

the court of whether the debtor is a small business debtor, and to provide procedures for resolving disputes regarding the proper characterization of the debtor. Because it is important to resolve such disputes early in the case, a time limit for objecting to the debtor's self-designation is imposed. Rule 9006(b)(1), which governs enlargement of time, is applicable to the time limits set forth in this rule.

An important factor in determining whether the debtor is a small business debtor is whether the United States trustee has appointed a committee of unsecured creditors under §1102, and whether such a committee is sufficiently active and representative. Subdivision (c), relating to the appointment and activity of a committee of unsecured creditors, is designed to be consistent with the Code's definition of "small business debtor."

Changes Made After Publication. No changes were made after publication.

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 to determine 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, the creditors included on the list filed under Rule 1007(d); and any other entity as the court directs. The motion shall be governed by Rule 9014.

(Added Apr. 23, 2008, eff. Dec. 1, 2008.)

COMMITTEE NOTES ON RULES—2008

Section 101(27A) of the Code, added by the 2005 amendments, defines a health care business. This rule provides procedures for designating the debtor as a health care business. The debtor in a voluntary case, or petitioning creditors in an involuntary case, make that designation by checking the appropriate box on the petition. The rule also provides procedures for resolving disputes regarding the status of the debtor as a health care business.

Changes Made After Publication. No changes were made after publication.

PART II—OFFICERS AND ADMINISTRATION; NOTICES; MEETINGS; EXAMINATIONS; ELECTIONS; ATTORNEYS AND ACCOUNTANTS

Rule 2001. Appointment of Interim Trustee Before Order for Relief in a Chapter 7 Liquidation Case

(a) APPOINTMENT. At any time following the commencement of an involuntary liquidation case and before an order for relief, the court on written motion of a party in interest may order the appointment of an interim trustee under §303(g) of the Code. The motion shall set forth the necessity for the appointment and may be granted only after hearing on notice to the debtor, the petitioning creditors, the United States trustee, and other parties in interest as the court may designate.

(b) BOND OF MOVANT. An interim trustee may not be appointed under this rule unless the movant furnishes a bond in an amount approved by the court, conditioned to indemnify the debtor for costs, attorney's fee, expenses, and damages allowable under §303(i) of the Code.

(c) ORDER OF APPOINTMENT. The order directing the appointment of an interim trustee shall state the reason the appointment is necessary and shall specify the trustee's duties.

(d) TURNOVER AND REPORT. Following qualification of the trustee selected under §702 of the Code, the interim trustee, unless otherwise ordered, shall (1) forthwith deliver to the trustee all the records and property of the estate in possession or subject to control of the interim trustee and, (2) within 30 days thereafter file a final report and account.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is adapted from former Bankruptcy Rule 201. See also former Chapter X Rule 10-201. In conformity with title 11 of the United States Code, this rule substitutes "interim trustee" for "receiver." Subdivision (a) and (e) of Rule 201 are not included because the provisions contained therein are found in detail in §303(g) of the Code, or they are inconsistent with §701 of the Code. Similarly, the provisions in Rule 201(d) relating to a debtor's counterbond are not included because of their presence in §303(g).

Subdivision (a) makes it clear that the court may not on its own motion order the appointment of an interim trustee before an order for relief is entered. Appointment may be ordered only on motion of a party in interest.

Subdivision (b) requires those seeking the appointment of an interim trustee to furnish a bond. The bond may be the same one required of petitioning creditors under §303(e) of the Code to indemnify the debtor for damages allowed by the court under §303(i).

Subdivision (c) requires that the order specify which duties enumerated in §303(g) shall be performed by the interim trustee. Reference should be made to Rule 2015 for additional duties required of an interim trustee including keeping records and filing periodic reports with the court.

Subdivision (d) requires turnover of records and property to the trustee selected under §702 of the Code, after qualification. That trustee may be the interim trustee who becomes the trustee because of the failure of creditors to elect one under §702(d) or the trustee elected by creditors under §702(b), (c).

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

This rule is amended to conform to §303(g) of the Code which provides that the United States trustee appoints the interim trustee. See Rule X-1003. This rule does not apply to the exercise by the court of the power to act sua sponte pursuant to §105(a) of the Code.

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: