

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

**FILED**

2017 APR 12 PM 3:48

IN RE:

LOCAL RULES

U.S. BANKRUPTCY  
DISTRICT OF SOUTH CAROLINA

**OPERATING ORDER 17-03**

Pursuant to SC LBR 9029-1, the Judges have amended SC LBR 3015-5 and Exhibits A and E to SC LBR 3015-5, effective with the entry of this Order. A copy of SC LBR 3015-5 as amended is attached.

AND IT IS SO ORDERED.



David R. Duncan, Chief Judge

Columbia, South Carolina  
April 12, 2017

## LOCAL RULE 3015-5: CHAPTER 13- DISCHARGE

The scheduling of matters under this rule are governed by SC LBR 9013-4. In addition to the requirements of that rule and in lieu of the forms of that rule, the provisions and forms of this rule apply.

- (a) **Discharge Pursuant to 11 U.S.C. § 1328(a).** Upon filing by the trustee of the Notice of Plan Completion, the trustee shall contemporaneously serve on the debtor the Notice to Debtor of Plan Completion and Notification of Need to File Request for Discharge (the chapter 13 trustee's Notice, attached as Exhibit E). The debtor shall complete and file with the Court within twenty-eight (28) days of the date of the trustee's Notice:
- (1) The Certification of Plan Completion and Request for Discharge (attached as Exhibit A);
  - (2) The Notice of Certification of Plan Completion and Request for Discharge (attached as Exhibit B); and
  - (3) A certificate of service of the items set forth above upon all creditors and parties and interest.
- (b) **Discharge Pursuant to 11 U.S.C. § 1328(b).** 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 C);
  - (2) The Notice of Hearing and Certification of Debtor Information Requesting Hardship Discharge (attached as Exhibit D); and
  - (3) A certificate of service of the items set forth above upon all creditors and parties in interest.

### Notes:

(2008) Portions of former SC LBR 3015-1 were incorporated into this rule.

(2009) The periods in paragraph (a) and Exhibits B, D, and E were amended to multiples of seven as part of time computation amendments.

(2013) The rule was revised to incorporate the procedures of 9013-4. Exhibit D was amended to reflect a definite hearing date on a motion for a hardship discharge. Clarifying amendments were made to paragraph (a). Paragraphs (a) and (b) were also amended to remove language describing the internal workings of the Court. Exhibits A and C were amended to clarify that a debtor does not file a financial management certificate if the debtor has sought an exemption pursuant to 11 U.S.C. § 1328(g)(2).

(2016) Exhibit D was amended to require 28 days notice for a motion for hardship discharge.

(2017) The time period in Paragraph (a) was extended from fourteen (14) to twenty-eight (28) days and Exhibits A and E were updated, and outdated footnote 1 was removed.

**EXHIBIT A TO SC LBR 3015-5**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:

CERTIFICATION OF PLAN COMPLETION AND  
REQUEST FOR DISCHARGE

DEBTOR(S)

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

- 1) There has been no Court order that would deny the debtor the right to a discharge.
- 2) All payments due under the plan have been completed, including all payments required under 11 U.S.C. § 1322(b)(5).
- 3) 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): \_\_\_\_\_  
\_\_\_\_\_

4) 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).

5) 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.

6) The debtor has either sought an exemption from or completed an instructional course concerning personal financial management described in 11 U.S.C. § 111 and, if completed, has either previously filed Official Form 423 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 B TO SC LBR 3015-5**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:

NOTICE OF CERTIFICATION OF PLAN  
COMPLETION AND  
REQUEST FOR DISCHARGE

DEBTOR(S)

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

**YOU ARE HEREBY NOTIFIED** that the above-captioned 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 fourteen (14) 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 \_\_\_\_\_, 2\_\_\_\_\_, 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 C TO SC LBR 3015-5**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:

CERTIFICATION OF DEBTOR INFORMATION AND  
REQUEST FOR HARDSHIP DISCHARGE

DEBTOR(S)

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 either sought an exemption from or completed an instructional course concerning personal financial management described in 11 U.S.C. § 111, if completed, and has either previously filed Official Form 423 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 D TO SC LBR 3015-5**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:

NO: \_\_\_\_\_

CHAPTER 13

NOTICE OF HEARING AND CERTIFICATION OF  
DEBTOR INFORMATION REQUESTING HARDSHIP  
DISCHARGE

DEBTOR(S)

To the Trustee and all creditors and parties in interest:

**YOU ARE HEREBY NOTIFIED** that the above-captioned 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 and Motion for a Hardship Discharge are 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 file with the Court a written response to the Certification, specifying the basis for your response, no later than twenty-eight (28) 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

The Court will conduct a hearing on \_\_\_\_\_, \_\_\_\_, at \_\_\_\_\_m., at \_\_\_\_\_, \_\_\_\_\_, South Carolina on the Motion for a Hardship Discharge. No further notice of this hearing will be given.

Date of Service: \_\_\_\_\_

\_\_\_\_\_  
Signature of Attorney/*Pro Se* Debtor

\_\_\_\_\_  
Typed Printed Name

\_\_\_\_\_  
Address/Telephone/Facsimile/E-mail

\_\_\_\_\_  
District Court I.D. Number



**EXHIBIT E TO SC LBR 3015-5**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:

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

DEBTOR(S)

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 a Report of Completion of Plan Payments with the Court indicating that payments due to the Trustee under the plan in the above case have been completed.

YOU ARE HEREBY NOTIFIED that, pursuant to SC LBR 3015-5, IF YOU BELIEVE YOU ARE ENTITLED TO A DISCHARGE, you must prepare, sign and file, within twenty-eight (28) days of the date of this notice, a Certification of Plan Completion and Request for Discharge and Notice (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) **You agree that there has been no Court order which would deny you the right to a discharge.**
- 2) **All payments due under the plan have been completed, including all payments required under 11 U.S.C. § 1322(b)(5).**

If you are not certain, please consult an attorney for advice.

- 3) **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 (i) 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).

- 4) **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."

**5) 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.