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108th Congress, 1st Session – – – – – – – – – – – – – – House Document 108–58

AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE

COMMUNICATION

FROM

THE CHIEF JUSTICE, THE SUPREME COURT OF THE UNITED STATES

TRANSMITTING

AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE THAT HAVE BEEN ADOPTED BY THE COURT, PURSUANT TO 28 U.S.C. 2075

MARCH 27, 2003.—Referred to the Committee on the Judiciary and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
86–204 WASHINGTON : 2003

SUPREME COURT OF THE UNITED STATES,
Washington, DC, March 27, 2003.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I have the honor to submit to the Congress the amendments to the Federal Rules of Bankruptcy Procedure that have been adopted by the Supreme Court of the United States pursuant to Section 2075 of Title 28, United States Code.

Accompanying these rules are excerpts from the report of the Judicial Conference of the United States containing the Committee Notes submitted to the Court for its consideration pursuant to Section 331 of Title 28, United States Code.

Sincerely,

WILLIAM H. REHNQUIST,
Chief Justice.

SUPREME COURT OF THE UNITED STATES

ORDERED:

1. That the Federal Rules of Bankruptcy Procedure be, and they hereby are, amended by including therein amendments to Bankruptcy Rules 1005, 1007, 2002, 2003, 2009, and 2016, and new Rule 7007.1.

[See infra., pp. __ __ __.]

2. That the foregoing amendments to the Federal Rules of Bankruptcy Procedure shall take effect on December 1, 2003, and shall govern in all proceedings in bankruptcy cases thereafter commenced and, insofar as just and practicable, all proceedings then pending.

3. That THE CHIEF JUSTICE be, and hereby is, authorized to transmit to the Congress the foregoing amendments to the Federal Rules of Bankruptcy Procedure in accordance with the provisions of Section 2075 of Title 28, United States Code.

AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE

Rule 1005. Caption of Petition

The caption of a petition commencing a case under the Code shall contain the name of the court, the title of the case, and the docket number. The title of the case shall include the following information about the debtor: name, employer identification number, last four digits of the social security number, any other federal tax identification number, and all other names used within six years before filing the petition. If the petition is not filed by the debtor, it shall include all names used by the debtor which are known to the petitioners.

Rule 1007. Lists, Schedules, and Statements; Time Limits

(a) LIST OF CREDITORS AND EQUITY SECURITY HOLDERS, AND CORPORATE OWNERSHIP STATEMENT.

(1) *Voluntary Case.* In a voluntary case, the debtor shall file with the petition a list containing the name and address of each creditor unless the petition is

accompanied by a schedule of liabilities. If the debtor is a corporation, other than a governmental unit, the debtor shall file with the petition a corporate ownership statement containing the information described in Rule 7007.1. The debtor shall file a supplemental statement promptly upon any change in circumstances that renders the corporate ownership statement inaccurate.

* * * * *

(c) TIME LIMITS. The schedules and statements, other than the statement of intention, shall be filed with the petition in a voluntary case, or if the petition is accompanied by a list of all the debtor's creditors and their addresses, within 15 days thereafter, except as otherwise provided in subdivisions (d), (e), (f), and (h) of this rule. In an involuntary case, the schedules and statements, other than the statement of intention, shall be filed by the debtor within 15 days of the entry of the order for relief. Schedules and statements filed prior to the conversion of a case to another chapter shall be

deemed filed in the converted case unless the court directs otherwise. Any extension of time for the filing of the schedules and statements may be granted only on motion for cause shown and on notice to the United States trustee and to 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.

* * * * *

(f) STATEMENT OF SOCIAL SECURITY NUMBER. An individual debtor shall submit a verified statement that sets out the debtor's social security number, or states that the debtor does not have a social security number. In a voluntary case, the debtor shall submit the statement with the petition. In an involuntary case, the debtor shall submit the statement within 15 days after the entry of the order for relief.

* * * * *

Rule 2002. Notices to Creditors, Equity Security Holders, United States, and United States Trustee

(a) TWENTY-DAY NOTICES TO PARTIES IN INTEREST. Except as provided in subdivisions (h), (i), and (*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 at least 20 days' notice by mail of:

(1) the meeting of creditors under § 341 or § 1104(b) of the Code, which notice, unless the court orders otherwise, shall include the debtor's employer identification number, social security number, and any other federal taxpayer identification number;

* * * * *

Rule 2003. Meeting of Creditors or Equity Security Holders

* * * * *

(b) ORDER OF MEETING.

(1) *Meeting of Creditors.* The United States trustee shall preside at the meeting of creditors. The business

of the meeting shall include the examination of the debtor under oath and, in a chapter 7 liquidation case, may include the election of a creditors' committee and, if the case is not under subchapter V of chapter 7, the election of a trustee. The presiding officer shall have the authority to administer oaths.

* * * * *

Rule 2009. Trustees for Estates When Joint Administration Ordered

(a) ELECTION OF SINGLE TRUSTEE FOR ESTATES BEING JOINTLY ADMINISTERED. If the court orders a joint administration of two or more estates under Rule 1015(b), creditors may elect a single trustee for the estates being jointly administered, unless the case is under subchapter V of chapter 7 of the Code.

