDINGS TO MODIFY STAY

This rule applies to motions for relief from the automatic stay of 11 U.S.C. § 362(a), motions to extend or impose the automatic stay pursuant to 11 U.S.C. § 362(c)(3) and (c)(4), and motions for an order confirming termination of the automatic stay pursuant to 11 U.S.C. § 362(j), 11 U.S.C. § 362(h), and 11 U.S.C. § 521(a)(6).

(a) **Motions for Relief from the Automatic Stay Pursuant to 11 U.S.C. § 362(a).**

- (1) **Hearing date.** The movant shall select a hearing date from a list of available dates posted on the Court's web page and prepare a hearing notice attached as Exhibit A under the following guidelines.
 - (A) For all divisions, the hearing shall be scheduled before the judge to whom the case is assigned;
 - (B) If a hearing date is required within the thirty (30) day period pursuant to 11 U.S.C. § 362(e) and either the judge required to hear the motion is not scheduled for that location within that time, or the movant is unable to select a hearing date which is at least twenty (20) days from the date of the service/transmittal of the motion, the movant must contact a courtroom deputy for scheduling assistance which may include scheduling the motion for hearing in Columbia, if deemed necessary;
 - (C) If the movant fails to properly select a hearing date or selects a hearing date which is more than thirty (30) days after the moving party makes its request for relief, the movant will be deemed to have waived its rights under 11 U.S.C. § 362(e) relating to the automatic lifting of the stay. In such instance, the stay shall remain in effect until further order of the Court; and
 - (D) The Court may strike or deny any motion in which the procedures for selection of a proper hearing date are not followed.
- (2) **Service and transmittal of the motion.** At least twenty (20) days before the scheduled hearing date, the movant shall serve on the debtor, attorney for the debtor, any trustee serving in the case, any committee elected or appointed in the case, and any other party in interest entitled to notice pursuant to Fed. R. Bankr. P. 4001(a), and shall file with the Court:
 - (A) The 11 U.S.C. § 362 motion;
 - (B) The movant's completed certification of facts attached as Exhibit B;
 - (C) The notice of hearing on the motion attached as Exhibit A;
 - (D) A blank certification of facts form (applicable to service on *pro se* parties only); and
 - (E) A certificate of service of items set forth above.

The moving party should determine if the case has been dismissed or closed before filing these documents. Filing fees will not be refunded for motions filed in dismissed or closed cases.

- (3) **Objections.** Any party objecting to the relief sought in the motion shall, within ten (10) days after service thereof, serve upon the movant and other appropriate parties and file with the Court an objection to the motion, its responding certification of facts, and a certificate of service. Failure to complete, serve and file a responding certification of facts or to complete fully the certification of facts shall be deemed an agreement to the terms contained in the movant's certification.
- (4) **Payment history disputes.** If the objecting party disputes the movant's payment history as contained in the certification of facts and has not attached written proof of the disputed payment(s) to its certification of facts, the objecting party must file and provide to movant's counsel, no later than five (5) days prior to the hearing, such written proof of the payment in dispute or, if unavailable at that time, an affidavit of the debtor which sets forth in detail the making of the disputed payments including

the means of payment (i.e., money order, check no.) and method, time, and location of payments. If such proof of payment(s) is provided, counsel for the movant shall make every reasonable effort to verify receipt of such payment(s) prior to the scheduled hearing date and time.

Failure to comply with the procedures set forth in this subparagraph may result in the overruling of an objection or may be deemed a waiver of the opportunity to present testimony.

- (5) **Defaults.** If no objection is filed and served upon the movant within ten (10) days after the service of items (A)-(D), subparagraph (a)(2), the movant shall:

(A) File a certificate stating that no objection has been served upon the movant or filed with the Court; and

(B) Submit a proposed order granting the relief sought in the motion.

- (6) **Withdrawals.** A request to withdraw a motion for modification of stay at the hearing may be granted or denied in the discretion of the Court.

A request to withdraw a motion for modification of stay prior to the hearing must be stated in writing and must indicate the reason for the withdrawal, that the party opposing the motion, if any, does not oppose the withdrawal, that all parties who have had notice of, and who have timely responded to, the motion have been notified of the withdrawal and are not opposed to it, and that no party is expected to appear at the hearing before the Court. Any request which does not comply with these requirements shall be denied, and the movant shall be expected to appear at the hearing for the Court to consider any request for withdrawal.

- (7) **Settlements.** Unless otherwise allowed by the Court, all settlements shall be effectuated by a consent order or a certified settlement order attached as Exhibit C. Any such order shall contain a statement that, in instances where a trustee is not a party to the settlement, the trustee did not object to the motion for modification of stay.

- (8) **Removal from calendar.** Relief sought or prosecuted pursuant to subparagraphs (5)-(7) must be completed by the filing of all applicable documents no later than 12:00 noon on the day prior to the hearing, accompanied by a calendar removal request, in order for parties to be excused from attending the hearing. Failure to follow such procedures or the filing of pleadings not in proper or complete form may result in denial of the relief sought and the parties shall be expected to appear at the originally scheduled hearing. The party obtaining relief under subparagraphs (5)-(7) has the duty to advise opposing counsel, where applicable, parties in interest, and witnesses, if any, of the granting of the relief and that the parties are excused from attendance.

- (9) **Form of motion.** Any motion for the approval of an agreement pursuant to Fed. R. Bankr. P. 4001(d) should be prepared using the form approved by the Court (see Exhibit A to SC LBR 4001-4).

- (10) **Failure to comply with consent or settlement order.** If a debtor fails to comply with the terms of a consent or settlement order, which provides for the modification of the stay, the moving party who seeks relief from the stay, through the attorney for the movant that filed the original motion, where practicable, shall submit a certification of the debtor's noncompliance and a proposed order granting the relief sought. The proposed order shall specifically state the details of the default, including the specific time period for which payments were not made. Modification of the stay is effective only upon entry of the order.

- (11) **Conversion of case.** In the event a case is converted prior to hearing on a motion for modification of stay in that case, the movant may obtain and present at the hearing the consent of any newly appointed trustee to the modification of stay or the movant may request the hearing be rescheduled in order to serve the new trustee. If the movant serves the newly appointed trustee with proper notice of the motion and new hearing date prior to the hearing, and timely advises all affected parties, the

parties may be excused from the originally scheduled hearing and the motion will be heard at the rescheduled date and time. Otherwise, the movant shall appear at the originally scheduled hearing.

- (12) **General matters.** Neither consent/settlement orders nor default orders should contain provisions which attempt to make the order binding upon a trustee or creditors in the event of the conversion of the case to another chapter or provisions which purport to limit the effect of the automatic stay in the event of a dismissal and refiling of the case. Such provisions may require a showing of cause before the Court after a hearing.
- (13) **Continuances.** Requests for continuances must be received no later than 12:00 noon on the day before the hearing. A request for a continuance by the movant or consent to a continuance by movant shall be deemed a waiver of the automatic lifting of the stay pursuant to 11 U.S.C. § 362(e). In obtaining a continuance, all parties to the motion shall be deemed to have no scheduling conflicts for the continued date, that the continued hearing may be set for any Court location in the District of South Carolina, and that the continued hearing may be set before any judge of the Court if so designated. Additional specific guidelines concerning requests for continuances for each judge may be posted on the Court's web page.
- (14) **Reinstatement of stay.** Absent extraordinary circumstances, such as an express indication by creditor in a proposed order that the lifting of the stay was due to an error on the part of creditor, requests to reinstate the automatic stay or requests to vacate an order granting relief from the automatic stay which are based solely upon the parties' agreement to allow the debtor further time to cure any arrearage or default shall not be approved by the Court. In certain instances, the Court may enter an order entitled "Order Allowing Resumption of Payments by Trustee" attached as Exhibit D upon the parties' agreement which provides that the chapter 13 trustee resume pre-petition debt payments to the creditor pursuant to the chapter 13 plan and that upon the future failure by debtor to pay according to the agreement between the debtor and creditor, the creditor may continue its state court collection actions without further order. Such an order should be considered only once in a case between the same creditor and debtor. The chapter 13 trustee's consent is necessary in either instance.

(b) **Motions to Extend the Automatic Stay Pursuant to 11 U.S.C. § 362(c)(3).**

- (1) **Hearing date.** The movant shall select a hearing date from a list of available dates posted on the Court's web page and prepare a hearing notice attached as Exhibit A under the following guidelines. Motions pursuant to 11 U.S.C. § 362(c)(3) shall be scheduled to be heard prior to the expiration of thirty (30) days following the filing of the case.
 - (A) Motions under subsection (b) are to be scheduled before the judge to whom the case is assigned;
 - (B) The hearing shall first be scheduled when motions to extend or impose the automatic stay pursuant to 11 U.S.C. § 362(c)(3) and (c)(4) are specially designated to be heard;
 - (C) If a hearing date set forth in subparagraph (1)(B) is unavailable, then the hearing shall be scheduled when motions for relief from the automatic stay are being heard in the same division as the case;
 - (D) If a hearing date set forth in subparagraphs (1)(B) or (C) is unavailable, then the hearing shall be scheduled in any division where motions for relief from the automatic stay are being heard;
 - (E) If none of the above-referenced hearing dates are available, then the movant must contact a courtroom deputy for scheduling assistance; and
 - (F) The Court may strike or deny any motion in which the procedures for selection of a proper hearing date are not followed. Failure to properly select a hearing date, or selection of a

hearing date that is more than 30 days following the filing of the case pursuant to 11 U.S.C. § 362(c)(3), may be considered a waiver.

- (2) **Filing, service, and transmittal of the motion.** All motions filed by the debtor pursuant to 11 U.S.C. § 362(c)(3) must be filed with the petition; all motions filed by parties in interest, including any trustee serving in the case, must be filed within ten (10) days following the filing of the case. All motions must clearly set forth specific and detailed grounds in support of the motion. At least fifteen (15) days before the scheduled hearing date, the movant shall serve on all creditors sought to be stayed, the United States Trustee, and any trustee serving in the case, and shall file with the Court:
- (A) The 11 U.S.C. § 362 motion;
 - (B) The movant's completed certification of facts attached as Exhibit B-1;
 - (C) The notice of hearing on the motion attached as Exhibit A; and
 - (D) A certificate of service of items set forth above.
- (3) **Objections.** Any party objecting to the relief sought in the motion shall, within ten (10) days after service thereof, serve upon the movant and other appropriate parties and file with the Court an objection to the motion and a certificate of service.
- (c) **Motions to Impose the Automatic Stay Pursuant to 11 U.S.C. § 362(c)(4).**
- (1) **Hearing date.** If time permits, the movant shall follow the procedures set forth in subsection (b) for selection of a hearing date. As an alternative to the procedures set forth in subsection (b), the movant may request a hearing on an emergency basis pursuant to SC LBR 9014-1(d) and in the manner posted on the Court's web page pursuant to the guidelines set forth therein for each judge. Such motions, if granted, shall be scheduled subject to the availability of the Court.
- (2) **Filing, service, and transmittal of the motion.** All motions filed by the debtor pursuant to 11 U.S.C. § 362(c)(4) must be filed with the petition; all motions filed by parties in interest, including any trustee serving in the case, must be filed within ten (10) days following the filing of the case. All motions must clearly set forth specific and detailed grounds in support of the motion. Motions sought to be scheduled on an emergency basis must also be accompanied by items (A)-(B), subparagraph (b)(2) and, if granted, shall be served on an expedited basis. Motions not scheduled on an emergency basis shall be filed and served in accordance with the procedures set forth in subsection (b).
- (d) **Motion for an Order Confirming Termination of the Automatic Stay Pursuant to 11 U.S.C. § 362(j), 11 U.S.C. § 362(h), and 11 U.S.C. § 521(a)(6).**
- (1) **Hearing date.** It is not necessary to select a hearing date as motions for an order confirming termination of the automatic stay may be considered on an *ex parte* basis.
- (2) **Filing of the motion.** Motions for an order confirming termination of the automatic stay shall specifically recite facts and the applicable statutory authority upon which the stay has been terminated.
- (3) **Order.** The order confirming termination of the automatic stay will be served upon all creditors and parties in interest.
- (e) **Compliance With Rule.** The Court may strike or deny any motion for failure to comply with the provisions of this local rule.

EXHIBIT A TO SC LBR 4001-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____

CHAPTER: _____

NOTICE OF: MOTION FOR
RELIEF FROM AUTOMATIC
STAY (11 U.S.C. § 362(a)) / MOTION TO EXTEND
OR IMPOSE AUTOMATIC STAY (11 U.S.C. §
362(c)(3); 11 U.S.C. § 362(c)(4))

Debtor(s).

TO: DEBTOR, TRUSTEE (if applicable), AND THOSE NAMED IN THE ATTACHED MOTION

PLEASE TAKE NOTICE THAT a hearing will be held on the attached motion on:

Date: _____

Time: _____

Place: [location including building and street address and city]

Within ten (10) days after service of the attached motion, the notice of motion, the movant's certification of facts, (and a blank certification of facts form, applicable only to motions for relief from the automatic stay and for service on *pro se* parties only)), any party objecting to the relief sought shall:

- (1) File with the Court a written objection to the 11 U.S.C. § 362 Motion;
- (2) File with the Court a certification of facts (for motions for relief from the automatic stay);
- (3) Serve on the movant items 1 and 2 above at the address shown below; and
- (4) File a certificate of such service with the Court.

If you fail to comply with this procedure, you may be denied the opportunity to appear and be heard on this proceeding before the Court.

DATE OF SERVICE: _____

MOVANT: _____

ATTORNEY: _____

ATTORNEY'S ADDRESS: _____

EXHIBIT B TO SC LBR 4001-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____

CHAPTER: _____

CERTIFICATION OF FACTS

Debtor(s).

In the above-entitled proceeding, in which relief is sought by (name of movant) from the automatic stay provided by 11 U.S.C. § 362, I do hereby certify to the best of my knowledge the following:

- (1) Nature of Movant's Interest.
- (2) Brief Description of Security Agreement, copy attached (if applicable).
- (3) Description of Property Encumbered by Stay (include serial number, lot and block number, etc.).
- (4) Basis for Relief (property not necessary for reorganization, debtor has no equity, property not property of estate, etc.) include applicable subsection of 11 U.S.C. § 362).
- (5) Prior Adjudication by Other Courts, copy attached (Decree of Foreclosure, Order for Possession, Levy of Execution, etc., if applicable).
- (6) Valuation of Property, copy of Valuation attached (Appraisal, Blue Book, etc.):

Fair Market Value	_____
Liens (Mortgages)	_____
Equity Before Exemption	_____
Debtor's Exemption (-)	_____
Net Equity	_____

Source/Basis of Value	_____
-----------------------	-------

- (7) Amount of Debtor's Estimated Equity (using figures from paragraph 6, supra).
- (8) Month and Year in Which First Direct Post-petition Payment Came Due to Movant (if applicable).
- (9) (a) For Movant/Lienholder (if applicable): List or attach a list of all post-petition payments received directly from debtor(s), clearly showing date received, amount, and month and year for which each such payment was applied.¹
- (b) For Objecting Party (if applicable): List or attach a list of all post-petition payments included in the Movant's list from (a) above which objecting party disputes as having been made. Attach written proof of such payment(s) or a statement as to why such proof is not available at the time of filing this objection.

¹ This requirement may not be met by the attachment of a payment history generated by the movant. Such attachment may be utilized as a supplement to a complete and detailed response to (9)(a) above, which should be shown on this certification.

(10) Month and Year for Which Post-petition Account of Debtor(s) is Due as of the Date of this Motion:

Date: _____

Signature of Attorney

Typed/Printed Name/Address/Telephone/
Facsimile/E-mail

District Court I.D. Number

EXHIBIT B-1TO SC LBR 4001-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____
CHAPTER: _____

CERTIFICATION OF FACTS

Debtor(s).

In the above-entitled proceeding, in which a motion to extend or impose the automatic stay is sought pursuant to 11 U.S.C. § 362(c)(3) and (c)(4), I do hereby certify to the best of my knowledge the following:

- (1) Case Number(s) of Case(s) Dismissed Within Preceding 1-Year Period.
- (2) Reason for Dismissal of Case(s) Dismissed Within Preceding 1-Year Period. (Specifically detail the circumstances surrounding dismissal of the prior case(s). A statement such as "loss of employment" or "illness," without further specificity, may not be sufficient to rebut a presumption of lack of good faith pursuant to 11 U.S.C. § 362(c)(3) and (c)(4)).
- (3) Basis for Relief and Grounds in Support, include applicable subsection of 11 U.S.C. § 362. (State with specificity)
- (4) Extenuating Circumstances (not already set forth above).

