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## **IMPORTANT GENERAL INFORMATION**

You recently filed a case under Chapter 13 of the Bankruptcy Code in the Northern District of Texas. You have certain duties and responsibilities as a Chapter 13 debtor. **PLEASE READ THIS DOCUMENT AND KEEP IT FOR FUTURE REFERENCE UNTIL YOUR CASE IS COMPLETED.**

### **YOUR TRUSTEE**

Your Chapter 13 Trustee is Tim Truman. His street address is 6851 N.E. Loop 820, Suite 300, N. Richland Hills, Texas, 76180-6608 (**correspondence only**). His office telephone number is (817) 770-8500.

### **WAGE EARNERS:**

Wage deduction is mandatory unless otherwise ordered by the court. A Wage Directive Information form is available from your attorney, the trustee's office, or from the trustee's website. (You can download it by going to [www.13network.com](http://www.13network.com). Look under the listings for Texas, choose Tim Truman, Trustee, and then click on Documents.)

### **SELF-EMPLOYED:**

**Mail payments to P.O. Box 961076, Fort Worth, Texas, 76161-0076. (Do not mail correspondence to this P.O. Box).** No personal checks or cash. Use money order or cashier's check. You must put your **name and case number** on the money order or cashier's check for it to be credited to your case. Make money orders or cashier's checks payable to **Chapter 13 Trustee**. Self-employed persons may also use ACH or TFS methods of payment.

### **FIRST PAYMENT DUE DATE**

Your first payment must be received within 30 days of the

date your Chapter 13 case is filed. If you do not make your first payment on time, your Chapter 13 case may be dismissed after only seven business days notice to you and your attorney. If you re-file within one (1) year, the automatic stay lasts only 30 days, or not at all.

**AUTOMATIC DRAFT PAYMENTS (ACH) FOR SELF-EMPLOYED DEBTORS ONLY**

Chapter 13 payments can be deducted once a month directly from a self-employed debtor's checking or savings account. If you are self-employed and interested, please complete the Authorization Agreement for Pre-Authorized Payments (ACH debits) and return it to the trustee's office. (You can download the form from the trustee's website, [www.13network.com](http://www.13network.com).) All self-employed debtors are encouraged to use ACH in order to reduce the risk of having their case dismissed for monetary default.

**AUTOMATED ONLINE BILL PAY (TFS) FOR SELF-EMPLOYED DEBTORS ONLY**

Debtors who are not able to make their Chapter 13 plan payments by wage deductions, such as self-employed or retired debtors, may elect to pay electronically using TFS Bill Pay. Your attorney or the trustee can give you detailed information on how to sign up for this service.

**GENERAL ORDER 2010-01**

Special local procedures are set out in General Order 2010-01 issued jointly by the bankruptcy judges in the Northern District of Texas (the General Order). Copies of this order may be obtained from the bankruptcy clerk; the court's website: [www.txnb.uscourts.gov](http://www.txnb.uscourts.gov); the Office of the Chapter 13 Trustee; or the trustee's website: [www.13network.com](http://www.13network.com). You should ask your attorney to make you familiar with the provisions of the General Order. You have certain duties and

responsibilities under the General Order in addition to those under the Bankruptcy Code.

### **TRUSTEE'S OFFICE**

The Chapter 13 Office is open Monday through Friday from 9:00 a.m. to 4:00 p.m. The Customer Service Department and windows are closed for lunch between 12:00 noon and 1:00 p.m. **The Chapter 13 Trustee's Office is closed on federal holidays and when the Birdville Independent Schools are closed due to weather.** Do not feel that you have to talk personally to the trustee. The trustee's staff is familiar with the policies and guidelines under Chapter 13 and is well qualified to discuss with you most problems or non-legal questions that may arise. The trustee's office may not give legal advice. Consult your attorney on all legal questions. Notify the trustee's office if you have difficulty reaching your attorney.

### **CURRENT ADDRESS & PHONE NUMBERS**

**The trustee must have your current address and your home and work telephone numbers at all times until your plan is completed.** Please notify the trustee's office immediately in writing at the correspondence address if you change your address, employment, or telephone number. A new address on a cashier's check or money order (self-employed debtors only) is not sufficient notice of a change of address.

### **EXTRA PAYMENTS**

You have the right to make additional payments at any time. The additional payments do not have to be regular, and they do not have to be in any particular amount. You must make at least one full regular payment each and every month. **Send any extra payment by cashier's check or money order to P.O. Box 961076, Fort Worth, Texas, 76161-0076.** Be sure

your **name** and your **case number** are on the extra payment.

