

FILED

UNITED STATES BANKRUPTCY COURT

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FOR THE DISTRICT OF SOUTH CAROLINA

U.S. BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:)
)
RETURNED AND)
UNDELIVERABLE MAIL;)
DELEGATION OF RE-NOTICING;))
AND CHANGE OF ADDRESS)
)
_____)

AMENDED OPERATING ORDER 08-05¹

Pursuant to 11 U.S.C. § 521(a), Federal Rule of Bankruptcy Procedure 1007, and South Carolina Local Bankruptcy Rule 1007-1, it is the debtor's responsibility to file a list of creditors and mailing matrix and therefore to ensure the accuracy of the provided information. In instances of incorrect or incomplete addresses, mail is often returned to the Court or counsel. The failure to correct addresses causes a volume of returned mail and otherwise results in a failure of notice. Therefore, after consultation with the Judges of the Court and the Court's advisory committee, the Court adopts the procedures set forth herein to reduce the volume of returned mail received by the Court and to ensure the accuracy of mailing matrices maintained by the Court for notice and service purposes.

I. Returned and Undeliverable Mail
A. Designation of Debtor as the Return Addressee

The Clerk of Court may instruct the Court's noticing agent to designate the debtor² as the return addressee for such orders or notices as may be authorized by the Chief Judge³ of the Court including the notice of the commencement of a case and meeting of creditors and any order

¹ This Operating Order replaces and supersedes Operating Order 07-03 and was amended to reflect the renumbering of certain Local Rules as a result of revisions made effective December 1, 2008.

² As used herein, except in Section V, the "debtor" also refers to the debtor's attorney or, until such time as an order of relief is entered, a trustee in an involuntary case.

³ Pursuant to 28 U.S.C. § 154(b), the Chief Judge is vested with the authority to ensure that the business of the bankruptcy court is handled effectively and expeditiously.

confirming a plan, dismissing a case, or discharging a debtor.

B. Returned Mail Received by the Debtor and Duty to Provide Accurate Address

Pursuant to SC LBR 1007-1, the debtor shall file or docket⁴ a statement providing the Court with a correct address of any creditor or party in interest whose address appears invalid or undeliverable based either on the debtor's receipt of returned mail or the certificate of service.⁵ Such a statement or docket entry by the debtor shall specifically reference the former address of the creditor or party in interest to ensure proper modification of the list of creditors. If the debtor is unable to determine a correct address for a creditor or party in interest, the debtor shall file or docket a statement specifying the creditor's name and indicating that a correct address cannot be found and, in such a circumstance, the Clerk of Court is authorized to delete the incorrect address.

C. Returned Mail Received by the Clerk of Court and Duty to Correct

The Clerk of Court shall file on the docket the returned mail received by the Court in a debtor's case unless relieved by order of the Court due to the volume of returned mail in a particular case. In order to prevent repeat instances of returned mail, the Clerk of Court is authorized to delete⁶ incorrect addresses from the matrix or correct an address upon notification from the United States Postal Service that the address of the intended recipient has changed. The debtor has a duty to monitor changes to the mailing matrix made by the Clerk of Court as a result of returned mail and, pursuant to the procedure set forth in Section I(B), shall file or docket a statement providing the Court with the correct address of any creditor or party in interest whose address has been deleted or correcting an improperly modified address pursuant to this procedure.

⁴ The duty to docket applies to CM/ECF Participants.

⁵ The certificate of service from the Court's noticing agent may indicate that an item is undeliverable.

⁶ The Clerk will not delete an address that has been provided by a particular entity in a proof of claim or pleading filed in a case. The Clerk will not delete or correct an address for a creditor if the returned document is one that indicates the case is or soon will be closed or has been reopened including: Final Decree, Discharging Trustee and Closing Case; Order Discharging Trustee; Order Closing Case; Order on Motion to Reopen Case.

Upon the filing of a motion to reopen case by the debtor, the attorney for the debtor shall review and submit any needed address changes or deletions of creditors to the mailing matrix.

II. Delegation of Re-Noticing

In instances of returned mail, appearing on the Court's docket or as received by the debtor, or undeliverable mail, the debtor or, if there is a moving party,⁷ the movant shall re-notice the returned item or the item that was otherwise undeliverable upon the correction of the address.

III. Change of Address by Attorney or Debtor

In instances of a notification of a change in address for debtor or an attorney, specific case numbers must be referenced in order to ensure the proper updating of records. If specific case numbers are referenced, the Clerk of Court will update the address only with respect to those cases so indicated. If particular case numbers are not specified, the Clerk of Court will modify the address for all pending and closed cases in which the attorney is associated and only in the pending cases in which the debtor is associated.

AND IT IS SO ORDERED.



John E. Waites, Chief Judge

Columbia, South Carolina
October 10, 2008
As amended December 1, 2008

⁷ In the event the movant is a governmental unit or otherwise is not a "person" as defined by 11 U.S.C. § 101(41), the movant may request that the Clerk of Court re-serve the document following the correction of the address.