Date: _____

Signature of Attorney

Typed/Printed Name/Address/Telephone/
Facsimile/E-mail

District Court I.D. Number

EXHIBIT C TO SC LBR 4001-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____
CHAPTER: _____

SETTLEMENT ORDER

Debtor(s).

This matter comes before the Court pursuant to the motion of _____ which seeks relief from the automatic stay in this case.

Now therefore, upon the agreement of the parties, it is hereby

ORDERED THAT:

(1) Debtor shall continue to remit to the movant the regular post-petition monthly payments being _____ (date) and continue said payments thereafter pursuant to the loan documents attached to the Motion for Relief from Stay.

(2) In addition to the payments set forth above, debtor shall cure post-petition arrearage and pay attorney's fees and costs in the total amount of \$ _____. This total amount consists of post-petition payments for the months of _____ (date) through _____ (date) in the amount of \$ _____ each; late charges of \$ _____; and attorney's fees and costs in the amount of \$ _____. The total amount shall be paid directly to the movant at:

_____ (Movant's name)
_____ (Movant's address)
Attention: Bankruptcy Department
Loan No. _____

as follows:

in _____ consecutive monthly installments of \$ _____ each and one final installment of \$ _____. Said installment payments shall commence on _____ and continue on the _____ (due date) day of each consecutive month thereafter until paid in full.

IT IS FURTHER ORDERED that should the debtor fail to make the payments described above or any subsequent regular payments within _____ from their due date, upon an *ex parte* showing by affidavit of that default and a proposed order, the movant shall be entitled to relief from the stay so that it can proceed with its state court remedies against its security, including making demand for payment of the amount due. The movant shall report to this Court any funds received as a result of a lawful disposition of the real property in excess of its total indebtedness plus any other valid lien against the subject property. The claimant agrees to waive any claim arising under 11 U.S.C. § 503(b) or § 507(b) as a result of this order. The movant further agrees that any funds realized in excess of its debt will be paid to the trustee.

AND IT IS SO ORDERED.

United States Bankruptcy Judge

_____, South Carolina
Date: _____

I certify that this order contains a true and complete statement of the agreed upon terms of settlement between the parties.

Attorney for Movant/Debtor/Trustee (Date) _____

EXHIBIT D TO SC LBR 4001-1

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____
CHAPTER: _____

ORDER ALLOWING RESUMPTION
OF PAYMENTS

Debtor(s).

THIS MATTER comes before the Court pursuant to a Motion to Reconsider Order Granting Relief from the Automatic Stay or a Motion for Resumption of Payments under chapter 13 plan filed by the Debtor(s) on _____.

Upon consideration of the Motion and record in this case, the Court finds that insufficient grounds have been stated pursuant to Fed. R. Civ. P. 60 for relief from the Order granting relief from the automatic stay. However, upon the consent of the parties and the chapter 13 trustee, the Court authorizes the trustee to resume payments to _____, ("Creditor") to cure the pre-petition arrearage pursuant to the previously confirmed chapter 13 plan under the following conditions:

1) By the consent evidenced below, the chapter 13 trustee recommends resumption of these payments as in the best interests of all creditors because it promotes the likelihood of a successful reorganization.

2) A written forbearance agreement, separate and distinct from any settlement order previously entered in this case, has been entered between Debtor(s) and Creditor and clearly provides the terms upon which the Creditor shall forbear from collecting against the subject collateral. The terms of the forbearance agreement include the resumption of payments through the chapter 13 trustee to the Creditor according to the plan. A copy of said forbearance agreement has been provided to the chapter 13 trustee, but shall not be filed with the Court.

3) The parties agree that a resumption of payments in this fashion may be requested and granted only once in the chapter 13 case and that upon the trustee's receipt of written request from either Debtor(s) or Creditor, the resumption of payments may be terminated by the trustee without further direction or order from the Court.

4) Creditor has a duty to advise the chapter 13 trustee in writing of any future default in the forbearance agreement and/or any other cause which leads to Creditor's renewal of efforts to liquidate or collect against the subject collateral. Upon that event, the trustee may discontinue payments under the plan without further direction or order from the Court.

AND IT IS SO ORDERED.

LOCAL RULE 4001-4: AGREEMENTS RELATING TO RELIEF FROM THE AUTOMATIC STAY, PROHIBITING OR CONDITIONING THE USE, SALE OR LEASE OF PROPERTY, PROVIDING ADEQUATE PROTECTION, USE OF CASH COLLATERAL, AND OBTAINING CREDIT

- (a) **Form of Motion.** A motion for the approval of an agreement pursuant to Fed. R. Bankr. P. 4001(d) shall conform to the attached Exhibit A. The Court will not enter an order containing agreed upon terms prior to the expiration of the notice as required by Fed. R. Bankr. P. 4001. In instances where an order for use of cash collateral or to obtain credit or for adequate protection is needed to avoid irreparable harm prior to that time, the Court may enter an order as necessary.
- (b) **Guidelines for 4001(d) Notices and Orders.** All notices, proposed consent orders, or applications for approval of Fed. R. Bankr. P. 4001 agreements must recite whether the notice, proposed order, or stipulation contains any provision that the Court does not normally approve and should identify any such provision and explain the justification for the provision. If such an order or stipulation is presented in connection with a hearing, counsel shall call the Court's attention to such provision on the record.
- (1) The following will not normally be approved:
- (A) Provisions or findings of fact that bind the estate or parties in interest with respect to the validity, perfection, or amount of the secured party's lien or debt;
 - (B) Provisions or findings of fact that bind the estate or parties in interest with respect to the relative priorities of the secured party's lien and liens held by persons who are not parties to the stipulation. (This would include, for example, an order approving a stipulation providing that the secured party's lien is a "first priority" lien);
 - (C) Waivers of 11 U.S.C. § 506(c), unless the waiver is effective only during the period in which the debtor is authorized to use cash collateral or borrow funds;
 - (D) Provisions that operate, as a practical matter, to divest the debtor in possession of any discretion in the formulation of a plan or administration of the estate or limit access to the Court to seek any relief under other applicable provisions of law;
 - (E) Cross-collateralization clauses, i.e., clauses that secure pre-petition debt by post-petition assets in which the secured party would not otherwise have a security interest by virtue of its pre-petition security agreement;
 - (F) "Rollup" clauses, i.e., clauses that include the application of proceeds of post-petition financing to pay, in whole or in part, pre-petition debt;
 - (G) Releases of liability for the creditor's alleged pre-petition torts or breaches of contract;
 - (H) Waivers, assignment, transfer or encumbrance of avoidance actions arising under the Bankruptcy Code;
 - (I) Immediate entitlement to relief from the automatic stay upon default, conversion of the case, or appointment of a trustee, absent further order;
 - (J) Waivers of the procedural requirements for foreclosure mandated under applicable non-bankruptcy law;
 - (K) Adequate protection provisions that create liens on claims for relief arising under the Bankruptcy Code;
 - (L) Findings of fact on matters extraneous to the approval process. (For example, in connection with an application to borrow on a secured basis, a finding that the debtor cannot obtain unsecured credit would be acceptable, whereas a "finding" that the lender acted in good faith in declaring the pre-petition loan in default would not be acceptable. Do not include long

histories of the relationship between the parties or a lengthy recitation or detailing of documents. A finding that notice is proper should be replaced by a provision which states that notice has been given according to the certificates of service filed by the movant);

- (M) Provisions which merely recite the Bankruptcy Code. (For example, a provision that in the event the adequate protection provided by the debtor is insufficient that the creditor is entitled to an administrative priority claim is unnecessary since that is the effect of § 507(b));
 - (N) Any provision which purports to bind a later appointed trustee to the agreement of the debtor;
 - (O) Provisions which prohibit or restrict the Court's ability to vacate, modify, or stay the effect of a consent order or which provide for conditional approval by the Court before notice and an opportunity for hearing or provisions in which the Court independently finds "all of the terms of the agreement to be fair and reasonable," for such provisions presume a detailed determination which may not have been undertaken;
 - (P) Waivers that divest the Court of its power or discretion in a material way, or interfere with the exercise of the fiduciary duties of the debtor or unsecured creditors' committee in connection with the operation of the business, administration of the estate, or the formulation of a reorganization plan, such as provisions that deprive the debtor or unsecured creditors' committee of the ability to file a request for relief with the Court, to grant a junior post-petition lien, or to obtain future use of cash collateral.
- (2) Provisions that will normally be approved:
- (A) Withdrawal of consent to use cash collateral or termination of further financing, upon occurrence of a default or conversion to chapter 7;
 - (B) Securing any post-petition diminution in the value of the secured party's collateral with a lien on post-petition collateral of the same type as the secured party had pre-petition, if such lien is subordinated to the compensation and expense reimbursement (excluding professional fees) allowed to any trustee thereafter appointed in the case;
 - (C) Securing new advances or value diminution with a lien on other assets of the estate, but only if the lien is subordinated to all the expenses of administration (including professional fees) of a superseding chapter 7 case;
 - (D) Reservations of rights under Bankruptcy Code § 507(b), unless the stipulation calls for modification of the Bankruptcy Code's priorities in the event of a conversion to chapter 7;
 - (E) Reasonable reporting requirements, including access to books and records;
 - (F) Reasonable access for inspection of collateral, including access for purposes of appraisal and environmental impact studies;
 - (G) Requirement to segregate cash collateral and the use of lockbox agreements;
 - (H) Reasonable reporting and controls regarding compliance with any budget approved by the Court, including provisions that material deviations from the budget constitute a default under the consent order or stipulation;
 - (I) Provisions requiring proof of insurance;
 - (J) Provisions providing a reasonable carve out for professional fees and costs;
 - (K) _____ Default provisions which state that in the event of a default by the debtor or trustee (if applicable) under the provisions of the order or stipulation, the creditor may have its attorney file an affidavit attesting to the default, and the creditor thereby will be entitled to relief from the automatic stay without further notice or hearing upon entry of an order by the Court.

- (c) **Procedure upon Default.** In the event a party seeks relief upon default under an order, settlement, or agreement covered by Fed. R. Bankr. P. 4001(d), the attorney for that party shall file with the Court a certification of noncompliance or affidavit attesting to default which specifies the grounds and a proposed order granting the relief sought. The requested relief, including any modification of the stay, is effective only upon entry of the order by the Court.

EXHIBIT A TO SC LBR 4001-4¹

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:

CHAPTER: _____

NOTICE AND MOTION PURSUANT TO
FEDERAL RULE OF BANKRUPTCY PROCEDURE
4001(d)

Debtor(s).

TO: All Creditors and Parties in Interest entitled to Notice under Federal Rule of Bankruptcy Procedure 4001(d)

The debtor/trustee and _____ hereby move the Court for an order approving the agreement between them which is described below and attached to this notice.

TAKE FURTHER NOTICE that any response, return and/or objection to this application, should be filed with the Court no later than *(enter number of days) days from service of motion/application and a copy simultaneously served on all parties in interest.

TAKE FURTHER NOTICE that no hearing will be held on this application, except as required by the judge, unless a response, return and/or objection is timely filed and served, in which case, the Court will conduct a hearing on _____, ____, at _____m., at _____, _____, South Carolina. No further notice of this hearing will be given.

(A) TYPE OF AGREEMENT: (Specify if the agreement involves (Indicate all that apply): (i) adequate protection, (ii) terms that prohibit or condition the use, sale, or lease of property, (iii) modification or termination of the automatic stay, (iv) use of cash collateral, (v) or creation of a lien.)

(B) The agreement and proposed order are attached.

(C) PROVISIONS OF THE AGREEMENT: (Pursuant to Rule 4001(d)(1)(B) a motion of a category or type enumerated in (i) – (v) in section (A) of this form shall consists of or (if the motion is more than five (5) pages in length) begin with a concise statement of the relief requested, not to exceed five (5) pages, that lists or summarizes, and sets out the location within the relevant documents all material provisions of the agreement.) Set forth the agreement or a concise statement listing or summarizing the material provisions contained in the agreement and each provision's location within such agreement:

(I) USE OF CASH COLLATERAL (IF APPLICABLE): (If the agreement being noticed includes terms for the use of cash collateral, in addition to any material provisions summarized or listed under section (C), the following information is provided: (1)The name of each entity with an interests in the cash collateral; (2)The purposes for the use of the cash collateral; (3) The material terms, including duration, of the use of the cash collateral; and (4) Any liens, cash payments, or other adequate protection that will be provided to each entity with an interest in the cash collateral or, if no additional adequate protection is proposed, an explanation of why each entity's interest is adequately protected.)

(II) OBTAINING CREDIT (IF APPLICABLE): (If the agreement is to (1) obtain credit and (2) includes terms or provisions that represent relief that is within a category or type enumerated as (i) – (v) under section (A) of this form the following information [and its location in the relevant documents] is provided: Material provisions of the proposed credit agreement and the proposed order, including interests rate, maturity, liens, borrowing limits, and borrowing conditions.)

¹ SC LBR revised November 30, 2007.

1. If the credit agreement or proposed order includes any provisions listed below, there follows a concise statement briefly listing or identifying the applicable provision(s), identifying its specific location in the agreement and proposed order, and identifying any such provision that is proposed to remain in effect if interim approval is granted, but final relief is denied, as provided under Rule 4001(c)(2).
 - a. A grant of priority or a lien on property of the estate under § 364(c) or (d);
 - b. The providing of adequate protection or priority for a claim that arose before the commencement of the case, including granting of a lien on property of the estate to secure the claim, or the use of property of the estate or credit obtained under § 364 to make cash payments on account of the claim;
 - c. A waiver or modification of Code provisions or applicable rules relating to the automatic stay;
 - d. A waiver or modification of any entity's authority or right to file a plan, seek an extension of time in which the debtor has the exclusive right to file a plan, request the use of cash collateral under § 363(c), or request authority to obtain credit under § 364;
 - e. The establishment of deadlines for filing a plan of reorganization, for approval of a disclosure statement, for a hearing on confirmation, or for entry of a confirmation order;
 - f. A waiver or modification of the applicability of nonbankruptcy law relating to the perfection of a lien on property of the estate, or on the foreclosure or other enforcement of the lien;
 - g. A release, waiver, or limitation on any claim or other cause of action belonging to the estate or the trustee, including any modification of the statute of limitations or other deadline to commence an action;
 - h. The indemnification of any entity;
 - i. A release, waiver, or limitation of any right under § 506(c); or
 - j. The granting of a lien on any claim or cause of action arising under §§ 544, 545, 547, 548, 549, 553(b), 723(a), or 724(a).

(D) IMPACT ON PRE-PETITION CLAIMS: (Indicate terms, conditions, and/or facts that determine the validity, enforceability, priority, or the amount of pre-petition claims.)

(E) DEFAULT: (List events that constitute default of agreement.)

(F) RESULT OF DEFAULT: (Briefly state the consequences of the failure to abide by the terms of the agreement. State how the Court will be notified of the breach.)

(G) DESCRIPTION OF PROPERTY SUBJECT TO LIEN:

(H) APPRAISED VALUE OF PROPERTY SUBJECT TO LIEN: (List the values placed upon the collateral by the debtor/trustee and by the creditor. "Unknown" is unacceptable. Include the source of each value. If an appraisal exists [i.e. tax appraisal, blue book, formal appraisal] include the following information regarding each appraisal: the date and type of appraisal, the appraised value, and the name of the appraiser. If an appraisal exists, it must be disclosed and addressed.)

(I) LIEN AMOUNT (IF APPLICABLE): (State the amount of the claim secured by each lien encumbering the collateral, the relative priority of the liens, and the name of each lienholder).

(J) MOVING PARTIES: (State the name, address, and telephone number of attorney for the debtor/trustee and for the creditor or other moving party.)

(K) LOCAL RULE DISCLOSURE: (Disclose the substantive information or language prescribed by paragraph (c) of SC LBR 4001-4.)

Debtor/Trustee

Signature of Attorney

Typed/Printed Name/Address/Telephone/
Facsimile/E-mail

District Court I.D. Number

Signature of Attorney

Typed/Printed Name/Address/Telephone/
Facsimile/E-mail

District Court I.D. Number

Creditor

*The minimum time period for response, return, and/or objection to use of cash collateral, obtaining credit, or an agreement relating to relief from the automatic stay, prohibiting or conditioning the use, sale, or lease of property, providing adequate protection, use of cash collateral, and obtaining credit is fifteen (15) days.

LOCAL RULE 4001-5: RENTAL DEPOSITS

- (a) **Deposit of Rent.** Pursuant to 11 U.S.C. § 362(l), if the debtor is depositing rent with the Court, the debtor must remit to the Clerk's Office simultaneously with the filing of the petition:
- (1) a cashier's check, certified check, or United States Postal money order, made payable to the lessor indicated on the petition, in the amount of such rent; and
 - (2) a copy of the applicable judgment for possession.

The Clerk's Office will promptly transmit the rent by first class mail, return receipt requested to the lessor at the address indicated on the petition.