(b) RIGHT OF CREDITORS TO ELECT SEPARATE TRUSTEE. Notwithstanding entry of an order for joint administration under Rule 1015(b), the creditors of any debtor may elect a separate trustee for the estate of the debtor as provided in § 702 of the Code, unless the case is

under subchapter V of chapter 7.

(c) APPOINTMENT OF TRUSTEES FOR ESTATES BEING JOINTLY ADMINISTERED.

(1) *Chapter 7 Liquidation Cases.* Except in a case governed by subchapter V of chapter 7, the United States trustee may appoint one or more interim trustees for estates being jointly administered in chapter 7 cases.

* * * * *

Rule 2016. Compensation for Services Rendered and Reimbursement of Expenses

* * * * *

(c) DISCLOSURE OF COMPENSATION PAID OR PROMISED TO BANKRUPTCY PETITION PREPARER. Every bankruptcy petition preparer for a debtor shall file a declaration under penalty of perjury and transmit the declaration to the United States trustee within 10 days after the date of the filing of the petition, or at another time as the court may direct, as required by § 110(h)(1). The declaration must disclose any fee, and the source of any fee, received from or on behalf of the debtor within 12

months of the filing of the case and all unpaid fees charged to the debtor. The declaration must describe the services performed and documents prepared or caused to be prepared by the bankruptcy petition preparer. A supplemental statement shall be filed within 10 days after any payment or agreement not previously disclosed.

Rule 7007.1. Corporate Ownership Statement

(a) REQUIRED DISCLOSURE. Any corporation that is a party to an adversary proceeding, other than the debtor or a governmental unit, shall file two copies of a statement that identifies any corporation, other than a governmental unit, that directly or indirectly owns 10% or more of any class of the corporation's equity interests, or states that there are no entities to report under this subdivision.

(b) TIME FOR FILING. A party shall file the statement required under Rule 7007.1(a) with its first pleading in an adversary proceeding. A party shall file a

supplemental statement promptly upon any change in circumstances that this rule requires the party to identify or disclose.

LEONIDAS RALPH MECHAM
Director

CLARENCE A. LEE, JR.
Associate Director

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

WASHINGTON, D.C. 20544

December 11, 2002

MEMORANDUM TO THE CHIEF JUSTICE OF THE UNITED STATES AND THE ASSOCIATE JUSTICES OF THE SUPREME COURT

By direction of the Judicial Conference of the United States, pursuant to the authority conferred by 28 U.S.C. § 331, I have the honor to transmit herewith for consideration of the Court proposed amendments to Rules 1005, 1007, 2002, 2003, 2009, and 2016, and new Rule 7007.1 of the Federal Rules of Bankruptcy Procedure. The Judicial Conference recommends that these amendments be approved by the Court and transmitted to the Congress pursuant to law.

For your assistance in considering these proposed amendments, I am transmitting an excerpt from the Report of the Committee on Rules of Practice and Procedure to the Judicial Conference and the Report of the Advisory Committee on the Federal Rules of Bankruptcy Procedure.

Leonidas Ralph Mecham
Secretary

Attachments

EXCERPT FROM THE
REPORT OF THE JUDICIAL CONFERENCE
COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

TO THE CHIEF JUSTICE OF THE UNITED STATES AND MEMBERS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES:

* * * * *

FEDERAL RULES OF BANKRUPTCY PROCEDURE

Rules Recommended for Approval and Transmission

The Advisory Committee on Bankruptcy Rules submitted proposed amendments to Rules 1007, 2003, 2009, 2016, and new Rule 7007.1 and amendments to Official Forms 1, 5, and 17 with a recommendation that they be approved and transmitted to the Judicial Conference. The amendments and new rule were circulated to the bench and bar for comment in August 2001. The scheduled January 2002 public hearing was canceled because no one requested to testify.

The advisory committee also submitted proposed amendments to Rules 1005, 1007, and 2002, and revisions to Official Forms 1, 3, 5, 6, 7, 8, 9, 10, 16A, 16C, and 19, which arose from recent related Judicial Conference action, with a recommendation that they be approved and transmitted to the Judicial Conference. These rules amendments and forms revisions are consistent with recommendations approved by the Judicial Conference that documents in bankruptcy cases should be made generally available electronically with the proviso that the "Bankruptcy Code and Rules should be amended as necessary to allow the court to collect a debtor's full Social Security number but display only the last four digits" (JCUS-SEP 01, p. 50). The amendments were circulated to the bench and bar for comment in January 2002. The scheduled April 2002 public hearing was canceled because no one requested to testify. The advisory committee, however, held a meeting of selected experts and experienced lawyers and discussed the issues arising from the proposals.

The proposed amendment to Rule 1007(a) (Lists, Schedules, and Statements; Time Limits) requires a corporate debtor at the beginning of a case to disclose information regarding its owners, if the owners also are corporations, to assist a judge in making judicial disqualification decisions.

The proposed amendments to Rule 2003 (Meeting of Creditors or Equity Security Holders) and Rule 2009 (Trustees for Estates When Joint Administration Ordered) reflect the enactment of a new subchapter V of chapter 7 of the Bankruptcy Code, which makes multilateral clearing organizations eligible for bankruptcy relief and authorizes the Federal Reserve Board to designate the trustee or alternative trustees for the case.

Rule 2016 (Compensation for Services Rendered and Reimbursement of Expenses) would be amended to implement amendments made to 11 U.S.C. § 110(h)(1) governing disclosure of compensation paid to a bankruptcy petition preparer.

New Rule 7007.1 (Corporate Ownership Statement) would require parties in adversary proceedings to disclose corporate entities that own 10% or more of the stock of the party to provide the court with some of the information necessary to make judicial disqualification decisions. It is modeled on similar disclosure provisions in the Appellate, Civil, and Criminal Rules.

Official Form 1 (Voluntary Petition) would be revised to add a check box for designating a clearing-bank case filed under subchapter V of chapter 7 of the Bankruptcy Code. Official Form 5 (Involuntary Petition) and Official Form 17 (Notice of Appeal) would be revised to give notice to child-support creditors and their representatives that no filing fee is imposed for either type of action if the statutory form detailing the child-support debt is also filed.

Rules 1005, 1007 (c) and (f), and 2002 would be amended to implement the recently adopted Judicial Conference policy protecting the privacy of debtors filing for relief. The

advisory committee received considerable comment on the amendment originally proposed to Rule 1005 that would have restricted the debtor's social security number on the caption of the petition to the last four digits. The number of persons bearing the same surname, first name, and last four digits of a social security number is significant. Organizations that search large database that depend on accurate identifications of individuals objected to the proposal because it would likely result in misidentifications, requiring them to develop costly alternative and redundant means of identification.

The Department of Justice, Department of the Treasury, and Internal Revenue Service asserted that the proposal would hamper criminal investigations in a wide range of criminal activity, including investigations of individuals who use false social security numbers. The institutional private creditors were concerned that the greater likelihood of misidentification could lead to inadvertent violations of the automatic stay and the discharge injunction, which would adversely affect their business. Credit reporting agencies also objected to the proposal because it would eliminate a primary source of information.

The advisory committee concluded that creditors were entitled to receive the debtor's full social security number. Law enforcement agencies would also have access to the full social security number. But consistent with the Judicial Conference policy protecting a debtor's privacy, the committee decided to limit the disclosure of the full social security number to the general public.

Rule 1005 (Caption of Petition) requires a debtor to list all names used in the six years preceding the petition's filing. The proposed amendments require the debtor to include in the caption appropriate numerical identifiers, except that only the last four digits of the social security number may be used. This will permit creditors who have the debtor's social security number to conduct an electronic search with that information.

Rule 1007(c) and (f) (Lists, Schedules, and Statements; Time Limits) would be amended to require a debtor to submit a verified statement of the debtor's full social security number. The statement would be submitted to the clerk of court, but it would not be filed in the case nor become a part of the case file that would be available to the public either through Internet access or by a search of the paper records at the court.

Rule 2002 (Notices to Creditors, Equity Security Holders, United States, and United States Trustee) would be amended to require the clerk of court to include a debtor's full social security number on the § 341 notice sent to creditors. The full number would be included only on the notices sent to the creditors and not on the copy of the notice that becomes part of the court record.

The Committee concurred with the advisory committee's recommendations.

Recommendation: That the Judicial Conference approve the proposed amendments to Bankruptcy Rules 1005, 1007, 2002, 2003, 2009, 2016, and new Rule 7007.1 and transmit them to the Supreme Court for its consideration with a recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law.

The proposed revisions of Bankruptcy Official Forms 1, 5, and 17 conform to statutory changes concerning multilateral clearing banks and child-support creditors. Official Forms 1, 3, 5, 6, 7, 8, 9, 10, 16A, 16C, and 19 would also be amended to implement the privacy-related amendments to Rules 1005, 1007, and 2002 by restricting the display of a debtor's social security number to the last four digits. In addition, the revisions add an explicit reference to § 110 of the Bankruptcy Code, which continues to require the disclosure of the full social security number of a bankruptcy petition preparer.

Recommendation: That the Judicial Conference:

(a) approve the proposed revisions to Bankruptcy Official Forms 1, 5, and 17 relating to multilateral clearing banks and child-support creditors to take effect on December 1, 2002; and

(b) approve the proposed privacy-related revisions to Bankruptcy Official Forms 1, 3, 5, 6, 7, 8, 9, 10, 16A, 16C, 17, and 19 to take effect on December 1, 2003.

The proposed amendments to the Federal Rules of Bankruptcy Procedure and the revisions to the Official Forms are in Appendix A with an excerpt from the advisory committee report.

* * * * *

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE
OF THE
JUDICIAL CONFERENCE OF THE UNITED STATES
WASHINGTON, D.C. 20544

ANTHONY J. SCIRICA
CHAIR

PETER G. McCABE
SECRETARY

CHAIRS OF ADVISORY COMMITTEES

SAMUEL A. ALITO, JR.
APPELLATE RULES

A. THOMAS SMALL
BANKRUPTCY RULES

DAVID F. LEVI
CIVIL RULES

EDWARD E. CARNES
CRIMINAL RULES

MILTON I. SHADUR
EVIDENCE RULES

TO: **Honorable Anthony J. Scirica, Chair**
Standing Committee on Rules of Practice and Procedure

FROM: **Honorable A. Thomas Small, Chair**
Advisory Committee on Bankruptcy Rules

DATE: **May 10, 2002**

RE: **Report of the Advisory Committee on Bankruptcy Rules**

I. Introduction

The Advisory Committee on Bankruptcy Rules met on March 21-22, 2002, in Tucson, Arizona. The Advisory Committee considered public comments regarding proposed amendments to the Bankruptcy Rules and Official Forms that were published in August 2001.