### **AUTOMATIC STAY AGAINST CREDITORS**

If this is your first case, all creditors you listed in your Chapter 13 case are under an automatic stay (restraining order). The automatic stay prohibits creditors from contacting you or your employer in any way and from foreclosing on or repossessing your property. If an automatic stay does apply to your case, a creditor may obtain permission of the court to foreclose or repossess property by filing a motion. Do not worry about routine delinquent notices from creditors. If you get a direct contact from a creditor, such as a telephone call, a personal letter, a summons, or a visit in person, you should immediately tell the creditor that you are under Chapter 13, give the creditor your case number, and the name of your attorney. Get the name of the party contacting you and the person's address and telephone number. Report this information to your attorney. If this is your second case in one year, the automatic stay only lasts for 30 days, unless extended by the court on a motion filed by you or your attorney to extend the automatic stay. If this is your third or higher case in one year, there is no automatic stay. Talk to your attorney about your options.

### **CREDITOR'S MOTIONS TO MODIFY AUTOMATIC STAY**

A creditor obtains permission to foreclose or repossess by filing a Motion to Modify Automatic Stay. Under local rules, if a creditor files the Motion to Modify Automatic Stay and serves a copy on you and your attorney, the stay will be lifted unless a written response to the motion is filed by you or your attorney with the Bankruptcy Court within fourteen (14) days after service of the motion. If no written response is timely filed by you or your attorney, an Order Lifting Stay will be entered by default. After that, the creditor can foreclose on

your house, car, or other collateral even if you think you have valid excuses, defenses, or counterclaims.

If at any time during your Chapter 13 case, either before or after confirmation, you receive a copy of a creditor's Motion to Modify Automatic Stay and you do not have an attorney, you should file a written response to the motion in the Bankruptcy Clerk's office within fourteen (14) days. Mail a copy to the trustee and to the attorney for the creditor who filed the motion. If you have an attorney, you should immediately contact your attorney so your attorney can file a timely response to the motion. Remember, if no action is taken, and no written response is timely filed, the stay will be lifted without further notice to you or opportunity for a hearing.

### **PAY ONLY THROUGH PLAN**

You cannot pick and choose some particular creditors and pay them on the side. All debts owed by you on the date you filed Chapter 13 are generally dealt with through the plan, except for **current payments on your home mortgage and current domestic support obligations**. You are responsible for paying direct to a creditor, when due, all current living expenses after you file Chapter 13.

### **TYPES OF CLAIMS**

There are three (3) basic types of claims: secured, priority, and unsecured. Priority claims include court costs, fees which you agreed to pay your attorney, expenses of administering the plan, IRS taxes, and domestic support obligations.

Priority claims must be paid in full with no interest. The trustee makes equal monthly payments to secured creditors, including interest. Any funds remaining after payment to secured creditors will be divided first among priority creditors on a pro-rata basis and then general unsecured creditors pro

rata. General unsecured creditors must receive the greater of any unsecured creditors' pool or equity in non-exempt property in excess of allowed priority claims. It could be several months before priority and general unsecured creditors receive their first payment.

### **CO-SIGNERS AND GUARANTORS**

If you have a co-signer, co-maker, or guarantor including a non-filing spouse on any of your consumer debts, Chapter 13 protects them from collection activities by the creditor (to the extent your plan provides for payment of such debts) as long as you remain under Chapter 13. Any creditor contact with any of your co-signers after you have filed your case should be reported to your attorney.

### **USE OF CREDIT DURING PLAN**

The use of credit while under Chapter 13 is prohibited, except in business cases and extreme emergency situations. If you believe you have such an emergency, you should contact your attorney for assistance in securing proper permission from the court. The use of credit cards or charges of any kind while under Chapter 13 is a use of credit without court approval and is prohibited. This applies to any member of the family supported by the debtor under Chapter 13, whether they are chapter 13 debtors or not. All charge cards should be destroyed or returned to the creditor.

### **SPECIAL TREATMENT OF HOME MORTGAGE**

**Current payments are to be made by you directly to the mortgage holder.** If current payments are not made by you in full and on time, the creditor can ask the court to permit it to foreclose against your property. The court will not allow you to continue to live in a home or on property if you cannot or will not pay for it. The plan may provide for the trustee to cure pre-petition or post-petition arrearages out of plan

payments you make to the trustee.

### **TAX RETURNS**

You must furnish to the trustee a copy of all federal income tax returns filed during your case at the same time they are filed. Failure to do so may result in the dismissal of your case. If you request an extension from IRS, you must provide a copy to the trustee. If you are not required by IRS to file a return, you must provide an affidavit to the trustee stating that you are not required by IRS to file a return and why you are not required to do so. Your attorney can assist you with the affidavit. Your return, extension, or affidavit should be delivered to the trustee on or before April 15th. Send them by FAX to 817.770.8518 or by email to [trumantaxreturns@ch13ftw.com](mailto:trumantaxreturns@ch13ftw.com). Redact (mark out) all social security numbers and names of children. Write your bankruptcy case number on the return. It is the policy of the trustee to file a motion to dismiss any case for which he has not received a return, extension, or affidavit by April 15th of each year. Please be sure you comply with this requirement. Contact your attorney if you have questions.