- (b) **Objection.** Any objection filed by the lessor to a certification filed by the debtor pursuant to 11 U.S.C. § 362(l)(1) or (2) shall set forth with particularity the reasons for opposition, citing applicable statutes, rules and controlling case law.

LOCAL RULE 4002-1: FILING OF TAX INFORMATION

- (a) **Tax Information.** Pursuant to 11 U.S.C. § 521(f) and the guidance provided by the Director of the Administrative Office of the United States Courts, certain tax information is required to be filed with the Court upon request. No tax information filed with the Court will be available to the public, and debtors providing tax information under 11 U.S.C. § 521 should redact personal information in accordance with the Judicial Conference's Policy on Privacy and Public Access to Electronic Case files. Guidance for such redaction may be found on the Court's web page.
- (b) **Procedure for Request.** To gain access to a debtor's tax information pursuant to 11 U.S.C. § 521(f), the requesting party must file with the Court a written request that a debtor file copies of tax returns with the Court pursuant to 11 U.S.C. § 521(f). Such request shall be served upon the debtor and attorney for the debtor. The request must include a description of the movant's status in the case, a description of the specific tax information sought, a statement indicating that the information cannot be obtained by the movant from any other sources, a statement showing the demonstrated need for the tax information, and the particular address of the filing party upon which the tax information shall be mailed.
- (c) **Order.** A proposed order should be submitted granting the request for access to tax information which should include language advising the movant that the tax information obtained is confidential and should condition dissemination of the tax information as appropriate under the circumstances of the particular case. At the discretion of the Court, sanctions may be imposed for improper use, disclosure, or dissemination of the tax information.
- (d) **Transmission of Tax Information.** The tax information requested as set forth above and approved by the Court will be mailed by first class mail to the requesting party's address provided in the request.
- (e) **Interim Bankruptcy Rule 4002.** In addition to the above, Interim Rule 4002, adopted by this Court as a local rule effective October 17, 2005, is applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and is to be read in conjunction with any corresponding Federal Rule.

INTERIM BANKRUPTCY RULE 4002: DUTIES OF DEBTOR

- (a) **In General.** In addition to performing other duties prescribed by the Code and Rules, the debtor shall:
- (1) attend and submit to an examination at the times ordered by the court;
 - (2) attend the hearing on a complaint objecting to discharge and testify, if called as a witness;
 - (3) inform the trustee immediately in writing as to the location of real property in which the debtor has an interest and the name and address of every person holding money or property subject to the debtor's withdrawal or order if a schedule of property has not yet been filed pursuant to Rule 1007;
 - (4) cooperate with the trustee in the preparation of an inventory, the examination of proofs of claim, and the administration of the estate; and
 - (5) file a statement of any change of the debtor's address.
- (b) **Individual Debtor's Duty to Provide Documentation.**
- (1) **Personal Identification.** Every individual debtor shall bring to the meeting of creditors under § 341:
 - (A) a picture identification issued by a governmental unit, or other personal identifying information that establishes the debtor's identity; and
 - (B) evidence of social security number(s), or a written statement that such documentation does not exist.
 - (2) **Financial Information.** Every individual debtor shall bring to the meeting of creditors under § 341 and make available to the trustee the following documents or copies of them, or provide a written statement that the documentation does not exist or is not in the debtor's possession:
 - (A) evidence of current income such as the most recent payment advice;
 - (B) unless the trustee or the United States trustee instructs otherwise, statements for each of the debtor's depository and investment accounts, including checking, savings, and money market accounts, mutual funds and brokerage accounts for the time period that includes the date of the filing of the petition; and
 - (C) documentation of monthly expenses claimed by the debtor when required by § 707(b)(2)(A) or (B).
 - (3) **Tax Return.** At least 7 days before the first date set for the meeting of creditors under § 341, the debtor shall provide to the trustee a copy of the debtor's Federal income tax return for the most recent tax year ending immediately before the commencement of the case and for which a return was filed, including any attachments, or a transcript of the tax return, or provide a written statement that the documentation does not exist.
 - (4) **Tax Returns Provided to Creditors.** If a creditor, at least 15 days before the first date set for the meeting of creditors under § 341, requests a copy of the debtor's tax return that is to be provided to the trustee under subdivision (b)(3), the debtor shall provide to the requesting creditor a copy of the return, including any attachments, or a transcript of the tax return, or provide a written statement that the documentation does not exist at least 7 days before the first date set for the meeting of creditors under § 341.
 - (5) The debtor's obligation to provide tax returns under Rule 4002(b)(3) and (b)(4) is subject to procedures for safeguarding the confidentiality of tax information established by the Director of the Administrative Office of the United States Courts.

LOCAL RULE 4003-1: MOTIONS TO AVOID LIEN

- (a) **Applicability.** This local rule applies to cases under chapters 7, 11, and 12 of the Bankruptcy Code.
- (b) **Filing Requirements.** In a chapter 7, 11, or 12 case, a debtor seeking to avoid a lien pursuant to 11 U.S.C. § 522(f) shall use the passive notice procedure prescribed by SC LBR 9014-2 and must file with the Court simultaneously:
- (1) A passive notice (See Exhibit B to SC LBR 9014-2);
 - (2) The lien avoidance motion (See attached Exhibits A, C, and E);
 - (3) A certificate of service of the above documents upon the applicable creditor or creditors and the trustee (if one is appointed and if service is required generally on such trustee);
 - (4) A proposed order (See attached Exhibits B, D, and F); and
- Documents 1-4 above must conform to the attached Exhibits in all material respects or the motion may not be considered or may be denied.
- (c) **Filing of Motions Following Closure of Case.** The Court maintains jurisdiction to consider a motion to avoid lien and accept amended schedules related thereto despite the closure of the case. A debtor need not seek to reopen a case for the limited purpose of filing a motion to avoid lien.
- (d) **Chapter 13.** The procedures set forth in this rule and attached Exhibits are not applicable to chapter 13 cases. In such cases a debtor seeking to avoid a lien on property pursuant to 11 U.S.C. § 522(f) and Fed. R. Bankr. P. 4003 must seek such relief in the Notice, Chapter 13 Plan and Related Motions, pursuant to SC LBR 3015-1.
- (e) **Motions to Avoid Nonpossessory, Nonpurchase-Money Security Interest.** For cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, the term “household goods” has been defined pursuant to 11 U.S.C. § 522(f)(4). Accordingly, any motion pursuant to 11 U.S.C. § 521(f)(1)(B) in such cases shall only seek avoidance within the limits prescribed by 11 U.S.C. § 522(f)(4).
- (f) **Interim Bankruptcy Rule 4003.** In addition to the above, Interim Rule 4003, adopted by this Court as a local rule effective October 17, 2005, is applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and is to be read in conjunction with any corresponding Federal Rule.

EXHIBIT A TO SC LBR 4003-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____
CHAPTER: _____

MOTION TO AVOID JUDICIAL LIEN
(11 U.S.C. § 522(f)(1)(A))¹

Debtor(s). _____

TO THE TRUSTEE (if one is appointed) AND THE JUDGMENT LIEN CREDITOR LISTED BELOW:

Name of Creditor	a) Amt. of Judicial Lien	+	b) Total Amt. of All Other Liens	+	c) Amt. of Exemption Claimed	=	d) Enter Amount	-	e) Value of Debtor's Interest in Property	=	f) Amt. of Judicial Lien to be Avoided (to extent d is > e)	g) Amt. of Judicial Lien Not to be Avoided
------------------	--------------------------	---	----------------------------------	---	------------------------------	---	-----------------	---	---	---	---	--

The debtor hereby moves, in accordance with 11 U.S.C. § 522(f)(1)(A), to avoid the judicial lien held by each creditor named above in the amount listed above in the property claimed as exempt by the debtor. Each of the undersigned acknowledges reading and understanding Federal Rule of Bankruptcy Procedure 9011 and certifies the following:

- (a) The judicial lien(s) referenced above represent a judgment which has been recorded in a county in which the debtor owns real estate or in which there is a levy/attachment on personal property; and
- (b) The property on which the judicial lien is sought to be avoided is owned by the debtor and has been properly exempted according to Schedule C filed herein.

Date: _____

Signature of Movant(s)

Signature of Attorney

Typed/Printed Name/Address/Telephone/
Facsimile/E-mail

District Court I.D. Number

¹ This form is for use only in chapter 7, chapter 11 and chapter 12 cases. See SC LBR 3015-1 for chapter 13 notice.

EXHIBIT B TO SC LBR 4003-1

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____

CHAPTER: _____

ORDER AVOIDING JUDICIAL LIEN
(11 U.S.C. § 522(f)(1)(A))¹

Debtor(s).

Before the Court is the motion of the Debtor to avoid the judicial lien held by the following creditor:

Name of Creditor	a) Amt. of Judicial Lien	b) Total Amt. of All Other Liens	c) Amt. of Exemption Claimed	d) Enter Amount	e) Value of Debtor's Interest in Property	f) Amt. of Judicial Lien Avoided	g) Amt. of Judicial Lien Not Avoided
------------------------	--------------------------------	--	------------------------------------	--------------------	--	--	--

The Court finds that the judicial lien of the above-named creditor impairs the exemptions to which the debtor would otherwise be entitled under 11 U.S.C. § 522(b) and Chapter 41 of Title 15, Code of Laws of South Carolina, 1976 (as amended), and that the judicial lien should therefore be avoided pursuant to 11 U.S.C. § 522(f)(1)(A) in the amount set forth above.

Therefore, IT IS ORDERED that the judicial lien held by the above-named creditor be, and hereby is, avoided in the amount set forth above. Any judicial lien set forth above which is avoided in full may be canceled of record at any time after thirty (30) days after a discharge in this case is granted.

UNITED STATES BANKRUPTCY JUDGE

Columbia, South Carolina,

¹ This form is for use only in chapter 7, chapter 11 and chapter 12 cases. See SC LBR 3015-1 for chapter 13 notice.

EXHIBIT C TO SC LBR 4003-1

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____

CHAPTER: _____

MOTION TO AVOID JUDICIAL LIEN

(11 U.S.C. § 522(f)(1)(A))¹

EQUITY ANALYSIS/ CO-OWNED PROPERTY²

Debtor(s).

TO THE TRUSTEE (if one is appointed) AND JUDGMENT LIEN CREDITOR LISTED BELOW:

Name of Creditor	a) Value of Debtor's Property	b) Mortgage - Liens on Property	c) Total =	d) Divide (c) by Debtor's Interest	e) Exemption - after Dividing Total by Debtor's Interest	f) Total Amt. Remaining for All Liens	g) Amt. of Judicial Lien to be Avoided (to extent Judicial Lien is > (f) after (f) - Any Sr. is reduced by Amt. of Any Sr. Judicial Liens)	h) Amt. of Judicial Lien Not to be Avoided (Judicial Liens)

The debtor hereby moves, in accordance with 11 U.S.C. § 522(f)(1)(A), to avoid the judicial lien of each creditor named above in the amount listed above in the property claimed exempt by the debtor. Each of the undersigned acknowledges reading and understanding Federal Rule of Bankruptcy Procedure 9011 and certifies the following:

- (a) The judicial lien(s) referenced above represent a judgment which has been recorded in a county in which the debtor owns real estate or in which there is a levy/attachment on personal property; and
- (b) The property on which the judicial lien is sought to be avoided is owned by the debtor and has been properly exempted according to Schedule C filed herein.

Date: _____

Signature of Movant(s)

Signature of Attorney

Typed/Printed Name/Address/Telephone/
Facsimile/E-mail

District Court I.D. Number

¹ This form is for use in chapter 7, chapter 11, and chapter 12 cases. See SC LBR 3015-1 for chapter 13 notice.

² This form is to be utilized when the Court's equity analysis for co-owned property is applicable pursuant to In re Ware, 274 B.R. 206 (Bankr. D.S.C. 2001). If there are multiple liens to be avoided, adapt this form to reflect the amounts and avoidance of the multiple liens. See In re Ware, 274 B.R. at 208 n. 2.

EXHIBIT D TO SC LBR 4003-1

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____

CHAPTER: _____

ORDER AVOIDING JUDICIAL LIEN

(11 U.S.C. § 522(f)(1)(A))¹

EQUITY ANALYSIS/CO-OWNED PROPERTY²

Debtor(s).

Before the Court is the motion of the Debtor to avoid the judicial lien held by the following creditor:

Name of Creditor	a) Value of Debtor's Property	b) Mortgage Liens on Property	c) Total	d) Debtor's Interest	e) Exemption	f) Amt. Remaining for All Liens	g) Amt. of Judicial Lien Avoided	h) Amt. of Judicial Lien Not Avoided
---------------------	-------------------------------------	-------------------------------------	----------	-------------------------	--------------	---------------------------------------	-------------------------------------	---

The Court finds that the judicial lien of the above-named creditor impairs the exemptions to which the debtor would otherwise be entitled under 11 U.S.C. § 522(b) and Chapter 41 of Title 15, Code of Laws of South Carolina, 1976 (as amended), and that the judicial lien should therefore be avoided pursuant to 11 U.S.C. § 522(f)(1)(A) in the amount set forth above.

Therefore, IT IS ORDERED that the judicial lien held by the above-named creditor be, and hereby is, avoided in the amount set forth above. Any judicial lien set forth above which is avoided in full may be canceled of record at any time after thirty (30) days after a discharge in this case is granted.

UNITED STATES BANKRUPTCY JUDGE

Columbia, South Carolina,

¹ This form is for use in chapter 7, chapter 11, and chapter 12 cases. See SC LBR 3015-1 for chapter 13 notice.

² This form is to be utilized when the Court's equity analysis for co-owned property is applicable pursuant to In re Ware, 274 B.R. 206 (Bankr. D.S.C. 2001). If there are multiple liens to be avoided, adapt this form to reflect the amounts and avoidance of the multiple liens. See In re Ware, 274 B.R. at 208 n. 2.

EXHIBIT E TO SC LBR 4003-1

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA**

IN RE:

CASE NO: _____

CHAPTER: _____

MOTION TO AVOID SECURITY INTEREST
(11 U.S.C. § 522(f)(1)(B))¹

Debtor(s).

TO THE TRUSTEE (if applicable) AND THE SECURED CREDITOR LISTED BELOW:

Name and Address of Creditor	Type of Property/Date of Security Agreement
_____	_____
_____	_____
_____	_____
_____	_____

The debtor moves pursuant to 11 U.S.C. § 522(f)(1)(B), to avoid the nonpurchase-money, nonpossessory security interest held by each creditor named above in the property claimed as exempt by the debtor. Each of the undersigned acknowledges reading and understanding Federal Rule of Bankruptcy Procedure 9011.

Date: _____

Signature of Movant(s)

Signature of Attorney

Typed/Printed Name/Address/Telephone/
Facsimile/E-mail

District Court I.D. Number

¹ This form is for use only in chapter 7, chapter 11 and chapter 12 cases. See SC LBR 3015-1 for chapter 13 notice.

EXHIBIT F TO SC LBR 4003-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____

CHAPTER: _____

ORDER AVOIDING NON-PURCHASE MONEY,
NONPOSSESSORY SECURITY INTEREST
(11 U.S.C. § 522(f)(1)(B))¹

Debtor(s).

Before the Court is the motion of the debtor to avoid the security interest held by the following creditor:

Name and Address of Creditor

Type of Property/Date of Security Agreement

The Court finds that, the security interest of the above-named creditor is nonpurchase-money and nonpossessory in nature and impairs an exemption to which the debtor would otherwise be entitled under 11 U.S.C. § 522(b) and Chapter 41 of Title 15, Code of Laws of South Carolina, 1976 (as amended). The security interest should therefore be avoided pursuant to 11 U.S.C. § 522(f)(1)(B).

Therefore, IT IS ORDERED that the nonpossessory, nonpurchase-money security interest held by the above-named creditor be, and hereby is, avoided.

UNITED STATES BANKRUPTCY JUDGE

Columbia, South Carolina

¹ This form is for use only in chapter 7, chapter 11 and chapter 12 cases. See SC LBR 3015-1 for chapter 13 notice.

INTERIM BANKRUPTCY RULE 4003: EXEMPTIONS

* * * * *

(b) Objecting to a Claim of Exemptions.

- (1)** Except as provided in paragraph (2), a party in interest may file an objection to the list of property claimed as exempt within 30 days after the meeting of creditors held under § 341(a) is concluded or within 30 days after any amendment to the list or supplemental schedules is filed, whichever is later. The court may, for cause, extend the time for filing objections if, before the time to object expires, a party in interest files a request for an extension.
- (2)** An objection to a claim of exemption based on § 522(q) shall be filed before the closing of the case. If an exemption is first claimed after a case is reopened, an objection shall be filed before the reopened case is closed.
- (3)** Copies of the objections shall be delivered or mailed to the trustee, the person filing the list, and the attorney for that person.