The proposed amendments published in August 2001 include revisions to four Bankruptcy Rules (Bankruptcy Rules 1007, 2003, 2009, and 2016), and new Rule 7007.1. There were also amendments proposed to Official Forms 1, 5, and 17. The Advisory Committee received only five comments on the proposed amendments and additions to the Rules and Official Forms. Most of the comments were addressed to the amendments to Rule 1007 and the addition of

Rule 7007.1. One person commented on the proposed amendment to Rule 2016. Since no person who submitted a written comment requested to appear at the public hearing scheduled for January 4, 2002, the hearing was canceled.

The Advisory Committee considered the written comments on the proposals and approved each of the proposals and will present them to the Standing Committee at its June 2002 meeting for final approval and transmission to the Judicial Conference. The amendments and additions to the Bankruptcy Rules are set out in Part II A of this Report. The amendments to the Official Forms are set out behind a separate tab in the Agenda Book.

The Advisory Committee also considered proposed amendments to Bankruptcy Rule 1005 and eleven Official Forms to implement a Judicial Conference policy concerning a restriction on the publication of social security numbers. These amendments were published for comment in January 2002, and since the comment period for these amendments did not expire until April 22, 2002, there were no comments to consider at the time of the Committee's meeting. The Committee, however, directed the Subcommittee on Privacy and Public Access to invite persons to participate in a focus group meeting to discuss the issues raised by the proposed amendments. The Subcommittee conducted the focus group meeting in Washington, D.C., on April 12, 2002, the date originally scheduled for the public hearing on the proposals. The Committee did not receive any timely requests to appear at the scheduled public hearing. The Subcommittee approved amendments to Rules 1005, 1007, and 2002, and Official Forms 1, 3, 5, 6, 7, 8, 9, 10, 16A, 16C, and 19, and will present them to the Standing Committee at its June 2002 meeting for final approval and transmission to the Judicial Conference. The amendments to the Bankruptcy Rules are set out in Part II B of this

Report. The amendments to the Official Forms are set out behind a separate tab in the Agenda Book.

* * * * *

II. Action Items

A. Proposed Amendments to Bankruptcy Rules 1007, 2003, 2009, and 2016, Proposed New Rule 7007.1, and Official Forms 1, 5, and 17 Submitted for Final Approval by the Standing Committee and Submission to the Judicial Conference.

1. *Public Comment.*

The preliminary draft of the proposed amendments and an addition to the Federal Rules of Bankruptcy Procedure and amendments to the Official Forms were published for comment in August 2001, and a public hearing on the preliminary draft was scheduled for January 4, 2002. There were no requests to appear at the hearing.

There were five comments on the proposals. The comment submitted by the Standing Committee on Rules of Practice and Procedure for the United States District Court for the Western District of Michigan stated that it supports all of the proposed amendments to the Bankruptcy Rules. There were no comments on the proposed amendments to the Official Forms. The remaining comments are summarized on a rule-by-rule basis following the text of each rule set out below. The Advisory Committee reviewed these comments and approved the amendments and addition to the rules and

forms as published. The Advisory Committee recommends that the amendments to the Official Forms be approved effective December 1, 2002.

2. *Synopsis of Proposed Amendments and Addition:*

(a) Rule 1007 is amended to add an obligation for corporate debtors to include information regarding their owners that also are corporations. The disclosure provides to the court, at the beginning of the case, some of the information necessary to make judicial disqualification decisions.

(b) Rule 2003 is amended to reflect the enactment of a new subchapter V of chapter 7 of the Bankruptcy Code that makes multilateral clearing organizations eligible for bankruptcy relief.

(c) Rule 2009 is amended to reflect the enactment of a new subchapter V of chapter 7 of the Bankruptcy Code that makes multilateral clearing organizations eligible for bankruptcy relief.

(d) Rule 2016 is amended to implement amendments made to 11 U.S.C. § 110(h)(1) .

(e) Rule 7007.1 is added to require parties in adversary proceedings to disclose corporate entities that own 10% or more of the stock of

the party to provide the court with some of the information necessary to make judicial disqualification decisions.

(f) Official Form 1 is the form of a voluntary petition, and it is amended to add a checkbox for designating a clearing bank case filed under subchapter V of chapter 7 of the Bankruptcy Code.

(g) Official Form 5 is the form of an involuntary petition, and it is amended to give notice to child support creditors and their representatives that no filing fee is required if the petitioner files the form specified in § 304(g) of the Bankruptcy Reform Act of 1994, Pub. L. No. 103-394, 108 Stat. 4106 (Oct. 22, 1994).

(h) Official Form 17 is the form of a Notice of Appeal, and it is amended to give notice to child support creditors and their representatives that no filing fee is required if the appellant files the statement specified by § 304 (g) of the Bankruptcy Reform Act of 1994, Pub. L. No. 103-394, 108 Stat. 4106 (Oct. 22, 1994).

