such notice shall not affect the validity of the appeal.

(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 an adaptation of Rule 3(d) F.R.App.P.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

This rule is amended to keep the United States trustee informed of the progress of the case.

Rule 8005. Stay Pending Appeal

A motion for a stay of the judgment, order, or decree of a bankruptcy judge, for approval of a supersedeas bond, or for other relief pending appeal must ordinarily be presented to the bankruptcy judge in the first instance. Notwithstanding Rule 7062 but subject to the power of the district court and the bankruptcy appellate panel reserved hereinafter, the bankruptcy judge may suspend or order the continuation of other proceedings in the case under the Code or make any other appropriate order during the pendency of an appeal on such terms as will protect the rights of all parties in interest. A motion for such relief, or for modification or termination of relief granted by a bankruptcy judge, may be made to the district court or the bankruptcy appellate panel, but the motion shall show why the relief, modification, or termination was not obtained from the bankruptcy judge. The district court or the bankruptcy appellate panel may condition the relief it grants under this rule on the filing of a bond or other appropriate security with the bankruptcy court. When an appeal is taken by a trustee, a bond or other appropriate security may be required, but when an appeal is taken by the United States or an officer or agency thereof or by direction of any department of the Government of the United States a bond or other security shall not be required.

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

NOTES OF ADVISORY COMMITTEE ON RULES—1983

The first, third, and fourth sentences of this rule are adaptations of Rule 8(a) and (b) F.R.App.P. The second sentence of the rule is derived from §39(c) of the Bankruptcy Act and confers on the bankruptcy judge discretion respecting the stay or continuation of other proceedings in the case while an appeal is pending.

The last sentence of the rule, which specifically subjects a trustee to the same kind of security requirements as other litigants, is derived from former Bankruptcy Rule 805. The exemption of the United States from the bond or security requirements is the same as the exemption contained in Rule 62(e) F.R.Civ.P.

Sections 363(m) and 364(e) of the Code provide that unless an order approving a sale of property, or authorizing the obtaining of credit or the incurring of debt is stayed pending appeal, the sale of property to a good faith purchaser or a good faith extension of credit, with or without any priority or lien, shall not be affected by the reversal or modification of such order on appeal, whether or not the purchaser or creditor knows of the pendency of the appeal.

Rule 8006. Record and Issues on Appeal

Within 10 days after filing the notice of appeal as provided by Rule 8001(a), entry of an order granting leave to appeal, or entry of an order disposing of the last timely motion outstanding of a type specified in Rule 8002(b), whichever is later, the appellant shall file with the clerk and serve on the appellee a designation of the items to be included in the record on appeal and a statement of the issues to be presented. Within 10 days after the service of the appellant's statement the appellee may file and serve on the appellant a designation of additional items to be included in the record on appeal and, if the appellee has filed a cross appeal, the appellee as cross appellant shall file and serve a statement of the issues to be presented on the cross appeal and a designation of additional items to be included in the record. A cross appellee may, within 10 days of service of the cross appellant's statement, file and serve on the cross appellant a designation of additional items to be included in the record. The record on appeal shall include the items so designated by the parties, the notice of appeal, the judgment, order, or decree appealed from, and any opinion, findings of fact, and conclusions of law of the court. Any party filing a designation of the items to be included in the record shall provide to the clerk a copy of the items designated or, if the party fails to provide the copy, the clerk shall prepare the copy at the party's expense. If the record designated by any party includes a transcript of any proceeding or a part thereof, the party shall, immediately after filing the designation, deliver to the reporter and file with the clerk a written request for the transcript and make satisfactory arrangements for payment of its cost. All parties shall take any other action necessary to enable the clerk to assemble and transmit the record.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 29, 1994, eff. Aug. 1, 1994.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is an adaptation of Rule 10(b) F.R.App.P. The last sentence of the rule is derived from Rule 11(a) F.R.App.P.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

The seven-day time periods are changed to 10 days to conform to Rule 75(b)(2) F.R.Civ.P. and Rule 10(b)(3) F.R.App.P. The amendment requiring a party to provide a copy of the items designated for the record is to facilitate the amendments to Rule 8007 providing for retention by the bankruptcy clerk of the original record.

NOTES OF ADVISORY COMMITTEE ON RULES—1994 AMENDMENT

The amendment to the first sentence of this rule is made together with the amendment to Rule 8002(b), which provides, in essence, that certain specified postjudgment motions suspend a filed notice of appeal until the disposition of the last of such motions. The purpose of this amendment is to suspend the 10-day period for filing and serving a designation of the record and statement of the issues if a timely postjudgment motion is made and a notice of appeal is suspended under Rule 8002(b). The 10-day period set forth in the first sentence of this rule begins to run when the order disposing of the last of such postjudgment motions outstanding is entered. The other amendments to this rule are stylistic.