LOCAL RULE 4004-1: INCORPORATION OF INTERIM BANKRUPTCY RULE 4004

Interim Bankruptcy Rule 4004, adopted by this Court as a local rule effective October 17, 2005, is applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and is to be read in conjunction with any corresponding Federal Rule.

INTERIM BANKRUPTCY RULE 4004: GRANT OR DENIAL OF DISCHARGE

* * * * *

(c) Grant of Discharge.

- (1) In a chapter 7 case, on expiration of the time fixed for filing a complaint objecting to discharge and the time fixed for filing a motion to dismiss the case under Rule 1017(e), the court shall forthwith grant the discharge unless:

* * * * *

- (F) a motion to extend the time for filing a motion to dismiss the case under Rule 1017(e) is pending,
- (G) the debtor has not paid in full the filing fee prescribed by 28 U.S.C. § 1930(a) and any other fee prescribed by the Judicial Conference of the United States under 28 U.S.C. § 1930(b) that is payable to the clerk upon the commencement of a case under the Code, unless the court has waived the fees under 28 U.S.C. § 1930(f);
- (H) the debtor has not filed with the court a statement regarding completion of a course in personal financial management as required by Rule 1007(b)(7);
- (I) a motion to delay or postpone discharge under § 727(a)(12) is pending; or
- (J) a presumption that a reaffirmation agreement is an undue hardship has arisen under § 524(m); or
- (K) a motion to delay discharge, alleging that the debtor has not filed with the court all tax documents required to be filed under § 521(f), is pending.

* * * * *

- (3) If the debtor is required to file a statement under Rule 1007(b)(8), the court shall not grant a discharge earlier than 30 days after the filing of the statement.

LOCAL RULE 4006-1: INCORPORATION OF INTERIM BANKRUPTCY RULE 4006

Interim Bankruptcy Rule 4006, adopted by this Court as a local rule effective October 17, 2005, is applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and is to be read in conjunction with any corresponding Federal Rule.

INTERIM BANKRUPTCY RULE 4006: NOTICE OF NO DISCHARGE

If an order is entered denying or revoking a discharge or if a waiver of discharge is filed, the clerk, after the order becomes final or the waiver is filed, or, in the case of an individual, if the case is closed without the entry of an order of discharge, shall promptly give notice thereof to all parties in interest in the manner provided in Rule 2002.

LOCAL RULE 4007-1: INCORPORATION OF INTERIM BANKRUPTCY RULE 4007

Interim Bankruptcy Rule 4007, adopted by this Court as a local rule effective October 17, 2005, is applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and is to be read in conjunction with any corresponding Federal Rule.

INTERIM BANKRUPTCY RULE 4007: DETERMINATION OF DISCHARGEABILITY OF A DEBT

* * * * *

- (c) **Time for Filing Complaint under § 523(c) in a Chapter 7 Liquidation, Chapter 11 Reorganization, Chapter 12 Family Farmer's Debt Adjustment Case, or Chapter 13 Individual's Debt Adjustment Case; Notice of Time Fixed.** Except as provided in subdivision (d), a complaint to determine the dischargeability of a debt under § 523(c) shall be filed no later than 60 days after the first date set for the meeting of creditors under § 341(a). The court shall give all creditors no less than 30 days' notice of the time so fixed in the manner provided in Rule 2002. On motion of a party in interest, after hearing on notice, the court may for cause extend the time fixed under this subdivision. The motion shall be filed before the time has expired.
- (d) **Time for Filing Complaint under § 523(a)(6) in Chapter 13 Individual's Debt Adjustment Case; Notice of Time Fixed.** On motion by a debtor for a discharge under § 1328(b), the court shall enter an order fixing the time to file a complaint to determine the dischargeability of any debt under § 523(a)(6) and shall give no less than 30 days' notice of the time fixed to all creditors in the manner provided in Rule 2002. On motion of any party in interest after hearing on notice the court may for cause extend the time fixed under this subdivision. The motion shall be filed before the time has expired.

LOCAL RULE 4008-1: REAFFIRMATION AGREEMENTS

- (a) **Form of Filing.** A reaffirmation agreement or, for a debtor appearing *pro se*, a motion for approval of a reaffirmation agreement, must be accomplished by filing the form (or a substantially similar form) attached hereto as Exhibit A.
- (b) **Interim Bankruptcy Rule 4008.** In addition to the above, Interim Rule 4008, adopted by this Court as a local rule effective October 17, 2005, is applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and is to be read in conjunction with any corresponding Federal Rule.

EXHIBIT A TO LOCAL RULE 4008-1

☐ **Presumption of Undue Hardship**
☐ **No Presumption of Undue Hardship**
(Check Box as directed in Part D: Debtor's Statement
In Support of Reaffirmation Agreement.)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

In Re: _____
Debtor

Case No. _____
Chapter _____

REAFFIRMATION AGREEMENT

[Indicate all documents included in this filing by checking each applicable box.]

- | | |
|---|---|
| <input type="checkbox"/> Part A: Disclosures, Instructions and Notice to Debtor (Pages 1-5) | <input type="checkbox"/> Part D: Debtor's Statement in Support of Reaffirmation Agreement |
| <input type="checkbox"/> Part B: Reaffirmation Agreement | <input type="checkbox"/> Part E: Motion for Court Approval |
| <input type="checkbox"/> Part C: Certification by Debtor's Attorney | |

[**Note:** Complete Part E only if debtor was not represented by an attorney during the course of negotiating this agreement. **Note also:** If you complete Part E, you must prepare and file Form 240B - Order on Reaffirmation Agreement.]

Name of Creditor: _____

- ☐ [Check this box if] Creditor is a Credit Union as defined in § 19(b)(1)(a)(iv) of the Federal Reserve Act

PART A: DISCLOSURE STATEMENT, INSTRUCTIONS AND NOTICE TO DEBTOR

1. DISCLOSURE STATEMENT

Before Agreeing to Reaffirm a Debt, Review These Important Disclosures:

SUMMARY OF REAFFIRMATION AGREEMENT

This Summary is made pursuant to the requirements of the Bankruptcy Code.

AMOUNT REAFFIRMED

The amount of debt you have agreed to reaffirm: \$ _____

The amount of debt you have agreed to reaffirm includes all fees and costs (if any) that have accrued as of the date of this disclosure. Your credit agreement may obligate you to pay additional amounts which may come due after the date of this disclosure. Consult your credit agreement.

ANNUAL PERCENTAGE RATE

[The annual percentage rate can be disclosed in different ways, depending on the type of debt.]

a. If the debt is an extension of “credit” under an “open end credit plan,” as those terms are defined in § 103 of the Truth in Lending Act, such as a credit card, the creditor may disclose the annual percentage rate shown in (i) below or, to the extent this rate is not readily available or not applicable, the simple interest rate shown in (ii) below, or both.

- (i) The Annual Percentage Rate disclosed, or that would have been disclosed, to the debtor in the most recent periodic statement prior to entering into the reaffirmation agreement described in Part B below or, if no such periodic statement was given to the debtor during the prior six months, the annual percentage rate as it would have been so disclosed at the time of the disclosure statement: _____ %.

—And/Or—

- (ii) The simple interest rate applicable to the amount reaffirmed as of the date this disclosure statement is given to the debtor: _____%. If different simple interest rates apply to different balances included in the amount reaffirmed, the amount of each balance and the rate applicable to it are:

\$ _____ @ _____ % ;
\$ _____ @ _____ % ;
\$ _____ @ _____ % .

b. If the debt is an extension of credit other than under an open end credit plan, the creditor may disclose the annual percentage rate shown in (i) below, or, to the extent this rate is not readily available or not applicable, the simple interest rate shown in (ii) below, or both.

- (i) The Annual Percentage Rate under § 128(a)(4) of the Truth in Lending Act, as disclosed to the debtor in the most recent disclosure statement given to the debtor prior to entering into the reaffirmation agreement with respect to the debt or, if no such disclosure statement was given to the debtor, the annual percentage rate as it would have been so disclosed: _____%.

—And/Or—

- (ii) The simple interest rate applicable to the amount reaffirmed as of the date this disclosure statement is given to the debtor: _____%. If different simple interest rates apply to different balances included in the amount reaffirmed,

the amount of each balance and the rate applicable to it are:

\$ _____ @ _____ % ;
\$ _____ @ _____ % ;
\$ _____ @ _____ % .

c. If the underlying debt transaction was disclosed as a variable rate transaction on the most recent disclosure given under the Truth in Lending Act:

The interest rate on your loan may be a variable interest rate which changes from time to time, so that the annual percentage rate disclosed here may be higher or lower.

d. If the reaffirmed debt is secured by a security interest or lien, which has not been waived or determined to be void by a final order of the court, the following items or types of items of the debtor’s goods or property remain subject to such security interest or lien in connection with the debt or debts being reaffirmed in the reaffirmation agreement described in Part B.

Optional—At the election of the creditor, a repayment schedule using one or a combination of the following may be provided:

Repayment Schedule:

Your first payment in the amount of \$ _____ is due on _____(date), but the future payment amount may be different. Consult your reaffirmation agreement or credit agreement, as applicable.

—Or—

Your payment schedule will be: _____ (number) payments in the amount of \$ _____ each, payable (monthly, annually, weekly, etc.) on the _____(day) of each _____(week, month, etc.), unless altered later by mutual agreement in writing.

—Or—

A reasonably specific description of the debtor's repayment obligations to the extent known by the creditor or creditor's representative.

2. INSTRUCTIONS AND NOTICE TO DEBTOR

Reaffirming a debt is a serious financial decision. The law requires you to take certain steps to make sure the decision is in your best interest. If these steps are not completed, the reaffirmation agreement is not effective, even though you have signed it.

1. Read the disclosures in this Part A carefully. Consider the decision to reaffirm carefully. Then, if you want to reaffirm, sign the reaffirmation agreement in Part B (or you may use a separate agreement you and your creditor agree on).

2. Complete and sign Part D and be sure you can afford to make the payments you are agreeing to make and have received a copy of the disclosure statement and a completed and signed reaffirmation agreement.

3. If you were represented by an attorney during the negotiation of your reaffirmation agreement, the attorney must have signed the certification in Part C.

4. If you were not represented by an attorney during the negotiation of your reaffirmation agreement, you must have completed and signed Part E.

5. The original of this disclosure must be filed with the court by you or your creditor. If a separate reaffirmation agreement (other than the one in Part B) has been signed, it must be attached.

6. If the creditor is not a Credit Union and you were represented by an attorney during the negotiation of your reaffirmation agreement, your reaffirmation agreement becomes effective upon filing with the court unless the reaffirmation is presumed to be an undue hardship as explained in Part D. If the creditor is a Credit Union and you were represented by an attorney during the negotiation of your reaffirmation agreement, your reaffirmation agreement becomes effective upon filing with the court.

7. If you were not represented by an attorney during the negotiation of your reaffirmation agreement, it will not be effective unless the court approves it. The court will notify you and the creditor of the hearing on your reaffirmation agreement. You must attend this hearing in bankruptcy court where the judge will review your reaffirmation agreement. The bankruptcy court must approve your reaffirmation agreement as consistent with your best interests, except that no court approval is required if your reaffirmation agreement is for a consumer debt secured by a mortgage, deed of trust, security deed, or other lien on your real property, like your home.

YOUR RIGHT TO RESCIND (CANCEL) YOUR REAFFIRMATION AGREEMENT

You may rescind (cancel) your reaffirmation agreement at any time before the bankruptcy court enters a discharge order, or before the expiration of the 60-day period that begins on the date your reaffirmation agreement is filed with the court, whichever occurs later. To rescind (cancel) your reaffirmation agreement, you must notify the creditor that your reaffirmation agreement is rescinded (or canceled).

Frequently Asked Questions:

What are your obligations if you reaffirm the debt? A reaffirmed debt remains your personal legal obligation. It is not discharged in your bankruptcy case. That means that if you default on your reaffirmed debt after your bankruptcy case is over, your creditor may be able to take your property or your wages. Otherwise, your obligations will be determined by the reaffirmation agreement which may have changed the terms of the original agreement. For example, if you are reaffirming an open end credit agreement, the creditor may be permitted by that agreement or applicable law to change the terms of that agreement in the future under certain conditions.

Are you required to enter into a reaffirmation agreement by any law? No, you are not required to reaffirm a debt by any law. Only agree to reaffirm a debt if it is in your best interest. Be sure you can afford the payments you agree to make.

What if your creditor has a security interest or lien? Your bankruptcy discharge does not eliminate any lien on your property. A “lien” is often referred to as a security interest, deed of trust, mortgage or security deed. Even if you do not reaffirm and your personal liability on the debt is discharged, because of the lien your creditor may still have the right to take the security property if you do not pay the debt or default on it. If the lien is on an item of personal property that is exempt under your State’s law or that the trustee has abandoned, you may be able to redeem the item rather than reaffirm the debt. To redeem, you make a single payment to the creditor equal to the current value of the security property, as agreed by the parties or determined by the court.

NOTE: When this disclosure refers to what a creditor “may” do, it does not use the word “may” to give the creditor specific permission. The word “may” is used to tell you what might occur if the law permits the creditor to take the action. If you have questions about reaffirming a debt or what the law requires, consult with the attorney who helped you negotiate this agreement reaffirming a debt. If you don’t have an attorney helping you, the judge will explain the effect of your reaffirming a debt when the hearing on the reaffirmation agreement is held.

PART B: REAFFIRMATION AGREEMENT.

I (we) agree to reaffirm the debts arising under the credit agreement described below.

1. Brief description of credit agreement:

2. Description of any changes to the credit agreement made as part of this reaffirmation agreement:

SIGNATURE(S):

Borrower:

Accepted by creditor:

(Print Name)

(Printed Name of Creditor)

(Signature)

(Address of Creditor)

Date: _____

(Signature)

(Printed Name and Title of Individual
Signing for Creditor)

Co-borrower, if also reaffirming these debts:

(Print Name)

Date of creditor acceptance:

(Signature)

Date: _____

PART C: CERTIFICATION BY DEBTOR'S ATTORNEY (IF ANY)

[To be filed only if the attorney represented the debtor during the course of negotiating this agreement.]

I hereby certify that (1) this agreement represents a fully informed and voluntary agreement by the debtor; (2) this agreement does not impose an undue hardship on the debtor or any dependant of the debtor; and (3) I have fully advised the debtor of the legal effect and consequences of this agreement and any default under this agreement.

☐ *[Check box, if applicable and the creditor is not a Credit Union.]* A presumption of undue hardship has been established with respect to this agreement. In my opinion, however, the debtor is able to make the required payment.

Printed Name of Debtor's Attorney: _____

Signature of Debtor's Attorney: _____

Date: _____

PART D: DEBTOR'S STATEMENT IN SUPPORT OF REAFFIRMATION AGREEMENT

*[Read and complete numbered sections 1 and 2, **OR**, if the creditor is a Credit Union and the debtor is represented by an attorney, read section 3. Sign the appropriate signature line(s) and date your signature. If you complete sections 1 and 2 and your income less monthly expenses does not leave enough to make the payments under this reaffirmation agreement, check the box at the top of page 1 indicating "Presumption of Undue Hardship." Otherwise, check the box at the top of page 1 indicating "No Presumption of Undue Hardship."]*

1. I believe this reaffirmation agreement will not impose an undue hardship on my dependants or me. I can afford to make the payments on the reaffirmed debt because my monthly income (take home pay plus any other income received) is \$_____, and my actual current monthly expenses including monthly payments on post-bankruptcy debt and other reaffirmation agreements total \$_____, leaving \$_____ to make the required payments on this reaffirmed debt.

I understand that if my income less my monthly expenses does not leave enough to make the payments, this reaffirmation agreement is presumed to be an undue hardship on me and must be reviewed by the court. However, this presumption may be overcome if I explain to the satisfaction of the court how I can afford to make the payments here: _____

_____.

(Use an additional page if needed for a full explanation.)

2. I received a copy of the Reaffirmation Disclosure Statement in Part A and a completed and signed reaffirmation agreement.

Signed: _____

(Debtor)

(Joint Debtor, if any)

Date: _____

—OR—

[If the creditor is a Credit Union and the debtor is represented by an attorney]

3. I believe this reaffirmation agreement is in my financial interest. I can afford to make the payments on the reaffirmed debt. I received a copy of the Reaffirmation Disclosure Statement in Part A and a completed and signed reaffirmation agreement.

Signed: _____

(Debtor)

(Joint Debtor, if any)

Date: _____

PART E: MOTION FOR COURT APPROVAL

[To be completed and filed only if the debtor is not represented by an attorney during the course of negotiating this agreement.]