PROPOSED AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE*

Rule 1007. Lists, Schedules, and Statements; Time Limits

1 (a) LIST OF CREDITORS AND EQUITY SECURITY
2 HOLDERS, AND CORPORATE OWNERSHIP
3 STATEMENT.
4 (1) *Voluntary Case*. In a voluntary case, the debtor
5 shall file with the petition a list containing the name and
6 address of each creditor unless the petition is
7 accompanied by a schedule of liabilities. If the debtor is
8 a corporation, other than a governmental unit, the debtor
9 shall file with the petition a corporate ownership
10 statement containing the information described in Rule
11 7007.1. The debtor shall file a supplemental statement
12 promptly upon any change in circumstances that renders
13 the corporate ownership statement inaccurate.

* New material is underlined; matter to be omitted is lined through.

14 * * * * *

COMMITTEE NOTE

This rule is amended to require the debtor to file a corporate ownership statement setting out the information described in Rule 7007.1. Requiring debtors to file the statement provides the court with an opportunity to make judicial disqualification determinations at the outset of the case. This could reduce problems later in the case by preventing the initial assignment of the case to a judge who holds a financial interest in a parent company of the debtor or some other entity that holds a significant ownership interest in the debtor. Moreover, by including the disclosure statement filing requirement at the commencement of the case, the debtor does not have to make the same disclosure filing each time it is involved in an adversary proceeding throughout the case. The debtor also must file supplemental statements as changes in ownership might arise.

Changes Made After Publication and Comments. No changes since publication.

Rule 2003. Meeting of Creditors or Equity Security Holders

1 * * * * *

2 (b) ORDER OF MEETING.

3 (1) *Meeting of Creditors.* The United States trustee

4 shall preside at the meeting of creditors. The business of

5 the meeting shall include the examination of the debtor
6 under oath and, in a chapter 7 liquidation case, may
7 include the election ~~of a trustee or~~ of a creditors'
8 committee and, if the case is not under subchapter V of
9 chapter 7, the election of a trustee. The presiding officer
10 shall have the authority to administer oaths.
11 * * * * *

COMMITTEE NOTE

The rule is amended to reflect the enactment of subchapter V of chapter 7 of the Code governing multilateral clearing organization liquidations. Section 782 of the Code provides that the designation of a trustee or alternative trustee for the case is made by the Federal Reserve Board. Therefore, the meeting of creditors in those cases cannot include the election of a trustee.

Changes Made After Publication and Comments. No changes since publication.

Rule 2009. Trustees for Estates When Joint Administration Ordered

1 (a) ELECTION OF SINGLE TRUSTEE FOR
2 ESTATES BEING JOINTLY ADMINISTERED. If the

court orders a joint administration of two or more estates ~~pursuant to~~ under Rule 1015(b), creditors may elect a single trustee for the estates being jointly administered, unless the case is under subchapter V of chapter 7 of the Code.

(b) RIGHT OF CREDITORS TO ELECT SEPARATE TRUSTEE. Notwithstanding entry of an order for joint administration ~~pursuant to~~ under Rule 1015(b), the creditors of any debtor may elect a separate trustee for the estate of the debtor as provided in § 702 of the Code, unless the case is under subchapter V of chapter 7.

(c) APPOINTMENT OF TRUSTEES FOR ESTATES BEING JOINTLY ADMINISTERED.

(1) *Chapter 7 Liquidation Cases*. Except in a case governed by subchapter V of chapter 7, ~~T~~the United States trustee may appoint one or more interim trustees for estates being jointly administered in chapter 7 cases.

* * * * *

COMMITTEE NOTE

The rule is amended to reflect the enactment of subchapter V of chapter 7 of the Code governing multilateral clearing organization liquidations. Section 782 of the Code provides that the designation of a trustee or alternative trustee for the case is made by the Federal Reserve Board. Therefore, neither the United States trustee nor the creditors can appoint or elect a trustee in these cases.

Other amendments are stylistic.

Changes Made After Publication and Comments. No changes since publication.

Rule 2016. Compensation for Services Rendered and Reimbursement of Expenses

1 * * * * *

2 (c) DISCLOSURE OF COMPENSATION PAID OR

3 PROMISED TO BANKRUPTCY PETITION PREPARER.

4 Every bankruptcy petition preparer for a debtor shall file a

5 declaration under penalty of perjury and transmit the

6 declaration to the United States trustee within 10 days after

7 the date of the filing of the petition, or at another time as the

8 court may direct, as required by § 110(h)(1). The declaration

9 must disclose any fee, and the source of any fee, received
10 from or on behalf of the debtor within 12 months of the filing
11 of the case and all unpaid fees charged to the debtor. The
12 declaration must describe the services performed and
13 documents prepared or caused to be prepared by the
14 bankruptcy petition preparer. A supplemental statement shall
15 be filed within 10 days after any payment or agreement not
16 previously disclosed.

COMMITTEE NOTE

This rule is amended by adding subdivision (c) to implement § 110(h)(1) of the Code.

Changes Made After Publication and Comments. No changes since publication.