### **TAX REFUNDS**

The Internal Revenue Service's Special Insolvency Territory 10 handles tax matters for persons involved in Chapter 13 proceedings. This may affect any future tax refunds and the processing of tax returns. If you do **not** owe any tax for prior years and have filed all previous year's returns, your refund will be processed normally.

If you currently owe taxes or have unfilled tax returns from the past four years, the I.R.S. freezes your account when you file bankruptcy. This is to stop any collection actions. It also prevents automatic account processing, such as automatic refunds. After this code is put in, I.R.S. must manually



prepare paperwork to request any refund checks.

Once your return is filed, it is processed manually by the I.R.S., which generates a notice of credit in approximately six (6) to eight (8) weeks and sends it to I.R.S. Insolvency Territory 10 in Dallas. Insolvency Territory 10 must then research your account, make any necessary credit offsets to satisfy your liability, and prepare paperwork to generate any remaining refund. This process takes up to six (6) weeks. If you have a pre-petition refund, it will be applied to taxes you owe per applicable law.

If a refund check is to be prepared by the I.R.S., paperwork is sent to the Service Center. This portion of the process also takes up to six (6) weeks. Once a refund check is actually issued, it may take approximately two (2) weeks. **Therefore, routine processing time for generation of a refund check is approximately sixteen (16) weeks from the time the return is filed. Please do not call the I.R.S. or the trustee's office regarding the status of your refund until this period has expired.** In addition, if you file your return during peak filing time, April 15 through August 15, it could take even longer to process your refund.

After receiving a copy of your tax return each year, if you are entitled to a refund in excess of \$2000, the trustee may file a modification to the plan to require you to pay the excess to the trustee for the benefit of your general unsecured creditors. If you have a serious need to keep and use all or part of the excess, your attorney must file a written response or object to the trustee's modification and provide the trustee with any documentation of the need. If the trustee agrees, then the modification will be withdrawn. If the trustee does not agree to the retention, then you must go to court and ask the judge to approve it. Your attorney may be entitled to additional

fees and expenses of up to \$400 for handling any such response or objection.

The I.R.S. will notify you by mail the day it sends the refund check. **Do not call the IRS for at least ten (10) days after you receive such a letter.**

### **FUTURE CREDIT RATING**

Your credit rating during and after completion of Chapter 13 will be, as it is now and was in the past, the personal opinion of any credit grantor who looks at your record. It is a record of your past credit performance. This record is made available to a credit grantor who uses its own standards in deciding whether or not to grant credit to you. Suits, collections, attachments, Chapter 7 bankruptcy, credit counseling, and Chapter 13 are all signs of credit problems.

### **IN CASE YOU CANNOT MAKE YOUR PLAN PAYMENT WHEN DUE**

Only the judge can authorize late payments, skipped payments, or any other change to the original plan. If future circumstances cause you to default and the trustee files a Motion to Dismiss or a Notice of Intent to Dismiss, you have two (2) options:

1. An agreed Interlocutory Order (I/O) can be signed by the debtor and/or attorney for the debtor and the trustee. This order will conditionally deny the trustee's Motion or Notice to Dismiss subject to extra payments being timely made each month in addition to the regular monthly payment for a specific period of time. The maximum amount of time allowed to catch up the payments under the I/O is six (6) months. You must attend the Pre-Hearing Conference on the trustee's Motion to Dismiss or have your attorney attend for you to complete the I/O form and sign it. The I/O will then be presented to the judge and entered by the court. There is no charge

for this order by the trustee's office. Please be aware that there is no further notification prior to dismissal if the terms of the I/O are not strictly met.

2. A modification can be filed by your attorney if your case has already been confirmed. Contact your attorney immediately. The trustee will object to any modification attorney fee that exceeds \$350.00 plus expenses not to exceed \$50.00.

Another very important thing to remember is that if you do nothing, then your case will probably be dismissed, and you will lose all the benefits you already have. To do nothing is the worst possible thing.

### **SAVINGS ACCOUNT**

The trustee wishes you success in the performance of your plan. Over the next 3 to 5 years, you will have things come up which threaten your completion of the plan.

You will very likely have an interruption of income or an unexpected expense, e.g., car repair, home maintenance, or medical expenses. The trustee strongly encourages you to immediately open a savings account at your bank or credit union and make a commitment to **pay yourself** first each payday. Make this a habit. The important thing is not **how much** but **how regularly** you make your savings deposit.

### **PLEASE KEEP THIS DOCUMENT FOR FUTURE REFERENCE.**

If you have any questions, please ask your attorney first. If you are for any reason unable to get your non-legal questions answered by your attorney, please call the trustee's staff during business hours.