MOTION FOR COURT APPROVAL OF REAFFIRMATION AGREEMENT

I (we), the debtor(s), affirm the following to be true and correct:

I am not represented by an attorney in connection with this reaffirmation agreement.

I believe this reaffirmation agreement is in my best interest based on the income and expenses I have disclosed in my Statement in Support of this reaffirmation agreement, and because (provide any additional relevant reasons the court should consider):

Therefore, I ask the court for an order approving this reaffirmation agreement under the following provisions (check all applicable boxes):

- ☐ 11 U.S.C. § 524(c)(6) (debtor is not represented by an attorney during the course of the negotiation of the reaffirmation agreement)
- ☐ 11 U.S.C. § 524(m) (presumption of undue hardship has arisen because monthly expenses exceed monthly income)

Signed: _____
(Debtor)

(Joint Debtor, if any)

Date: _____

United States Bankruptcy Court

District of South Carolina

In re _____
Debtor

Case No. _____
Chapter _____

ORDER ON REAFFIRMATION AGREEMENT

The debtor(s) _____ has (have) filed a motion for approval of the
(Name(s) of debtor(s))
reaffirmation agreement dated _____ made between the debtor(s) and
(Date of agreement)
_____. The court held the hearing required by 11 U.S.C. § 524(d)
(Name of creditor)
on notice to the debtor(s) and the creditor on _____.
(Date)

- COURT ORDER:
- ☐ The court grants the debtor's motion under 11 U.S.C. § 524(c)(6)(A) and approves the reaffirmation agreement described above as not imposing an undue hardship on the debtor(s) or a dependent of the debtor(s) and as being in best interest of the debtor(s).
 - ☐ The court grants the debtor's motion under 11 U.S.C. § 524(k)(8) and approves the reaffirmation agreement described above.
 - ☐ The court does not disapprove the reaffirmation agreement under 11 U.S.C. § 524(m).
 - ☐ The court disapproves the reaffirmation agreement under 11 U.S.C. § 524(m).
 - ☐ The court does not approve the reaffirmation agreement.

BY THE COURT

Date: _____

United States Bankruptcy Judge

INTERIM BANKRUPTCY RULE 4008: DISCHARGE AND REAFFIRMATION HEARING

Not more than 30 days following the entry of an order granting or denying a discharge, or confirming a plan in a chapter 11 reorganization case concerning an individual debtor and on not less than 10 days notice to the debtor and the trustee, the court may hold a hearing as provided in § 524(d) of the Code. A motion by the debtor for approval of a reaffirmation agreement shall be filed before or at the hearing. The debtor's statement required under § 524(k) shall be accompanied by a statement of the total income and total expense amounts stated on schedules I and J. If there is a difference between the income and expense amounts stated on schedules I and J and the statement required under § 524(k), the accompanying statement shall include an explanation of any difference.

LOCAL RULE 5003-1: INCORPORATION OF INTERIM BANKRUPTCY RULE 5003

Interim Bankruptcy Rule 5003, adopted by this Court as a local rule effective October 17, 2005, is applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and is to be read in conjunction with any corresponding Federal Rule.

* * * * *

- (e) **Register of Mailing Addresses of Federal and State Governmental Units and Certain Taxing Authorities.** The United States or the state or territory in which the court is located may file a statement designating its mailing address. The United States, state, territory, or local governmental unit responsible for the collection of taxes within the district in which the case is pending may file a statement designating an address for service of requests under § 505(b) of the Code, and the designation shall describe where further information concerning additional requirements for filing such requests may be found. The clerk shall keep, in the form and manner as the Director of the Administrative Office of the United States Courts may prescribe, a register that includes the mailing addresses designated under this subdivision, but the clerk is not required to include in the register more than one mailing address for each department, agency, or instrumentality of the United States or the state or territory. If more than one address for a department, agency, or instrumentality is included in the register, the clerk shall also include information that would enable a user of the register to determine the circumstances when each address is applicable, and mailing notice to only one applicable address is sufficient to provide effective notice. The clerk shall update the register annually, effective January 2 of each year. The mailing address in the register is conclusively presumed to be a proper address for the governmental unit, but the failure to use that mailing address does not invalidate any notice that is otherwise effective under applicable law.

LOCAL RULE 5008-1: INCORPORATION OF INTERIM BANKRUPTCY RULE 5008

Interim Bankruptcy Rule 5008, adopted by this Court as a local rule effective October 17, 2005, is applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and is to be read in conjunction with any corresponding Federal Rule.

**INTERIM BANKRUPTCY RULE 5008: NOTICE REGARDING PRESUMPTION OF ABUSE IN CHAPTER
7 CASES OF INDIVIDUAL DEBTORS**

In a chapter 7 case of an individual with primarily consumer debts in which a presumption of abuse has arisen under § 707(b), the clerk shall give to creditors notice of the presumption of abuse in accordance with Rule 2002 within 10 days after the date of the filing of the petition. If the debtor has not filed a statement indicating whether a presumption of abuse has arisen, the clerk shall give notice to creditors within 10 days after the date of the filing of the petition that the debtor has not filed the statement and that further notice will be given if a later filed statement indicates that a presumption of abuse has arisen. If a debtor later files a statement indicating that a presumption of abuse has arisen, the clerk shall give notice to creditors of the presumption of abuse as promptly as practicable.

LOCAL RULE 5011-1: WITHDRAWAL OF REFERENCE

- (a) **Form of Request; Place for Filing.** A request for withdrawal, in whole or in part, of the reference of a case or proceeding referred to the Bankruptcy Court, other than a *sua sponte* request by a bankruptcy judge, shall be by motion filed with this Court. The motion must conform to SC LBR 9014-1. In addition, the motion must clearly and conspicuously state that "RELIEF IS SOUGHT FROM A UNITED STATES DISTRICT JUDGE."
- (b) **Designation of Record.** The moving party shall serve on the debtor, attorney for the debtor, any trustee appointed in the case, and any other interested party and file with this Court, together with the motion to withdraw the reference, a designation of those portions of the record of the case or proceeding that the moving party believes will be reasonably necessary or pertinent to the United States District Court's consideration of the motion. Within ten (10) days after service of the designation of record, any other party may serve and file a designation of additional portions of the record. If the record designated by any party includes a transcript of any hearing or trial, or a part thereof, that party shall immediately after filing the designation deliver to this Court's electronic court recorder operator a written request for the transcript and make satisfactory arrangements for payment of its cost. All parties shall take any action necessary to enable the Clerk's Office to assemble and transmit the record.
- (c) **Responses to Motions to Withdraw the Reference; Reply.** Opposing parties must file with the Court, and serve on all parties set forth in subsection (b), their written responses to the motion to withdraw the reference within ten (10) days after being served with a copy of the motion.
- (d) **Transmittal to and Proceedings in the United States District Court.** When the record is complete for purposes of transmittal, but without awaiting the filing of any transcripts, the Clerk's Office shall promptly transmit to the United States District Court the motion, any filed objections or responses, and the portions of the record designated. Following transmittal, documents pertaining to the matter under review by the United States District Court shall be filed with the United States District Court, but all documents relating to other matters in the bankruptcy case, adversary proceeding, or contested matter shall continue to be filed with this Court.
- (e) **Stay.** The filing of a motion to withdraw the reference does not stay proceedings before the Court. Service of a motion seeking a stay pursuant to Fed. R. Bankr. P. 5011(c) shall be served upon the same parties as set forth in subsection (b). The motion shall be accompanied by a notice that the responding party has ten (10) days from the date of service of the motion in which to object or respond to the motion.

LOCAL RULE 5012-1: INCORPORATION OF INTERIM BANKRUPTCY RULE 5012

Interim Bankruptcy Rule 5012, adopted by this Court as a local rule effective October 17, 2005, is applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and is to be read in conjunction with any corresponding Federal Rule.

**INTERIM BANKRUPTCY RULE 5012: COMMUNICATION AND COOPERATION WITH FOREIGN
COURTS AND FOREIGN REPRESENTATIVES**

Except for communications for scheduling and administrative purposes, the court in any case commenced by a foreign representative shall give at least 20 days' notice of its intent to communicate with a foreign court or a foreign representative. The notice shall identify the subject of the anticipated communication and shall be given in the manner provided by Rule 2002(q). Any entity that wishes to participate in the communication shall notify the court of its intention not later than 5 days before the scheduled communication.

**LOCAL RULE 5073-1: PHOTOGRAPHY, RECORDING DEVICES, CELLULAR TELEPHONES,
PORTABLE COMPUTERS, AND BROADCASTING**

- (a) Prohibition against Camera, Video, Transmitter, Receiver, Cellular Telephone, Portable Computers, and Recording Equipment.** Absent a Court order directing otherwise, no camera, video, transmitter, receiver, cellular telephone, portable computer, or recording equipment may be brought into the United States Bankruptcy Court for the District of South Carolina and any of its Court locations.
- (b) Authority to Impound.** Such equipment in violation of this rule may be impounded by the appropriate authority.
- (c) Exemptions from Prohibition.**

 - (1)** Use of such equipment by an authorized representative of the Court for an official purpose;
 - (2)** Use of the Court's videoconferencing system by an authorized representative of the Court which operates to permit the judge to conduct proceedings from or to a remote location;
 - (3)** Use of such equipment during investitive, ceremonial, or related proceedings with the express permission of the Court and under the supervision of the Court; and
 - (4)** A device required because of a person's disability.

LOCAL RULE 6004-1: SALE OF PROPERTY

- (a) **Sale of All Property of Estate Having Minimal Value.** The trustee or debtor in possession may give general notice of intent to sell property when all of the non-exempt property of the estate has an aggregate gross value of less than \$2,500. Such notice may be given at the meeting of creditors, and the Clerk's Office is to provide notice in the Notice of Meeting of Creditors that this procedure may be followed.
- (b) **Passive Notice Procedure.** Applications to sell property free and clear of liens pursuant to Fed. R. Bankr. P. 6004 and 11 U.S.C. § 363 must be made using the passive notice procedure prescribed by SC LBR 9014-2 and by using attached Exhibit A. These applications shall be served on all parties in interest.
- (c) **Order Approving Sale.** A proposed order approving a sale attached as Exhibit B must specify the terms of the sale and not merely incorporate by reference the terms of the notice of sale.

In order for a waiver of the automatic ten (10) day stay of an order pursuant to Fed. R. Bankr. P. 6004(g) to be effective and included in any order approving sale, the sale application or notice must specifically request such waiver or the parties must have agreed to the waiver in writing.
- (d) **Report of Sale.** A report of sale attached as Exhibit C must be filed by the moving party within ten (10) days after the closing of any sale of estate property.
- (e) **Interim Bankruptcy Rule 6004.** In addition to the above, Interim Rule 6004, adopted by this Court as a local rule effective October 17, 2005, is applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and is to be read in conjunction with any corresponding Federal Rule.

EXHIBIT A TO SC LBR 6004-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____

CHAPTER: _____

NOTICE AND APPLICATION FOR SALE OF
PROPERTY FREE AND CLEAR OF LIENS

Debtor(s).

TO: All Creditors and Parties in Interest

YOU ARE HEREBY NOTIFIED that (the debtor or trustee, as applicable) is applying for approval to sell the property of the debtor's estate described below free and clear of all liens and encumbrances according to the terms and conditions stated below.

TAKE FURTHER NOTICE that any response, return, and/or objection to this application, should be filed with the Court no later than *(enter number of days) days from service of the application and a copy simultaneously served on all parties in interest.

TAKE FURTHER NOTICE that no hearing will be held on this application unless a response, return and/or objection is timely filed and served, in which case, the Court will conduct a hearing on _____, ____ at _____m., at _____, _____, South Carolina. No further notice of this hearing will be given.

TYPE OF SALE: (public, private)

PROPERTY TO BE SOLD: (specific legal description, includes identification numbers on all property where obtainable, vehicle ID numbers, serial numbers, tax ID numbers, lot and block number, street address including zip code, county, acreage, etc.)

PRICE: (gross sales price, terms of sale, or highest bid and with or without reserve if public auction)

APPRAISAL VALUE: (state value and source of appraisal; if no formal appraisal, put the trustee's estimated value)

BUYER: (full name, address, relationship to debtor and interest in the case, if any, or state if public auction)

PLACE AND TIME OF SALE: (street address and mailing address, if different, time if public sale)

SALES AGENT/AUCTIONEER/BROKER: (name, mailing address, phone number to call with questions concerning the property or the sale)

COMPENSATION TO SALES AGENT/AUCTIONEER/BROKER/ETC.: (amount of commission, method of computation, and \$ cap placed on expenses {if applicable} for this sale)

ESTIMATED TRUSTEE'S COMPENSATION: Reasonable compensation to be determined by the Court (but not to exceed the limits set in 11 U.S.C. § 326(a)).

LIENS/MORTGAGES/SECURITY INTERESTS ENCUMBERING PROPERTY: (name of each lienholder, lien position, estimated amount due, whether lienholder consents to sale, whether lien attaches to proceeds of sale or whether lien is to be satisfied upon sale)

DEBTOR'S EXEMPTION: (amount, type or not applicable)

PROCEEDS ESTIMATED TO BE PAID TO ESTATE: (net to estate after costs of sale, including all commissions and expenses, and payment of liens encumbering property)

STAY OF ORDER: (If appropriate, a request that the automatic 10-day stay not apply to the final order may be included

here)

Applicant is informed and believes that it would be in the best interest of the estate to sell said property by (public or private sale) _____. Applicant also believes that the funds to be recovered for the estate from the sale of said property justify its sale and the filing of this application.

The Court may consider additional offers at any hearing held on this notice and application for sale. The Court may order at any hearing that the property be sold to another party on equivalent or more favorable terms.

The trustee or debtor in possession, as applicable, may seek appropriate sanctions or other similar relief against any party filing a spurious objection to this notice and application.

WHEREFORE, applicant requests the Court issue an order authorizing sale of said property and such other and further relief as may be proper.

Date: _____

Signature of Applicant

Typed/Printed Name/Address/Telephone
Facsimile/E-mail

District Court I.D. Number

EXHIBIT B TO SC LBR 6004-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____

CHAPTER: _____

ORDER AUTHORIZING SALE OF ASSET

Debtor(s).

This proceeding comes before the Court on the application of _____ for authority to sell free and clear of liens the estate's interest in (specific legal description of property).

The Court has been informed that all parties in interest have been notified of the intention to sell said property, and that no objection to the proposed sale has been received or filed by any party with the Court. The (trustee or debtor in possession) has represented to the Court that such sale is in the best interest of creditors of the estate. The (trustee or debtor in possession) also has informed the Court that liens claimed by _____ against said property (should attach to the proceeds of sale, or should be paid upon the sale) of said property. It is therefore,

ORDERED, ADJUDGED, AND DECREED, that the (trustee or debtor in possession) is authorized to sell and to convey the estate's interest in the above-described property, and that the liens claimed by the above-named creditors (shall attach to the proceeds of sale, or shall be paid upon the sale) of said property.

[(Include the following paragraph if the application/notice included a request for such relief. (See SC LBR 6004-1(c)) IT IS FURTHER ORDERED, ADJUDGED, AND DECREED, that the automatic 10-day stay provided by Fed. R. Bankr. P. 6004(g) does not apply to this sale.]

UNITED STATES BANKRUPTCY JUDGE

Date: _____

THE APPLICANT:

Signature of Trustee/Debtor

Typed/Printed Name/Address/Telephone
Facsimile/E-mail

District Court I.D. Number

EXHIBIT C TO SC LBR 6004-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____

CHAPTER: _____

REPORT OF SALE

Debtor(s).

DATE OF SALE: (month, day, year)

TYPE OF SALE: (public auction or private)

PROPERTY SOLD: (specific description or attach notice of sale)

PURCHASER: (name--if public auction attach tickets and buyer's list showing property purchased and names of purchasers)

PRICE: (gross sales price)

SALES AGENT, AUCTIONEER, BROKER, ETC: (name, date of order of employment; if none, so state)

COMMISSION PAID ON SALE: (include % and amount paid to sales agent, auctioneer, broker, etc.)

EXPENSES OF SALE: (itemize, name of party incurring them)

DEBTOR'S EXEMPTION: (amount, type, if applicable; if none, so state)

LIENS PAID FROM SALE PROCEEDS/ATTACHING TO PROCEEDS: (name of lienholder and amount; state if paid, if liens attach to proceeds of sale, if lienholder is partially paid, or if lienholder is not to be paid from proceeds of sale)

NET TO ESTATE: (what estate will net)

AMOUNT DISBURSED TO DATE/RETAINED BY TRUSTEE OR DEBTOR: (amount of sale proceeds trustee is still holding to be disbursed later)

Date: _____

Signature of Trustee/Debtor

Typed/Printed Name/Address/Telephone
Facsimile/E-mail

District Court I.D. Number

* * * * *

(g) Sale of Personally Identifiable Information.