Rule 7007.1. Corporate Ownership Statement

1 (a) REQUIRED DISCLOSURE. Any corporation that is
2 a party to an adversary proceeding, other than the debtor or a
3 governmental unit, shall file two copies of a statement that

4 identifies any corporation, other than a governmental unit,
5 that directly or indirectly owns 10% or more of any class of
6 the corporation's equity interests, or states that there are no
7 entities to report under this subdivision.
8 (b) TIME FOR FILING. A party shall file the statement
9 required under Rule 7007.1(a) with its first pleading in an
10 adversary proceeding. A party shall file a supplemental
11 statement promptly upon any change in circumstances that
12 this rule requires the party to identify or disclose.

COMMITTEE NOTE

This rule is derived from Rule 26.1 of the Federal Rules of Appellate Procedure. The information that parties shall supply will support properly informed disqualification decisions in situations that call for automatic disqualification under Canon 3C(1)(c) of the Code of Conduct for United States Judges. This rule does not cover all of the circumstances that may call for disqualification under the subjective financial interest standard of Canon 3C, and does not deal at all with other circumstances that may call for disqualification. Nevertheless, the required disclosures are calculated to reach the majority of circumstances that are likely to call for disqualification under Canon 3C(1)(c).

The rule directs nongovernmental corporate parties to list those corporations that hold significant ownership interests in them. This includes listing membership interests in limited liability companies and similar entities that fall under the definition of a corporation in Bankruptcy Code § 101.

Under subdivision (b), parties must file the statement with the first document that they file in any adversary proceeding. The rule also requires parties and other persons to file supplemental statements promptly whenever changed circumstances require disclosure of new or additional information.

The rule does not prohibit the adoption of local rules requiring disclosures beyond those called for in Rule 7007.1.

Changes Made After Publication and Comments. No changes since publication.

B. Proposed Amendments to Rules 1005, 1007, and 2002, and Official Forms 1, 3, 5, 6, 7, 8, 9, 10, 16A, 16C, and 19 Submitted for Final Approval by the Standing Committee and Adoption by the Judicial Conference.

1. *Public Comment.*

The preliminary draft of proposed amendments to Rule 1005 and eleven Official Forms was published for comment by the bench and bar in January 2002, and a hearing was scheduled for April 12, 2002, in Washington, D.C. We received no timely requests to appear at the public hearing; however, the Subcommittee on Privacy and Public Access

conducted a focus group meeting in Washington on April 12 to consider the views of representatives of private creditors, credit data gatherers, taxing authorities, law enforcement, and the Federal Trade Commission.

The Advisory Committee received thirty-two written comments on the proposed amendments along with the presentations made at the focus group meeting. The comments were submitted by representatives of creditor interests, taxing authorities, credit data collection services, law enforcement, bankruptcy petition preparers, and the United States trustee, among others. The focus group discussion also included a representative from the Federal Trade Commission who oversees the Commission's work relating to identity theft.

The published amendments included only a proposed amendment to Rule 1005 that would have restricted the debtor's social security number on the caption of the petition to the last four digits of the number. The proposal did not include any mechanism for the collection of the full social security number or any means of access to an electronic court record of the case by the full social security number. After considering the written comments and the discussions held in the focus group meeting, the Subcommittee on Privacy and Public Access recommended the adoption of amendments to Rules 1007 and 2002 that would supplement the amendment to Rule 1005 by requiring the debtor to submit, but not file, a statement of his or her social security number that could be used to permit a search of the court records by persons who already have the debtor's social security number. Collection of the social security number also would permit the clerk to include the full number on the notice to creditors of the § 341

meeting of creditors, thereby allowing for the efficient identification of the debtor by creditors in the case. The Advisory Committee, by mail ballot, accepted the proposal of the Subcommittee and recommends the approval of the amendments to Rules 1005, 1007, and 2002, and the amendments to Official Forms 1, 3, 5, 6, 7, 8, 9, 10, 16A, 16C, and 19. Again, approval of the Official Forms is recommended as of December 1, 2003.

Summary of the Comments

Comments on the proposal generally were not addressed to the specific language of the proposed amendment to Bankruptcy Rule 1005, or to any specific amendment within the Official Forms. Rather, they were much more general in nature. Therefore, this summary of the comments is made according to the nature of the comments offered rather than by identification of individual comments.

There were four categories of comments on the proposals. The first group of comments were from bankruptcy petition preparers who object to being required to disclose their social security numbers while other participants in the process do not. The second category of comments came from private creditor interests and taxing authorities who asserted a need for the debtor's full social security number. The third category of comments came from the credit reporting industry and likewise urged the use of the full social security number to protect the integrity and accuracy of the credit reporting industry. The final category of comments came from the United States Trustee Program and the Department of Justice. They asserted that collection of the full social security number is necessary to protect the integrity

of the bankruptcy system and to prevent debtors from avoiding prosecution in appropriate cases.

Bankruptcy Petition Preparers

Several bankruptcy petition preparers submitted comments noting their objection to the requirement that their social security numbers be set out on the forms. They noted the potential problem of identity theft and asserted that their social security numbers should be protected to at least the same extent as the debtor's social security number. The Code specifically requires in § 110, however, that bankruptcy petition preparers must include their social security number on the petition and elsewhere. The Ninth Circuit has upheld this requirement in *Ferm v. United States Trustee (In re Crawford)*, 194 F.3d 954 (9th Cir. 1999). Given the statutory directive, it is not within the Committee's authority to adopt a rule to restrict the disclosure of a bankruptcy petition preparer's social security number.

