

## LOCAL RULE 3011-1: DISPOSITION OF UNCLAIMED FUNDS

- a. **Depositing of Unclaimed Funds.** Unclaimed funds shall be submitted to the Court no earlier than the time period set forth in 11 U.S.C. § 347. The party submitting the unclaimed funds shall certify that the claim remains unsatisfied, describe the party's efforts to locate claimant, and, pursuant to Fed. R. Bankr. P. 3011, state the last known address for the claimant.
- b. **Chapter 11 Liquidating Plan.** A chapter 11 liquidating plan may provide that any unclaimed funds or undistributable funds<sup>1</sup> may be:
  1. Redistributed to other creditors or administrative claimants, or
  2. Donated to a not-for-profit organization, which shall be identified in the plan or disclosure statement accompanying the plan. In order for any donation pursuant to this rule to be effective, counsel for the proponent of the plan shall, at the confirmation hearing, call the Court's attention to the provision.
- c. **Application for Payment of Unclaimed Funds.** Any party<sup>2</sup> who seeks the release of unclaimed funds held pursuant to 11 U.S.C. § 347(a) must file an Application for Payment of Unclaimed Funds in substantial conformance with [Director's Form 1340](#) and serve a copy of the application on the United States Attorney for the District of South Carolina.
- d. **Identifying Information.** The applicant shall also submit the Court's [local form](#), which requires information confirming the applicant's identity along with a Form W-9 or AO 213.<sup>3</sup>
- e. **Supporting Documentation.** The following supporting documentation, if applicable, shall be filed with the Application:
  1. **Owner of Record.**
    - A. Proof of Identity.
  2. **Successor Claimants.**
    - A. **Successor Corporate Claimants.**
      - (i) Proof of identity of owner of record;
      - (ii) A notarized power of attorney signed by an officer of the successor business;
      - (iii) A statement of the signing officer's authority; and
      - (iv) Documentation establishing chain of ownership from the original business claimant.

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<sup>1</sup> For purposes of this rule, undistributable funds are any funds other than unclaimed funds, including, but not limited to, funds that cannot be disbursed because (a) a creditor has affirmatively rejected a distribution, (b) the administrative costs of distribution effectively interfere with distribution, or (c) all creditors, including administrative claimants, have been paid in full and there is no one that has a right to the funds.

<sup>2</sup> For purposes of this rule, the "applicant" is the party filing the application and the "claimant" is the party entitled to the unclaimed funds. The applicant and the claimant may be the same. Parties other than individuals must be represented by an attorney admitted to practice in this Court. See [SC LBR 2090-1](#) and [9011-2\(c\)](#).

<sup>3</sup> These forms shall be filed in CM/ECF and public access shall be restricted. Form W-9 is available at [www.irs.gov](http://www.irs.gov) and Form AO 213 is available at [www.uscourts.gov/services-forms/forms](http://www.uscourts.gov/services-forms/forms).

**B. Transfer Claimants.**

- (i) Proof of identity of the owner of record;
- (ii) Proof of identity of the successor claimant; and
- (iii) Documentation evidencing the transfer of claim.

**3. Decedent's Estate.**

- A. Proof of identity of the owner of record;
- B. Proof of personal identity of the estate administrator; and
- C. Certified copies of probate documents establishing the representative's right to act on behalf of the decedent's estate.

**4. Claimant Representatives <sup>4</sup>**

- A. Proof of identity of the owner of record;
- B. A notarized, original power of attorney signed by the claimant on whose behalf the representative is acting;
- C. Proof of identity of the representative; and
- D. Documentation sufficient to establish the claimant's entitlement to the funds.

- f. **Objection.** Any party objecting to the relief sought in the application shall, within twenty-one (21) days after service thereof, serve upon the applicant and other appropriate parties and file with the Court an objection to the application. If no objection is filed with the Court within twenty-one (21) days after the filing and service of the application, the application and accompanying documents may be considered by the Court without hearing.

**Notes:**

(2008) Former paragraph (a) was restyled. Former paragraphs (b) and (c) were deleted as unnecessary.

(2009) The objection period was amended to a multiple of seven as part of time computation amendments.

(2011) The rule and Exhibit A were amended to provide for more specific provisions regarding the submission of unclaimed funds. The provision regarding the certificate of service was deleted as unnecessary pursuant to SC LBR 9013-3, which requires all motions to be accompanied by a certificate of service. Exhibit B was added to conform with requirements of the Administrative Office of the United States Courts and Fed. R. Bankr. P. 9037.

(2012) Paragraph (e) and related exhibits were amended to conform with Judicial Conference policy. Paragraph (b) was added to allow for certain dividends in chapter 11 cases to be distributed to non-profit entities.

(2017) Reference to rule exhibits were removed and the rule was amended to reference local forms.

(2019) Conforming amendments were made to implement Director's Form 1340.

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<sup>4</sup> The court will only issue payment to the owner of record.