- (1) Motion.** A motion for authority to sell or lease personally identifiable information under § 363(b)(1)(B) shall include a request for an order directing the United States trustee to appoint a consumer privacy ombudsman under § 332. The motion shall be governed by Rule 9014 and shall be served on any committee elected under § 705 or appointed under § 1102 of the Code, or if the case is a chapter 11 reorganization case and no committee of unsecured creditors has been appointed under § 1102, on the creditors included on the list of creditors filed under Rule 1007(d), and on such other entities as the court may direct. The motion shall be transmitted to the United States trustee.
- (2) Appointment.** If a consumer privacy ombudsman is appointed under § 332, no later than 5 days before the hearing on the motion under § 363(b)(1)(B), the United States trustee shall file a notice of the appointment, including the name and address of the person appointed. The United States trustee's notice shall be accompanied by a verified statement of the person appointed setting forth the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee.

(h) Stay of Order Authorizing Use, Sale, or Lease of Property. An order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 10 days after entry of the order, unless the court orders otherwise.

LOCAL RULE 6007-1: ABANDONMENT OR DISPOSITION OF PROPERTY

- (a) **Abandonment by Specific Notice.** Estate property may be abandoned pursuant to Fed. R. Bankr. P. 6007 by using the passive notice procedure prescribed by SC LBR 9014-2 and pursuant to the attached Exhibits A and B.
- (b) **Abandonment at Meeting of Creditors.**¹ Property may also be abandoned at a meeting of creditors in any case in which a trustee has been appointed and in which notice that estate property may be abandoned at the meeting has been given in the Notice of Meeting of Creditors. To effect abandonment in this manner, the trustee must announce the abandonment at the meeting of creditors and hear no objections. The trustee is responsible for clearly identifying the property abandoned at the meeting of creditors and ensuring entry on the Court's docket. An order pursuant to attached Exhibit B shall thereafter be submitted to the Court.
- (c) **Use of Forms.** No forms other than the attached Exhibits specified in this local rule shall be used to obtain the abandonment of property pursuant to Fed. R. Bankr. P. 6007.

¹ Abandonment under this paragraph is not permitted in chapter 11 cases; the Notice of Meeting of creditors in chapter 11 cases does not contain the notice requirements of this paragraph.

EXHIBIT A TO SC LBR 6007-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____
CHAPTER: _____

NOTICE AND APPLICATION FOR
ABANDONMENT OF PROPERTY

Debtor(s).

TO: All Creditors and Parties in Interest

YOU ARE HEREBY NOTIFIED that (debtor or trustee, as applicable) proposes that the estate property described herein be abandoned according to the terms and conditions stated below. Applicant is informed and believes that it would be in the best interest of creditors and the estate to abandon the estate's interest in said property.

TAKE FURTHER NOTICE that any response, return and/or objection to this application, should be filed with the Court no later than *(enter number of days) days from service of motion/application and a copy simultaneously served on all parties in interest.

TAKE FURTHER NOTICE that no hearing will be held on this application unless a response, return and/or objection is timely filed and served, in which case, the Court will conduct a hearing on _____, ____, at _____ m., at _____, _____, South Carolina. No further notice of this hearing will be given.

PROPERTY TO BE ABANDONED: (specific description, includes identification numbers on all property where obtainable, vehicle I.D. numbers, serial numbers, real estate legal description, etc.)

APPRAISAL VALUE: (list both the value placed upon the collateral by the debtor and, if applicable, by the party seeking the abandonment. "Unknown" is unacceptable. Include the source of each value. If an appraisal exists, i.e. tax appraisal, blue book, formal appraisal, include the following information regarding each appraisal: the date and type of appraisal, the appraised value, and the name of the appraiser. If an appraisal exists, it must be acknowledged and addressed.)

LIENS/SECURITY INTERESTS: (list the name of each party having a lien against the property to be abandoned. State the amount of each lien against the property. These liens total the sum of \$ _____)

MOVING PARTIES: (state the name, address, and telephone number of the trustee, the debtor, and their attorney, and of the moving party, if different)

WHEREFORE, applicant requests the Court issue an order authorizing the abandonment of the estate's interest in said property and for such other and further relief as may be proper.

Date: _____

Signature of Applicant

Typed/Printed Name/Address/Telephone/
Facsimile/E-mail

District Court I.D. Number

EXHIBIT B TO SC LBR 6007-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____

CHAPTER: _____

ORDER AUTHORIZING ABANDONMENT OF
PROPERTY

Debtor(s).

This proceeding comes before the Court on the application of the party named below for the authority to abandon the estate's interest in the below-described property.

The Court has been informed that all parties in interest have been notified of the applicant's desire to have the estate's interest abandoned in said property, and that no objection to the proposed abandonment has been received or filed by any party with the Court. The applicant has represented to the Court that abandonment is in the best interest of creditors and the estate. It is, therefore,

ORDERED, ADJUDGED, AND DECREED, that the below-described property shall be deemed abandoned from the estate.

PROPERTY ABANDONED: (specific legal description, includes identification numbers of all property where obtainable, vehicle I.D. numbers, serial numbers, real estate legal description, etc.)

UNITED STATES BANKRUPTCY JUDGE

Date: _____

THE APPLICANT:

Signature of Movant

Typed/Printed Name/Address/Telephone/
Facsimile/E-mail

District Court I.D. Number

LOCAL RULE 6011-1: INCORPORATION OF INTERIM BANKRUPTCY RULE 6011

Interim Bankruptcy Rule 6011, adopted by this Court as a local rule effective October 17, 2005, is applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and is to be read in conjunction with any corresponding Federal Rule.

**INTERIM BANKRUPTCY RULE 6011: DISPOSAL OF PATIENT RECORDS IN HEALTH CARE
BUSINESS CASE**

- (a) **Notice by Publication under § 351(1)(A).** A notice regarding the claiming or disposing of patient records under § 351(1)(A) shall not identify patients by name or other identifying information, but shall:
- (1) identify with particularity the health care facility whose patient records the trustee proposes to destroy;
 - (2) state the name, address, telephone number, email address, and website, if any, of a person from whom information about the patient records may be obtained and how those records may be claimed; and
 - (3) state the date by which patient records must be claimed, and that if they are not so claimed the records will be destroyed.
- (b) **Notice by Mail Under § 351(1)(B).** Subject to applicable nonbankruptcy law relating to patient privacy, a notice regarding the claiming or disposing of patient records under § 351(1) (B) shall, in addition to including the information in subdivision (a), direct that a patient's family member or other representative who receives the notice inform the patient of the notice, and be mailed to the patient and any family member or other contact person whose name and address have been given to the trustee or the debtor for the purpose of providing information regarding the patient's health care, and to insurance companies known to have provided health care insurance to the patient.
- (c) **Proof of Compliance with Notice Requirement.** Unless the court orders the trustee to file proof of compliance with § 351(1)(B) under seal, the trustee shall not file, but shall maintain, the proof of compliance for a reasonable time.
- (d) **Report of Destruction of Records.** The trustee shall file, not later than 30 days after the destruction of patient records under § 351(3), a report certifying that the unclaimed records have been destroyed and explaining the method used to effect the destruction. The report shall not identify patients by name or other identifying information.

LOCAL RULE 7016-1: ADVERSARY PROCEEDINGS

In order to promote efficient administration of proceedings before this Court, each judge has determined to separately set forth guidelines, requirements, or rules that govern case management of matters assigned to the judge. These guidelines shall be posted on the Court's web page and shall have the force and effect of a local rule. Violation of those guidelines may result in the striking of a document, denial, dismissal, sanctions, or other adverse ruling.

LOCAL RULE 7026-1: DISCOVERY¹

- (a) **Motions, Memoranda, and Responses.** All motions filed and served in connection with discovery pursuant to Fed. R. Bankr. P. 7026 through 7037 shall be accompanied by a memorandum stating the pertinent facts and applicable legal authority relied upon and shall be filed and served no later than ten (10) days following the deadline for a response to the applicable discovery, except as provided in subsection (c). Any response to a motion filed in connection with discovery shall be filed and served within ten (10) days after service of the motion and shall state the pertinent facts and applicable legal authority relied upon in opposition to the motion. Motions regarding discovery may be considered and ruled upon by the Court on an *ex parte* basis or scheduled for hearing.
- (b) **Certification of Consultation.** Any motion concerning discovery matters must contain a certification that counsel has conferred and explored with opposing counsel, or has in good faith attempted to confer and explore, the possibility of resolving the discovery matters in controversy.
- (c) **Motions for Protective Orders and Objections to Discovery Process.** Any motion for a protective order shall be filed and served no later than the deadline for response to such discovery. Any objection to any interrogatory, deposition, request, or application under Fed. R. Bankr. P. 7026-7037 shall be in writing and shall also be served no later than the deadline for response to the applicable discovery. Any such motion or objection shall not extend the time within which the objecting party must otherwise answer or respond to any other discovery matter.
- (d) **Compliance with Discovery Orders.** After the Court has ruled on a discovery motion, any answer, production, designation, inspection, or examination required by the Court shall be completed within ten (10) days after the entry of the order of the Court, unless otherwise ordered by the Court.
- (e) **Extensions.** Extensions of time to respond to discovery may only be obtained by order of the Court following appropriate motion. Any agreement between counsel or parties relating to any extension of time is of no force or effect, and any extension granted by the Court will not alter the schedule of dates and procedure previously adopted by the Court unless so stated.

¹ In addition to adversary proceedings, this local rule applies to discovery in contested matters pursuant to Fed. R. Bankr. P. 9014(c) and SC LBR 9014-1(b)(2).

LOCAL RULE 7067-1: DEPOSITING FUNDS WITH THE COURT¹

Any deposit of funds in the registry of the Court pursuant to Fed. R. Civ. P. 67 and 28 U.S.C. § 2041 shall be authorized by order which shall include:

- (a) A statement of the amount of funds to be invested;
- (b) A statement of the name of the depository approved by the Treasurer of the United States as a depository for such funds;
- (c) The designation of the type of account or investment instrument in which the funds are to be invested;
- (d) The following language:

"The Clerk of this Court shall deduct a registry fee determined on the basis of the rates published by the Director of the Administrative Office as approved by the Judicial Conference;"
- (e) The names and addresses of all parties claiming an interest in the funds; and
- (f) A statement that the funds shall be disbursed only upon further order of the Court.

A depository designated by the Court for the deposit of registry funds shall pledge sufficient collateral prior to receipt of the funds.

¹ This rule does not apply to rent that is deposited by the debtor pursuant to 11 U.S.C. § 362(l). See SC LBR 4001-5.

LOCAL RULE 8001-1: INCORPORATION OF INTERIM BANKRUPTCY RULE 8001

Interim Bankruptcy Rule 8001, adopted by this Court as a local rule effective October 17, 2005, is applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and is to be read in conjunction with any corresponding Federal Rule.

**INTERIM BANKRUPTCY RULE 8001: MANNER OF TAKING APPEAL; VOLUNTARY DISMISSAL;
CERTIFICATION TO COURT OF APPEALS**

* * * * *

(f) Certification for Direct Appeal to Court of Appeals

- (1) Timely Appeal Required.** A certification of a judgment, order, or decree of a bankruptcy court to a court of appeals under 28 U.S.C. § 158(d)(2) shall not be treated as a certification entered on the docket within the meaning of § 1233(b)(4)(A) of Public Law No. 109-8 until a timely appeal has been taken in the manner required by subdivisions (a) or (b) of this rule and the notice of appeal has become effective under Rule 8002.
- (2) Court Where Made.** A certification that a circumstance specified in 28 U.S.C. § 158(d)(2)(A)(i)-(iii) exists shall be filed in the court in which a matter is pending for purposes of 28 U.S.C. § 158(d)(2) and this rule. A matter is pending in a bankruptcy court until the docketing, in accordance with Rule 8007(b), of an appeal taken under 28 U.S.C. § 158(a)(1) or (2), or the grant of leave to appeal under 28 U.S.C. § 158(a)(3). A matter is pending in a district court or bankruptcy appellate panel after the docketing, in accordance with Rule 8007(b), of an appeal taken under 28 U.S.C. § 158(a)(1) or (2), or the grant of leave to appeal under 28 U.S.C. § 158(a)(3).
 - (A) Certification by Court on Request or Court's Own Initiative.**
 - (i) Before Docketing or Grant of Leave to Appeal.** Only a bankruptcy court may make a certification on request or on its own initiative while the matter is pending in the bankruptcy court.
 - (ii) After Docketing or Grant of Leave to Appeal.** Only the district court or bankruptcy appellate panel involved may make a certification on request of the parties or on its own initiative while the matter is pending in the district court or bankruptcy appellate panel.
 - (B) Certification by All Appellants and Appellees Acting Jointly.** A certification by all the appellants and appellees, if any, acting jointly may be made by filing the appropriate Official Form with the clerk of the court in which the matter is pending. The certification may be accompanied by a short statement of the basis for the certification, which may include the information listed in subdivision (f)(3)(C) of this rule.
- (3) Request for Certification; Filing; Service; Contents.**
 - (A)** A request for certification shall be filed, within the time specified by 28 U.S.C. § 158(d)(2), with the clerk of the court in which the matter is pending.
 - (B)** Notice of the filing of a request for certification shall be served in the manner required for service of a notice of appeal under Rule 8004.
 - (C)** A request for certification shall include the following:
 - (i)** the facts necessary to understand the question presented;
 - (ii)** the question itself;
 - (iii)** the relief sought;
 - (iv)** the reasons why the appeal should be allowed and is authorized by statute or rule, including why a circumstance specified in 28 U.S.C. § 158(d)(2)(A)(i)-(iii) exists; and

- (v) an attached copy of the judgment, order, or decree complained of and any related opinion or memorandum.
 - (D) A party may file a response to a request for certification or a cross-request within 10 days after the notice of the request is served, or another time fixed by the court.
 - (E) The request, cross request, and any response shall not be governed by Rule 9014 and shall be submitted without oral argument unless the court otherwise directs.
 - (F) A certification of an appeal under 28 U.S.C. § 158(d)(2) shall be made in a separate document served on the parties.
- (4) **Certification on Court's Own Initiative.**
- (A) A certification of an appeal on the court's own initiative under 28 U.S.C. § 158(d)(2) shall be made in a separate document served on the parties in the manner required for service of a notice of appeal under Rule 8004. The certification shall be accompanied by an opinion or memorandum that contains the information required by subdivision (f)(3)(C)(i)-(iv) of this rule.
 - (B) A party may file a supplementary short statement of the basis for certification within 10 days after the certification.

LOCAL RULE 8003-1: INCORPORATION OF INTERIM BANKRUPTCY RULE 8003

Interim Bankruptcy Rule 8003, adopted by this Court as a local rule effective October 17, 2005, is applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and is to be read in conjunction with any corresponding Federal Rule.

* * * * *

- (d) If leave to appeal is required by 28 U.S.C. § 158(a) and has not earlier been granted, the authorization of a direct appeal by a court of appeals under 28 U.S.C. § 158(d)(2) shall be deemed to satisfy the requirement for leave to appeal.

LOCAL RULE 9001-1: DEFINITIONS AND RULES OF CONSTRUCTION

The definitions of words and phrases in 11 U.S.C. §§ 101, 902 and 1101 and Fed. R. Bankr. P. 9001 and the rules of construction in 11 U.S.C. § 102 and Fed. R. Bankr. P. 9001 govern their use in these local rules. In addition, the following words and phrases used in these local rules have the meanings indicated unless the context clearly requires otherwise.

(a) Definitions.

- (1) **"Application."** See "Motion." Papers should be captioned "applications" only when the Federal Rules of Bankruptcy Procedure expressly provide that a request for judicial action shall be made by "application."
- (2) **"Bankruptcy Court" or the "Court"** means the United States Bankruptcy Court for the District of South Carolina.
- (3) **"Bankruptcy Rules" or "Fed. R. Bankr. P."** means the Federal Rules of Bankruptcy Procedure.
- (4) **"Business Day"** as used in these local bankruptcy rules shall mean any day other than a Saturday, Sunday, federal holiday or any other day on which the Clerk's Office is closed.
- (5) **"Case"** means a bankruptcy case commenced by the filing of a petition pursuant to 11 U.S.C. §§ 301, 302, 303 or 304.
- (6) **"Courtroom Deputy"** means an employee of the United States Bankruptcy Court for the District of South Carolina designated to coordinate scheduling matters and courtroom proceedings.
- (7) **"District Court"** means the United States District Court for the District of South Carolina.
- (8) **"Documents"** means all petitions, pleadings, motions, applications, affidavits, declarations, briefs, memoranda, and all other papers or documents presented for filing or submission; but shall exclude exhibits submitted during a hearing or trial.
- (9) **"Fed. R. Civ. P."** means the Federal Rules of Civil Procedure.
- (10) **"Interim Bankruptcy Rule" or "IBR"** means those rules prepared to implement the substantive and procedural changes mandated by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, approved by the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States and adopted by this Court as a local rule effective October 17, 2005.
- (11) **"Local Rule" or "SC LBR"** means the South Carolina Local Bankruptcy Rules.
- (12) **"Motion"** shall include any request for relief by this Court not requested by adversary proceeding.
- (13) **"Passive Notice"** means after appropriate notice and opportunity for hearing (11 U.S.C. § 102(1)). (SC LBR 9014-2).