Private Creditors

The second group of comments addressed creditor concerns about the truncation of the social security number. Both private (VISA, Mastercard, and Toyota Motor Credit, among others) and public (tax, child support, employment services) creditors asserted that limiting the disclosure of the social security number would lead to significant difficulties in identifying debtors. They generally noted that current searches are based on the full nine digit social security number and that reconfiguring their systems to accommodate a four digit number would be very expensive and would lead to potential misidentification of debtors. Misidentification

could lead to inadvertent violations of the automatic stay as well as the discharge injunction according to these commentators. Misidentification might also lead to incorrect attribution of a bankruptcy filing to the wrong person thereby affecting that person's credit rating. This concern was expressed by virtually every creditor or creditor representative submitting a comment. These themes were presented as well at the focus group meeting. Mr. Raymond Bell (see comment 02), on behalf of Fleet Credit Card Services, L.P., participated in the focus group meeting and described the matching process employed when a notice of bankruptcy is received. He stated that limiting the social security number to the last four digits would increase costs dramatically because of an increased need for the evaluation of several factors to verify the identity of the debtor as a customer. Representatives of taxing authorities and other public creditors from Arizona, California, Connecticut, Idaho, Massachusetts, New Mexico, New York, Ohio, and Oregon likewise asserted a need for the full social security number. Representatives of the Internal Revenue Service participated in the focus group meeting and noted as well that the Service relies on the full social security number and would be significantly disadvantaged if the number reported to them were reduced to the last four digits.

Credit Reporting Agencies

Representatives of the credit reporting industry submitted the third category of comments. Mr. Stuart Pratt of the Consumer Data Industry Association submitted written comments and participated in the focus group discussion. Mr. Pratt offered information about the number of persons in the United States with identical or nearly identical names who might also have the same last four digits of a social security

number. He also argued that timely and accurate reporting of this information is essential not just to specific creditors of the debtor, but to the efficient operation of the credit system generally. A representative of LEXIS/NEXIS made a similar point as well in the written comments he submitted. In their views, the accuracy of credit reporting would suffer with a truncation of the social security number on a debtor's petition. They noted as well that limiting access would, at the very least, create delays in the reporting of the information.

United States Trustee Program and the Department of Justice

The last category of comments came from the United States trustee program (including an individual employee of the United States trustee program, in her individual capacity and not as a representative of the program) and the Department of Justice. These comments focused on the need for complete and accurate information both to ensure the integrity of the system and to prevent criminal activity by persons who would use false social security numbers. The comment of the United States trustee program noted the efforts recently undertaken to verify the identity of debtors to protect against fraudulent filers. The Department of Justice indicated that it uses personal identifiers from bankruptcy files for a variety of investigative purposes in cases of credit card fraud, bankruptcy fraud, and identity theft. According to the Department, limiting access to this information could hamper the investigation of a wide range of criminal activity. Finally, the Department of the Treasury also objected to the truncation of the social security number (for the reasons stated by other creditors, both public and private), but Treasury also objected to any truncation of the Employer Tax Identification Number. It noted that the EIN does not present the same

privacy concerns that the social security number poses, and the EIN is used extensively by the Department and should continue to be disclosed fully by the debtor.

2. *Synopsis of Proposed Amendments:*

(a) Rule 1005 is amended to require the debtor to list all names used in the six years preceding the filing of the petition, and to include on the caption appropriate numerical identifiers, but using only the last four digits of the social security number.

(b) Rule 1007 is amended to require the debtor to submit a verified statement of his or her full social security number. The statement is submitted, but it is not filed in the case and does not become a part of the court record. Therefore, the full social security number does not become a part of the electronic case record that would be available to the public either through internet access or by a search of the paper records at the court.

(c) Rule 2002 is amended to require the clerk to include the debtor's full social security number on the § 341 notice to creditors. The full number should be included only on the notices sent to the creditors and not on the copy of the notice that becomes part of the court record.

Rule 1005. Caption of Petition

1 The caption of a petition commencing a case under the
2 Code shall contain the name of the court, the title of the case,
3 and the docket number. The title of the case shall include the
4 following information about the debtor: ~~the~~ name, employer
5 identification number, last four digits of the social security
6 number, any other federal tax identification number, ~~and~~
7 ~~employer's tax identification number of the debtor~~ and all
8 other names used ~~by the debtor~~ within six years before filing
9 the petition. If the petition is not filed by the debtor, it shall
10 include all names used by the debtor which are known to the
11 petitioners.

COMMITTEE NOTE

The rule is amended to implement the Judicial Conference policy to limit the disclosure of a party's social security number and similar identifiers. Under the rule, as amended, only the last four digits of the debtor's social security number need be disclosed. Publication of the employer identification number does not present the same identity theft or privacy protection issues. Therefore, the caption must include the full employer identification number.

Debtors must submit with the petition a statement setting out their social security numbers. This enables the clerk to include the full social security number on the notice of the section 341 meeting of creditors, but the statement itself is not submitted in the case or maintained in the case file.