Rule 8007. Completion and Transmission of the Record; Docketing of the Appeal

(a) DUTY OF REPORTER TO PREPARE AND FILE TRANSCRIPT. On receipt of a request for a transcript, the reporter shall acknowledge on the request the date it was received and the date on which the reporter expects to have the transcript completed and shall transmit the request, so endorsed, to the clerk or the clerk of the bankruptcy appellate panel. On completion of the transcript the reporter shall file it with the clerk and, if appropriate, notify the clerk of the bankruptcy appellate panel. If the transcript cannot be completed within 30 days of receipt of the request the reporter shall seek an extension of time from the clerk or the clerk of the bankruptcy appellate panel and the action of the clerk shall be entered in the docket and the parties notified. If the reporter does not file the transcript within the time allowed, the clerk or the clerk of the bankruptcy appellate panel shall notify the bankruptcy judge.

(b) DUTY OF CLERK TO TRANSMIT COPY OF RECORD; DOCKETING OF APPEAL. When the record is complete for purposes of appeal, the clerk shall transmit a copy thereof forthwith to the clerk of the district court or the clerk of the bankruptcy appellate panel. On receipt of the transmission the clerk of the district court or the clerk of the bankruptcy appellate panel shall enter the appeal in the docket and give notice promptly to all parties to the judgment, order, or decree appealed from of the date on which the appeal was docketed. If the bankruptcy appellate panel directs that additional copies of the record be furnished, the clerk of the bankruptcy appellate panel shall notify the appellant and, if the appellant fails to provide the copies, the clerk shall prepare the copies at the expense of the appellant.

(c) RECORD FOR PRELIMINARY HEARING. If prior to the time the record is transmitted a party moves in the district court or before the bankruptcy appellate panel for dismissal, for a stay pending appeal, for additional security on the bond on appeal or on a supersedeas bond, or for any intermediate order, the clerk at the request of any party to the appeal shall transmit to the clerk of the district court or the clerk of the bankruptcy appellate panel a copy of the parts of the record as any party to the appeal shall designate.

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

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Subdivision (a) is an adaptation of Rule 11(b) F.R.App.P.

Subdivision (b) is similar to former Bankruptcy Rule 807. The duty of the clerk of the bankruptcy court to transmit the record as soon as the record is complete is derived from the second paragraph of Rule 11(b) F.R.App.P. The last sentence of the subdivision applies to appeals to bankruptcy appellate panels. Additional copies of the record may be needed when the appendix to the brief required under Rule 8009(b) is not adequate in the judgment of the bankruptcy appellate panel for disposition of the appeal. If additional copies are required, the appellant will arrange for the production of the copies; if the appellant fails to do so, the clerk of the bankruptcy appellate panel shall prepare the copies at the expense of the appellant.

Subdivision (c) is derived from subdivisions (c), (e) and (f) of Rule 11 F.R.App.P. and subdivision (d) is essentially the same as Rule 11(b) F.R.App.P.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

This rule is amended to require that the bankruptcy clerk retain the original record and transmit a copy of the record to the clerk of the district court or bankruptcy appellate panel. Transmission of the original documents may cause disruption in the continuing administration of the case in the bankruptcy court.

Rule 8008. Filing and Service

(a) FILING. Papers required or permitted to be filed with the clerk of the district court or the clerk of the bankruptcy appellate panel may be filed by mail addressed to the clerk, but filing is not timely unless the papers are received by the clerk within the time fixed for filing, except that briefs are deemed filed on the day of mailing. An original and one copy of all papers shall be filed when an appeal is to the district court; an original and three copies shall be filed when an appeal is to a bankruptcy appellate panel. The district court or bankruptcy appellate panel may require that additional copies be furnished. Rule 5005(a)(2) applies to papers filed with the clerk of the district court or the clerk of the bankruptcy appellate panel if filing by electronic means is authorized by local rule promulgated pursuant to Rule 8018.

(b) SERVICE OF ALL PAPERS REQUIRED. Copies of all papers filed by any party and not required by these rules to be served by the clerk of the district court or the clerk of the bankruptcy appellate panel shall, at or before the time of filing, be served by the party or a person acting for the party on all other parties to the appeal. Service on a party represented by counsel shall be made on counsel.

(c) MANNER OF SERVICE. Service may be personal or by mail. Personal service includes delivery of the copy to a clerk or other responsible person at the office of counsel. Service by mail is complete on mailing.

(d) PROOF OF SERVICE. Papers presented for filing shall contain an acknowledgment of service by the person served or proof of service in the form of a statement of the date and manner of service and of the names of the persons served, certified by the person who made service. The clerk of the district court or the clerk of the bankruptcy appellate panel may permit papers to be filed without acknowledgment or proof of service but shall require the acknowledgment or proof of service to be filed promptly thereafter.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 23, 1996, eff. Dec. 1, 1996.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is an adaptation of Rule 25 F.R.App.P. Motions, briefs, appendices when required, statements, and any other filed paper must be accompanied by the specified number of copies. Rules 8001 and 8004 govern the number of copies of the notice of appeal which must be filed.

NOTES OF ADVISORY COMMITTEE ON RULES—1996 AMENDMENT

This rule is amended to permit, but not require, district courts and, where bankruptcy appellate panels