(b) Rules of Construction.

- (1) **Gender; Plural.** Whenever applicable, each gender does include the other gender and the singular does include the plural.
- (2) **References to Rules and Statutes.** Any reference in the local rules to a statute or a rule shall include any amendments or successors thereto.

LOCAL RULE 9006-1: INCORPORATION OF INTERIM BANKRUPTCY RULE 9006

Interim Bankruptcy Rule 9006, adopted by this Court as a local rule effective October 17, 2005, is applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and is to be read in conjunction with any corresponding Federal Rule.

* * * * *

(b) Enlargement.

- (1)** In General. Except as provided in paragraphs (2) and (3) of this subdivision, when an act is required or allowed to be done at or within a specified period by these rules or by a notice given thereunder or by order of court, the court for cause shown may at any time in its discretion (1) with or without motion or notice order the period enlarged if the request therefor is made before the expiration of the period originally prescribed or as extended by a previous order or (2) on motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect.
- (2)** Enlargement Not Permitted. The court may not enlarge the time for taking action under Rules 1007(d), 2003(a) and (d), 7052, 9023, and 9024.
- (3)** Enlargement Limited. The court may enlarge the time for taking action under Rules 1006(b)(2), 1007(c) with respect to the time to file schedules and statements in a small business case, 1017(e), 3002(c), 4003(b), 4004(a), 4007(c), 8002 and 9033, only to the extent and under the conditions stated in those rules.

LOCAL RULE 9009-1: INCORPORATION OF INTERIM BANKRUPTCY RULE 9009

Interim Bankruptcy Rule 9009, adopted by this Court as a local rule effective October 17, 2005, is applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and is to be read in conjunction with any corresponding Federal Rule.

INTERIM BANKRUPTCY RULE 9009: FORMS

The Official Forms prescribed by the Judicial Conference of the United States shall be observed and used with alterations as may be appropriate. Forms may be combined and their contents rearranged to permit economies in their use. The Director of the Administrative Office of the United States Courts may issue additional forms for use under the Code. The forms shall be construed to be consistent with these rules and the Code. References in the Official Forms to these rules shall include the Interim Rules approved by the Committee on Rules of Practice and Procedure to implement Public Law No. 109-8.

LOCAL RULE 9010-1: PRACTICE BEFORE THE COURT

This local rule is promulgated in compliance with the United States District Court for the District of South Carolina's Local Rules regarding bankruptcy practice.¹

Attorneys admitted to practice under the following classes shall, prior to appearing in a matter or filing a paper with the Court, possess a working knowledge of the United States Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Federal Rules of Civil Procedure, the local rules, and the appropriate local rules of the United States District Court.

(a) Classes of Attorneys Admitted to Practice.

- (1)** An attorney who is admitted to practice in the United States District Court for the District of South Carolina is considered admitted to practice in this Court. Proof of such admission shall be reflected by the use of the attorney's United States District Court identification number on all pleadings, documents, or other papers filed with this Court.
- (2)** A student enrolled in clinic programs at the University of South Carolina School of Law is admitted to practice as long as the student is enrolled in such programs. All pleadings submitted by a student must be signed by the student and countersigned by the student's supervising attorney or instructor. In all Court appearances, the student must be accompanied by the supervising attorney or instructor. The supervising attorney or instructor shall assume personal professional responsibility for the student's work and for supervising the quality of the work.
- (3)** An attorney, not otherwise admitted to practice in this Court, may move for admission to practice in this Court *pro hac vice* as provided in the Local Rules of the United States District Court for the District of South Carolina.

(b) Pro Se Practice. In any petition for relief, motion, adversary proceeding, or other document, or objections or responses thereto:

- (1)** An individual may represent himself or herself.
- (2)** An individual may represent an unincorporated business if that individual is the sole proprietor of that business.
- (3)** All partnerships, corporations and other business entities must be represented by an attorney duly admitted to practice as specified in paragraph (a) above, except with respect to the filing of proofs of claim or interests.

(c) Additional Requirements of Those Admitted to Practice. All pleadings, documents, or other papers filed by those admitted to practice or appearing *pro se* shall be signed and typed (or if appearing *pro se*, may be printed legibly) and shall reflect, beneath the signature line, in the following order: the individual's name, address and telephone number, electronic mail and facsimile number if applicable and, in the case of an attorney, the attorney's United States District Court identification number.

An attorney or party appearing *pro se* who changes his/her mailing address shall notify the Court, in writing, of the new address and the effective date of the address change. For attorney appearances, the attorney shall indicate whether or not the change affects the representation of any party for whom the attorney has appeared as attorney of record (see also subsection (d) below).

(d) Extent of an Attorney's Duty to Represent. Except as may be provided in an attorney's written agreement with a party concerning appeals and adversary proceedings, any attorney who files documents for or on behalf of a debtor or party in interest shall remain the responsible attorney of record for all purposes including the representation of the party at all hearings and in all matters that arise in conjunction with the case. The Court may permit counsel to withdraw from representation of a party upon motion which details the reason for the

¹ The applicable bankruptcy practice rules are numbered 83.IX.01 through 83.IX.03 in the Local Rules of the United States District Court for the District of South Carolina.

request for withdrawal and indicates the consent of that party or upon notice and an opportunity for hearing to that party and any trustee appointed in the case.

- (e) **Substitution of Counsel.** In the event of an agreement among a party, the original attorney, and a substitute attorney that the original attorney will no longer represent the party and the substitute attorney will do so, a consent order signed by each attorney, accompanied by a certification contained within the consent order that the party requests or consents to the substitution, may be submitted for the Court's consideration without notice and a hearing.

In the event an attorney of record leaves a law firm, and the representation of a party is to remain with the law firm, notice which specifies the case by name and number and identifies the new attorney of record must be provided to the Court and the party. Such notice may be in the form of a letter signed by both the previous and the new attorney.

- (f) **Professional Conduct.** Any attorney admitted to practice before this Court, including admissions *pro hac vice*, shall maintain respect and courtesy and display professionalism, integrity, and civility in all Court proceedings and in all written and oral communications not only to this Court, its officers, and those who assist them, but also to opposing parties and their counsel, as well as to the trustees and those who assist them when a failure to do so affects the administration of a case or proceeding. Failure to comply may result in sanctions, including disbarment or suspension of practice before this Court, or other disciplinary action.

LOCAL RULE 9010-2: EFFECT OF NONCOMPLIANCE

Notices of Deficiency. In certain instances, failure to comply with an applicable rule or meet any prescribed deadline or requirement, or submission of an insufficient or incomplete filing, may result in a notice of deficiency from the Clerk's Office providing notice and the effect of failure to correct the deficiency or otherwise comply within the time period stated. Failure to so comply may result in the striking of a document, denial, dismissal, or other adverse ruling without further notice or hearing. Nothing herein precludes *ex parte* or *sua sponte* action by a judge if deemed appropriate.

LOCAL RULE 9010-3: REFILEING BANKRUPTCY PETITIONS

- (a) **Duty to Determine Eligibility.** A debtor and attorney for the debtor shall have the duty to ascertain that no previous court order, statute, or rule makes the debtor ineligible to file or bars the applicable filing of a petition in bankruptcy before this Court. The signing and filing of a petition by a debtor and/or attorney for the debtor will be deemed a certification to the Court that the debtor is eligible to file another petition and is not in violation of a previous order of dismissal with prejudice, statute, or rule.
- (b) **Dismissal without Notice.** If a petition is filed in violation of a previous order of dismissal with prejudice, statute, or rule, the Court, absent extraordinary circumstances, may dismiss the case and/or annul the automatic stay *ex parte*, provide *in rem* relief or take other sufficient action, with the Court retaining jurisdiction for the purpose of considering further action or sanctions.
- (c) **Relief from Previous Order of Dismissal with Prejudice.** In the event that circumstances require relief from any order in a prior case which bars the refiling of another case, a motion in the prior case which meets the requirements of Fed. R. Civ. P. 60(b) must be filed.
- (d) **Failure to Comply.** Violations of subsection (a) of this rule may subject parties to sanctions.

**LOCAL RULE 9010-4: REQUIREMENT OF DEBTOR TO DISCLOSE ASSISTANCE WHEN FILING
BANKRUPTCY CASE OR DOCUMENT *PRO SE***

- (a) **Statement of Assistance.** A debtor appearing *pro se* shall file the Statement of Assistance form (the “Statement”) attached as Exhibit A which discloses and reports information regarding any attorney or non-attorney who has provided assistance or advice regarding the debtor’s bankruptcy case or document filing, whether or not for compensation, paid or promised.
- (b) **Time of Filing.** The Statement shall be filed within fifteen (15) days following the filing of the debtor’s *pro se* bankruptcy petition or simultaneously with the *pro se* filing of any schedule, statement, list, or other pleading or document.
- (c) **Requirement to Amend.** If the information contained in the Statement changes at any time during the pendency of the debtor’s case, the debtor shall immediately file an amended Statement reflecting the correct information.
- (d) **Failure to Comply.** The failure to timely file a complete and accurate Statement or any amended Statement may constitute cause for the striking of a document, denial, dismissal or conversion of the case, sanctions, or other adverse ruling.

EXHIBIT A TO SC LBR 9010-4

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____

CHAPTER: _____

STATEMENT OF ASSISTANCE FOR DEBTOR
WITHOUT AN ATTORNEY

Debtor(s).

Debtor(s) telephone no.: _____

E-mail address: _____

Please circle your response to the "YES/NO" questions:

- (1) I paid someone to assist me in preparing my bankruptcy documents. YES NO
- (2) Who (other than the debtor) prepared your bankruptcy petition or documents, or assisted or advised you?
Name of person: _____
Company: _____
Telephone no.: _____ Address: _____
E-mail address: _____
- (3) I heard about this person from/by _____ .
- (4) I paid \$ _____ for assistance with my case or document. I made this payment on: ____/____/____.
- (5) I still owe money to the person assisting me. YES NO If yes, state the amount owed:
_____ .
- (6) I paid the person assisting me a filing fee to file a bankruptcy case or document. YES NO
If yes, state the amount paid the and purpose of the fee:
_____ .
- (7) I used the following method(s) to make payments to the person assisting me (circle all applicable):
credit card cash check money order other (please describe)
_____ .
- (8) I was given a receipt for any payment that I made to the person assisting me. YES NO
- (9) I paid for services other than assistance with my bankruptcy case or bankruptcy document preparation.
YES NO
If yes, state the services provided:
_____ .
- (10) I gave the person assisting me a security interest in my property or transferred title to this person. YES NO
If yes, list the property subject to the security interest or transferred:

- (11) I was given a copy of the petition and schedules or other document by the person assisting me before these documents were filed with the Court. YES NO
- (12) I personally signed my own name on the petition, schedules, and any document which I filed. YES NO
- (13) I was directed to say that I had no assistance in preparing documents for filing with the Court. YES NO

- (14) I was told by the person assisting me that this person was an attorney or an employee of an attorney. YES
NO If yes, state the name of the attorney: _____ .
- (15) The person who assisted me discussed with me the subject of exemptions. YES NO
- (16) The person assisting me explained to me the difference between Chapter 7 and Chapter 13. YES NO
- (17) There is false or incomplete information in a document or petition which I filed with the Court. YES NO.
If yes, the false information is:
_____ .
- (18) I listed all of my assets and my debts in my schedules. YES NO
If no, list the debts or assets excluded, and state the reason(s) for the exclusion:
_____ .
- (19) I completed this form with the assistance of the person who assisted me in my bankruptcy case. YES
NO

I declare under penalty of perjury that the foregoing is true and correct.

Signature of debtor: _____ Date: _____

Signature of joint debtor: _____ Date: _____

LOCAL RULE 9014-1: MOTIONS PRACTICE GENERALLY

- (a) **Applicability.** This local rule applies to all motions for which the “passive notice” procedure of SC LBR 9014-2 is not approved.¹
- (b) **General Requirements for Motions.**
- (1) **Service of motion and proposed order.** The moving party shall file the motion and simultaneously serve copies of the motion, other than a motion under Fed. R. Bankr. P. 9011(c), and a proposed order, on all appropriate parties and shall file proof of service with the Court. Unless otherwise directed by the Court, no hearing will be scheduled on a motion until proof of service is filed.
 - (2) **Scheduling orders.** If the parties determine that a scheduling order may further a discovery process for certain contested matters, the parties may contact the courtroom deputy or chambers to request such an order.
 - (3) **Oral argument or testimony.** If the movant anticipates that a hearing in a contested matter may take one (1) hour or more, the movant should contact chambers or the courtroom deputy to secure an appropriate hearing time or date.
 - (4) **Submission of order.** Proposed orders should be submitted in the manner provided by Operating Order 04-11, Guidelines for the Filing of Documents, or in the manner posted on the Court’s web page pursuant to the guidelines set forth therein for each judge. If instructed by the presiding judge at a hearing, proposed orders requested at or after a hearing should be submitted directly to the judge’s chambers via electronic mail to the judge’s designated e-mail address.
- (c) **Response or Objection to Motions.** Responses or objections to motions must be in the form prescribed by, and filed and served in accordance with, SC LBR 9014-4.
- (d) **Motions for Emergency Hearing.** A motion for an emergency hearing or a hearing to be held on less than fifteen (15) days’ notice should be filed as a separate document from the motion upon which relief is sought and should contain a complete and detailed explanation of the urgency of the request, including the proposed time for scheduling of a hearing, the potential for irreparable harm if relief is not granted, and the efforts made to communicate with other parties in interest to the motion in a good faith attempt to resolve the matter. The movant must contact the courtroom deputy or chambers upon the filing of a motion for an emergency hearing in accordance with Operating Order 04-11, Guidelines for the Filing of Documents. Failure to comply may result in denial of an emergency hearing or other adverse ruling.
- (e) **Noncompliance with Rule.** The Court may strike or deny any motion for failure to comply with the provisions of this local rule.

¹ "Motion" shall include any request for relief by this Court not requested by adversary proceeding.

LOCAL RULE 9014-2: MOTIONS ON PASSIVE NOTICE¹

- (a) **Applicability.** This rule applies only to motions approved for "passive" notice procedure.
- (b) **General Requirements:**
- (1) The Court has approved certain motions² for which "passive" notice may be used giving parties notice and an opportunity for a hearing. The date for such hearing is selected by the moving party according to the procedures set forth in subsection (d) below.
 - (2) A list of the motions and applications approved for this procedure, which may be amended from time to time, is attached as Exhibit A. Only the motions and applications on the list may be noticed using this procedure. Use of the passive notice procedure for any motion or application not on the Court-approved list may result in the striking of the document.
 - (3) Counsel should make a reasonable and good faith effort to coordinate hearings on motions with the availability of opposing counsel, if known, and the trustee in the case.
 - (4) If the movant anticipates that a hearing in a contested matter may take one (1) hour or more, the movant should contact chambers or the courtroom deputy to ensure a hearing date is suitable before choosing one from the passive notice calendar dates.
- (c) **Form of Notice.** The form for passive notice designated by the Court is attached as Exhibit B.
- (d) **Procedure.** The following procedures apply:
- (1) The moving party must:
 - (A) **Select a hearing date.** The moving party must select a hearing date from the calendar posted on the Court's web page which indicates dates designated as days available to schedule passive notice motions. If the judge has more than one hearing date within the applicable time frames, the movant may select any of those dates. No hearing date further than sixty (60) days from the service of the motion may be used. The procedures below must also be followed:
 - (i) Select a hearing date no less than ten (10) days following the last day for objections;
 - (ii) Schedule the motion in all cases in the same division as the case venue unless otherwise approved by the Court; and
 - (iii) Prepare a hearing notice attached as Exhibit B and indicate the date, time of hearing and hearing location (complete address). The hearing notice shall be signed by the attorney representing the movant or by the movant only, if *pro se*.
 - (B) **Serve and transmit the motion.** No more than sixty (60) days prior to the scheduled hearing date, the moving party must serve on the debtor, attorney for the debtor, the trustee, if applicable, and any other interested party entitled to notice and must simultaneously file with the Court:
 - (i) The motion;
 - (ii) The notice of hearing of the motion;
 - (iii) A proposed order; and

¹ Under the Court's passive notice procedures, motions are self-scheduled by the filing party.

² The use of the word "motion" herein also includes applications, objections, and notices where applicable as set forth in Exhibit A attached hereto.

(iv) A certificate of service of items 1-3.

(C) **Response/Return or Objection to Motion.** Any response, return and/or objection to the motion must be:

(i) Written and properly captioned in accordance with Fed. R. Bankr. P. 9004 and SC LBR 9014-4 and set forth with particularity the reasons for opposition, citing applicable statutes, rules and controlling case law. The parties may be limited to arguing the matters raised in the objection.

(ii) Served on the party requesting relief, the debtor, trustee, and all applicable parties in interest and must simultaneously be filed with the Court with proof of such service.

(iii) Prior to any scheduled hearing, the Court may consider withdrawals of objections, or settlements between the party requesting relief and the objecting parties indicated by consent order, and remove a matter from the hearing calendar.

(iv) The time period for response, return and/or objection (the notice period) is specified in Exhibit A.

(e) **Motion to Shorten Time.** In instances of a need for expedited relief, a motion to shorten the time for notice herein as allowed by the Federal Rules of Bankruptcy Procedure may be filed which details and supports the reasons for shortening notice and provides a proposed date for hearing (from the calendar posted on the Court's web page) if objections or responses are filed. The Court will not shorten the time for notice to less than ten (10) days absent a sufficient showing of extraordinary circumstances.

(f) **Hearings.** A hearing pursuant to the passive notice procedures herein, including notices issued pursuant to subsection (e), will appear on the hearing calendar only upon the timely filing of an objection or response or as determined by the Court. In the event no response, return, or objection is timely filed, the Court may enter the proposed order or other order without further hearing.

EXHIBIT A TO SC LBR 9014-2

**UNITED STATES BANKRUPTCY COURT - DISTRICT OF SOUTH CAROLINA
MOTIONS/APPLICATIONS APPROVED FOR "PASSIVE" NOTICE
(Notice and Opportunity for Hearing)****

** The motions, applications, or notices marked with an asterisk are exhibits to the corresponding local rule that contain substantive language that must be included in either the notice or the separate motion or application. Other forms may be posted on the Court's web page.

Pleading	No. of Days for Notice
Motions to extend time to object to discharge or dischargeability of debt	Fifteen (15)
Motion of United States Trustee to extend time to file a motion to dismiss for substantial abuse	Fifteen (15)
Agreement relating to relief from the automatic stay, prohibiting or conditioning the use, sale, or lease of property, providing adequate protection, use of cash collateral, and obtaining credit*	Fifteen (15)
In a chapter 13 case - motions for use of cash collateral; prohibit or condition the use, sale, or lease of property; or obtain credit	Fifteen (15)
Request for Chapter 13 Discharge (BAPCPA)*	Fifteen (15)

Pleading	No. of Days for Notice
Motions to avoid lien*	Twenty-five (25)
Motions to establish value	Twenty-five (25)

Pleading	No. of Days for Notice
Applications for final decree	Thirty (30)
Objections to claims (government agency, thirty-five (35) days)	Thirty (30)

Pleading	No. of Days for Notice
Trustee's objection to exemptions	Twenty (20)
Motion to dismiss by chapter 7 debtor	Twenty (20)
Motion to dismiss by chapter 11 debtor	Twenty (20)
Motion to modify codebtor stay under 11 U.S.C. § 1301	Twenty (20)
Trustee's or debtor's motion to sell, use or lease property* (excluding Chapter 11 cases)	Twenty (20)
Motion to abandon property*	Twenty (20)
Motion for moratorium on payments under chapter 12 and chapter 13	Twenty (20)
Motion to modify confirmed plan under chapter 12	Twenty (20)
Motion to change venue	Twenty (20)
Debtor's motion to convert a chapter 11 case to a chapter 12 or 13 case (unless case has previously been converted, in which event hearing will be scheduled)	Twenty (20)
Motion to waive the requirements of filing monthly reports in chapter 11 cases (SC LBR 2015-1)	Twenty (20)
Applications for fees ¹	Twenty (20)
Application for payment of administrative claims or interests or other claim ²	Twenty (20)
Motion for approval of settlement or compromise of controversy pursuant to Fed. R. Bankr. P. 9019 (SC LBR 9019-1)*	Twenty (20)
Motions by the debtor to assume or reject leases/executory contracts pursuant to 11 U.S.C. § 365	Twenty (20)
Motions to redeem in chapter 7 cases 11 U.S.C. § 722	Twenty (20)
Trustee's notice of interim or final accounting in chapter 7 asset case	Twenty (20)
Trustee's notice of filing final report in chapter 12 case	Twenty (20)
Motions to dismiss by chapter 13 trustee for debtor's failure to make plan payments ³	Twenty (20)

¹ A summary of the application identifying the applicant and the amount requested must be incorporated into the notice. The application and proposed order are not required to be served on all creditors.

² Id.

³ The proposed order is not required to be served on all creditors by the trustee.

EXHIBIT B TO SC LBR 9014-2

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____
CHAPTER: _____

NOTICE OF MOTION/
APPLICATION AND
OPPORTUNITY FOR HEARING¹

Debtor(s).

TAKE NOTICE that _____ (Movant) filed a _____

{ANY SUBSTANTIVE INFORMATION OR LANGUAGE PRESCRIBED BY THE U.S. CODE, FEDERAL RULES, THIS COURT'S LOCAL RULES AND EXHIBITS SHOULD BE INCLUDED IN EITHER THE NOTICE OR MOTION/APPLICATION AND OPPORTUNITY FOR HEARING.}

A copy of the motion and proposed order accompanies this notice.

TAKE FURTHER NOTICE that any response, return, and/or objection to this motion should be filed with the Court no later than *(enter number of days) days from service of motion (*enter number of days from filing of motion/application if using form for § 1301 motion) and a copy simultaneously served on all parties in interest.

TAKE FURTHER NOTICE that no hearing will be held on this motion unless a response, return, and/or objection is timely filed and served, in which case the Court will conduct a hearing on _____, _____, at _____ m., at _____, _____, South Carolina. No further notice of this hearing will be given.

Date: _____

Signature of Attorney

Typed/Printed Name/Address/Telephone/
Facsimile/E-mail

District Court I.D. Number

Address of Court:
United States Bankruptcy Court
1100 Laurel St.
Columbia, SC 29201

¹ Do not use this passive notice form for relief pursuant to Fed. R. Bankr. P. 4001(d). Such notice shall be in the form attached as Exhibit A to SC LBR 4001-4.

LOCAL RULE 9014-3: HEARINGS ON CONTESTED MATTERS

In order to promote efficient administration of matters before this Court, each judge has determined to separately set forth guidelines, requirements, or rules that govern case management of matters assigned to the judge. These guidelines shall be posted on the Court's web page and shall have the force and effect of a local rule. Violation of those guidelines may result in the striking of a document, denial, dismissal, sanctions, or other adverse ruling.

LOCAL RULE 9014-4: WRITTEN OBJECTIONS

When any order, plan, notice, statute, rule, pleading or any other document, (any one of which is hereinafter referred to as the "document") requires parties in interest which oppose the relief sought in the document to make a written objection, return, or response, the following applies:

- (a) The objection must be written and properly captioned in accordance with Fed. R. Bankr. P. 9004 and set forth with particularity the reasons for opposition, citing applicable statutes, rules and controlling case law. The parties may be limited to arguing the matters raised in the objection.
- (b) The objection must be served on the party requesting relief, the debtor, trustee, and their counsel, if applicable, and all applicable parties in interest, and filed, along with a certificate of service, no later than the deadline set forth in the notice of hearing, unless a different time is prescribed by the Court¹ or by the local rules.² If the deadline falls on a Saturday, Sunday or legal holiday, or a day when the Court is inaccessible, the period runs until the end of the next day which is not one of the aforementioned days.
- (c) Where opposing a motion for summary judgment, the objection or memorandum in support of objection should include a short and concise statement of the genuine issues of material facts which remain to be determined before judgment can be granted.
- (d) Prior to any scheduled hearing, the Court may consider withdrawals of objections, or settlements between the party requesting relief and the objecting parties indicated by consent order, and remove a matter from the hearing calendar.
- (e) Any objecting party failing to comply with this local rule may be denied the opportunity to appear and to be heard at the hearing before the Court.

¹ For those matters on the Passive Notice List (SC LBR 9014-2) the time for objections specified in the notice governs.

² Exceptions to this local bankruptcy rule are: (1) objections to confirmation of chapter 13 plans and related motions, the requirements for which are set forth in SC LBR 3015-1; (2) objections by a chapter 13 trustee to a chapter 13 plan since such objections may, but need not, be a writing filed with the Court, but shall be communicated to the plan proponent.

LOCAL RULE 9014-5: MEMORANDUM OF AUTHORITIES

Any memorandum or brief required to be filed by the Court, or filed by the parties in instances where they have determined that a memorandum would materially assist the Court in its determination of the issues, shall be filed and simultaneously served, with proof of such service filed with the Court, upon all appropriate parties no later than five (5) days prior to the hearing on the matter, unless otherwise ordered by the Court. The memorandum shall contain:

- (a) A concise statement of the facts that pertain to the matter before the Court for ruling;
- (b) A brief argument relating to the matter before the Court with citations to applicable authorities; and
- (c) Copies of any unpublished decisions or decisions published in any specialized reporting services cited in the memorandum.

LOCAL RULE 9015-1: JURY TRIALS

- (a) **Demand.** Any demand for jury trial shall also contain a statement indicating whether the demanding party consents to the jury trial being conducted by the Bankruptcy Court.
- (b) **Statement of Entitlement and Consent.** Within the later of the time for filing a response to the pleading in which a jury demand is made, or ten (10) days after the jury demand, any other party affected by the demand shall file a statement as to the entitlement to jury trial and a statement as to that party's consent to the jury trial being conducted by the Bankruptcy Court.
- (c) **Memorandum.** In the event a hearing is scheduled to determine the entitlement to jury trial, or as directed by the Court, the parties demanding and opposing the entitlement shall file and simultaneously serve on each other and any other affected party a memorandum which states the relevant facts and authorities, including case law, relevant to the entitlement, no later than five (5) days before the hearing.

LOCAL RULE 9017-1: CUSTODY OF EXHIBITS

Upon the conclusion of a hearing or trial, all exhibits admitted into evidence in the case or proceeding shall be claimed by the party offering such evidence within ten (10) days after the expiration of the time for appeal from final judgment, unless otherwise directed by the Court. If the party who offered the items into evidence fails to claim the exhibits as provided herein, the Clerk's Office may provide notice to the attorneys of record, or to the applicable parties, advising that such exhibits shall be disposed of if not claimed and removed within ten (10) days thereafter or other time period designated in the notice.

LOCAL RULE 9019-1: COMPROMISE AND SETTLEMENT

Notice of settlement or compromise must be filed and served within ten (10) days after the report of settlement to the Court using the passive notice procedure prescribed by SC LBR 9014-2 and by using attached Exhibit A, and must be served on all creditors and parties in interest in accordance with Fed. R. Bankr. P. 2002 and on any other entity as the Court may direct. The Notice of Settlement must: (1) be signed by the attorneys (or parties appearing *pro se*) for the settling parties; (2) be accompanied by a consent order containing their signatures; or (3) be accompanied by a certification of the filing party that the terms set out in the Notice of Settlement are complete and have been agreed upon by the parties. If the Notice of Settlement is not timely filed and served, the Court may enter an appropriate order, which may grant judgment against the party responsible for the delay.

EXHIBIT A TO SC LBR 9019-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

DEBTOR(S).

PLAINTIFF(S)

v.

DEFENDANT(S)

CASE NO: _____

CHAPTER: _____

(If applicable, use
adversary caption.)

Adv. Pro. No. _____

NOTICE AND APPLICATION FOR SETTLEMENT
AND COMPROMISE

TO: _____

YOU ARE HEREBY NOTIFIED THAT THE (debtor, trustee, as applicable) is applying for approval of the following compromise or settlement.

TAKE FURTHER NOTICE that any response, return and/or objection to this application, should be filed with the Court no later than *(enter number of days) days from service of motion/application and a copy simultaneously served on all parties in interest.

TAKE FURTHER NOTICE that no hearing will be held on this application unless a response, return and/or objection is timely filed and served, in which case, the Court will conduct a hearing on _____, ____ at _____m., at _____, _____, South Carolina. No further notice of this hearing will be given.

NATURE OF DISPUTE: (Specifically state the dispute between the parties.)

AMOUNT DISPUTED: (Specifically state the monetary amounts which are the subject of the dispute.)

PROPOSED SETTLEMENT OR COMPROMISE: (Summarize the proposed resolution of the dispute and enclose a copy of the consent order.)

BENEFIT TO THE ESTATE: (Specifically state the benefits to the estate as a result of the settlement. Include the amount of any monetary benefit to be received. Also include any risks to the estate which may result from the failure to accept the proposed settlement or compromise.)

MOVING PARTIES: (Specifically state the names and addresses and telephone numbers of the attorney for the debtor or trustee, as applicable, and any other party proposing the settlement.)

The (name of party) hereby certifies that the terms set out above are complete and have been agreed upon by the moving parties named herein. *[This paragraph to be used when all settling parties are not signing this notice and application.]* WHEREFORE, the moving parties request the Court issue an order authorizing the settlement and compromise and such other and further relief as may be proper.

Date: _____

Signatures

Typed/Printed Name/Address/Telephone/
Facsimile/E-mail

District Court I.D. Number

LOCAL RULE 9019-2: MEDIATION

- (a) **Initiation of Mediation and Costs.** The Court recognizes that mediation procedures may facilitate compromise or narrowing of issues in adversary proceedings. To that end, any party in interest may file and serve on all other parties to the proceeding a motion to have an adversary proceeding referred for mediation.¹ Opposing parties shall have ten (10) days to file and serve an objection or consent to the request. After reviewing the request, any objections and, if appropriate, conducting a conference with the parties, the Court may refer such proceeding for appropriate mediation. Notwithstanding the foregoing, the Court may, *sua sponte* or upon stipulated order submitted by counsel for the parties, order mediation. Unless the parties agree upon the sharing of the costs of the mediation, including fees of the mediator, the party responsible for or the division of such costs shall be determined by order of the Court. Election of mediation by agreement of the parties shall occur no later than the earlier of the filing of a joint pretrial order or the time of the final pretrial conference.
- (b) **Order.** Any order referring a proceeding for mediation shall appoint a specified mediator, shall specify by whom the costs of mediation will be borne, and may contain additional provisions regarding the conduct and timing of mediation and the duties and compensation of the mediator. Furthermore, the Court may stay the pending proceeding, in whole or in part, in order to allow time to complete mediation, but such proceedings and/or hearings related thereto are not to be delayed absent Court approval which may require a showing of exceptional circumstances.
- (c) **Mediator.** The mediator may be a person whose name appears on a list of mediators approved by the Court or who is, upon the agreement of all the parties, otherwise qualified by training or experience to mediate all or some of the issues involved in the referred proceeding. The mediator must promptly determine all conflicts or potential conflicts pursuant to applicable rules and disclose that circumstance to all parties in writing for a determination of the existence of such conflict, if any, and whether it is necessary for the mediator to withdraw and for a new mediator to be appointed.
- (d) **Timing and Conclusion of Mediation.** Unless otherwise ordered, mediation shall be concluded within thirty (30) days of an order appointing a mediator. The mediator shall report to the Court in writing within three (3) days following conclusion of the mediation whether an agreement was reached by the parties and, if so, whether such agreement will completely resolve the referred proceeding and which party or parties will be responsible for filing the appropriate proposed order, stipulation, or notice of settlement. The proposed order, stipulation, or notice of settlement shall be due within ten (10) days of the mediator's report. If the proceeding is not resolved by mediation, the proceeding will be set for hearing, pre-trial conference, or trial in the ordinary course.
- (e) **Contested Matters.** A judge may determine that certain contested matters are of a nature that would also benefit from the procedures herein and may order mediation in such circumstances. Such determination is solely in the judge's discretion but may be suggested by the parties.

¹ Mediation as described herein is contemplated to be non-binding unless the parties otherwise agree.

LOCAL RULE 9029-1: OPERATING ORDERS, GUIDELINES REGARDING CASE MANAGEMENT, AND AMENDMENTS TO THE LOCAL BANKRUPTCY RULES

Should any matter of practice or procedure require the attention of the Court prior to amendment of these rules, the Court may enter an operating order or other guidelines or requirements that govern case management which shall be posted on the Court's web page and, if so designated, shall have the force and effect of a local rule.

Technical corrections to any local rule may be made by the Court at any time, and notice of such will be posted on the Court's web page.