Changes Made After Publication and Comments. The rule was changed only slightly after publication. The rule was changed to make clear that only the debtor's social security number is truncated to the final four digits, but other numerical identifiers must be set out in full. The rule also was amended to include a requirement that a debtor list other federal taxpayer identification numbers that may be in use.

Rule 1007. Lists, Schedules, and Statements; Time Limits

1 * * * * *

2 (c) TIME LIMITS. The schedules and statements, other
3 than the statement of intention, shall be filed with the petition
4 in a voluntary case, or if the petition is accompanied by a list
5 of all the debtor's creditors and their addresses, within 15
6 days thereafter, except as otherwise provided in subdivisions
7 (d), (e), (f), and (h) of this rule. In an involuntary case, the
8 schedules and statements, other than the statement of

9 intention, shall be filed by the debtor within 15 days of the
10 entry of the order for relief. Schedules and statements filed
11 prior to the conversion of a case to another chapter shall be
12 deemed filed in the converted case unless the court directs
13 otherwise. Any extension of time for the filing of the
14 schedules and statements may be granted only on motion for
15 cause shown and on notice to the United States trustee and to
16 any committee elected under § 705 or appointed under § 1102
17 of the Code, trustee, examiner, or other party as the court may
18 direct. Notice of an extension shall be given to the United
19 States trustee and to any committee, trustee, or other party as
20 the court may direct.
21 * * * * *
22 (f) STATEMENT OF SOCIAL SECURITY NUMBER.
23 An individual debtor shall submit a verified statement that
24 sets out the debtor's social security number, or states that the
25 debtor does not have a social security number. In a voluntary

26 case, the debtor shall submit the statement with the petition.

27 In an involuntary case, the debtor shall submit the statement

28 within 15 days after the entry of the order for relief.

29 * * * * *

COMMITTEE NOTE

The rule is amended to add a requirement that a debtor submit a statement setting out the debtor's social security number. The addition is necessary because of the corresponding amendment to Rule 1005 which now provides that the caption of the petition includes only the final four digits of the debtor's social security number. The debtor submits the statement, but it is not filed, nor is it included in the case file. The statement provides the information necessary to include on the service copy of the notice required under Rule 2002(a)(1). It will also provide the information to facilitate the ability of creditors to search the court record by a search of a social security number already in the creditor's possession.

Changes Made After Publication and Comments. The rule amendment is made in response to the extensive commentary that urged the Advisory Committee to continue the obligation contained in current Rule 1005 that a debtor must include his or her social security number on the caption of the bankruptcy petition. Rule 1005 is amended to limit that disclosure to the final four digits of the social security number, and Rule 1007 is amended to reinstate the obligation in a manner that will provide more protection of the debtor's privacy while continuing access to the information to those persons with legitimate need for that data. The debtor must disclose the

information, but the method of disclosure is by a verified statement that is submitted to the clerk. The statement is not filed in the case and does not become a part of the court record. Therefore, it enables the clerk to deliver that information to the creditors and the trustee in the case, but it does not become a part of the court record governed by § 107 of the Bankruptcy Code and is not available to the public.

Rule 2002. Notices to Creditors, Equity Security Holders, United States, and United States Trustee

1 (a) TWENTY-DAY NOTICES TO PARTIES IN
2 INTEREST. Except as provided in subdivisions (h), (i), and
3 (*l*) of this rule, the clerk, or some other person as the court
4 may direct, shall give the debtor, the trustee, all creditors and
5 indenture trustees at least 20 days' notice by mail of:
6 (1) the meeting of creditors under § 341 or § 1104(b)
7 of the Code, which notice, unless the court orders
8 otherwise, shall include the debtor's employer
9 identification number, social security number, and any
10 other federal taxpayer identification number;
11 * * * * *

COMMITTEE NOTE

Subdivision (a)(1) of the rule is amended to direct the clerk or other person giving notice of the § 341 or § 1104(b) meeting of creditors to include the debtor's full social security number on the notice. Official Form 9, the form of the notice of the meeting of creditors that will become a part of the court's file in the case, will include only the last four digits of the debtor's social security number. This rule, however, directs the clerk to include the full social security number on the notice that is served on the creditors and other identified parties, unless the court orders otherwise in a particular case. This will enable creditors and other parties in interest who are in possession of the debtor's social security number to verify the debtor's identity and proceed accordingly. The filed Official Form 9, however, will not include the debtor's full social security number. This will prevent the full social security number from becoming a part of the court's file in the case, and the number will not be included in the court's electronic records. Creditors who already have the debtor's social security number will be able to verify the existence of a case under the debtor's social security number, but any person searching the electronic case files without the number will not be able to acquire the debtor's social security number.

Changes Made After Publication and Comments. The rule amendment was made in response to concerns of both private creditors and taxing authorities that truncating the social security number of a debtor to the last four digits would unduly hamper their ability to identify the debtor and govern their actions accordingly. Therefore, the Advisory Committee amended Rule 2002 to require the clerk to include the debtor's full social security number on the notice informing creditors of the § 341 meeting and other significant deadlines in the case. This is essentially a continuation of the practice

under the current rules, and the amendment is necessary because of the amendment to Rule 1005 that restricts publication of the social security number on the caption of the petition to the final four digits of the number.

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