

D. SIMS CRAWFORD
CHAPTER 13 STANDING TRUSTEE
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION
P.O. BOX 10848
BIRMINGHAM, AL 35202-0848
(205) 323-4631
FACSIMILE (205) 252-0239
info@ch13bham.com

MEMO

TO: All Chapter 13 Attorneys

FROM: D. Sims Crawford, Chapter 13 Standing Trustee

RE: Trustee's 341 and Confirmation Preparation Procedure

DATE: Effective on February 4, 2009

I. Trustee's Preparation for 341 Hearings

- A. Pursuant to 11 U.S.C. § 521(e)(2)(A)(i) and Fed. R. Bankr. Proc. 4002(b)(3), the Trustee will review, during the § 341 meeting of creditors process or otherwise as appropriate, federal income tax returns and tax transcripts provided by the Debtor, including but not limited to a review of the following:
- Is the Debtor's gross income on the federal income tax return different than the gross income listed on Schedule I and Form B22C? Is there a reasonable basis for this difference?
 - If the Debtor has claimed "Head of Household" on his or her federal income tax return, is he or she married?
 - How much are the itemized deductions? Do they appear to be excessive?
 - Has the Debtor claimed an earned income credit?
 - Did the Debtor receive an income tax refund for the most recent tax year ending before the bankruptcy petition was filed? If so, do the schedules reflect this refund?

Based on a review of the federal income tax returns and other factors, the Trustee attorney will decide whether an objection to confirmation is appropriate.

- B. For all Chapter 13 cases, if the Trustee's attorney cannot recommend confirmation at the meeting of creditors due to *procedural* problems, he or she will continue the meeting of creditors for 1-2 weeks pursuant to Fed. R. Bankr. Proc. 2003(e) as appropriate (without an objection to confirmation & motion to dismiss). Attendance of the Debtor and the Debtor's attorney will be required for any continued meeting of creditors. Such *procedural* problems include but are not limited to:

- Federal income tax return or tax transcript has not been filed with the Court and served upon the Trustee.
- 60 days worth of pay stubs have not been filed with the Court and served upon the Trustee.
- All compliance documents required in a composition plan or pot plan have not been filed with the Court and served upon the Trustee.
- The plan contains errors with plan payments, fixed payments, composition %, unsecured pot amount, feasibility, etc.
- Form B22C appears incomplete or incorrect.
- The plan does not provide for the payment of settlement or judgment proceeds regarding the Debtor's claim, cause of action, or lawsuit.
- The Debtor has not provided the name, address and telephone number of the person who holds a Domestic Support Obligation (DSO) claim against the Debtor.
- Evidence of student loan obligation has not been provided to the Trustee.

If the meeting of creditors is continued for any of the reasons above, the Trustee intends to file with the Bankruptcy Clerk a *Notice of Continuance of § 341 Meeting of Creditors* that will contain the basis for the continuance and the pleadings, documents or amendments needed from the Debtor that prevent the Trustee from recommending confirmation of the plan. An example of the *Notice* is attached hereto.

- C. At the continued meeting of creditors, if the identified issues and concerns have not been resolved, the Trustee attorney will, if appropriate, file an objection to confirmation and motion to dismiss with the appropriate recommendation for reduction of the Debtor's attorney fee pursuant to the *Administrative Order on Compensation in Chapter 13 Cases*, No. 06-04 (effective in cases filed on or after August 1, 2006).

The changes to the Trustee's procedure are intended to resolve, whenever possible, *procedural* issues during the 341 hearing process to preserve judicial economy, so that the Court may focus more of its resources at the confirmation hearings on deciding actual claims or controversies involving *substantive* legal issues and other appropriate matters.

II. Confirmation Hearings

- A. If the Debtor or Debtor's attorney files an amended plan, schedules, tax returns, pay stubs, or other documents less than 7 days before the confirmation hearing or during the confirmation hearing, the Trustee attorney will request a continuance of the confirmation hearing for a minimum of 7 days to review the new pleadings and documents. If appropriate, the Trustee attorney will recommend a reduction of up to \$500.00 in the Debtor's attorney fee pursuant to the *Administrative Order on Compensation in Chapter 13 Cases*, No. 06-04 (effective in cases filed on or after August 1, 2006).
- B. Thereafter, the Trustee will defer to the Court to decide the appropriate amount of attorney fee to be awarded based upon evidence provided by the Debtor's attorney in support of his or her attorney fee request.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

Debtor's Name:

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)
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Case No.:

NOTICE OF CONTINUANCE OF § 341 MEETING OF CREDITORS

COMES NOW D. Sims Crawford, Chapter 13 Standing Trustee, and files this Notice of Continuance of § 341 Meeting of Creditors pursuant to Fed. R. Bankr. Proc. 2003(e). The meeting of creditors has been continued to _____ based upon the following grounds:

- A copy of the Debtor's federal income tax return or transcript for the most recent tax year ending before the bankruptcy petition was filed has not been filed with the Court and served upon the Trustee.
- Copies of all payment advices or other evidence of payment from debtor's employer received within 60 days of the petition date have not been filed with the Court and served upon the Trustee.
- All compliance documents required in a composition plan or pot plan have not been filed with the Court and served upon the Trustee.
- The plan contains errors regarding the plan payments, the fixed payments, the composition percentage, the pot available for unsecured claims, feasibility, or other grounds.
- Form B22C appears to be incomplete or incorrect.
- The plan does not provide for the payment of settlement or judgment proceeds regarding the Debtor's claim, cause of action, or lawsuit.
- The Debtor has not provided the name, address and telephone number of the person who holds a Domestic Support Obligation (DSO) claim against the Debtor.
- The Trustee has not received evidence of the Debtor's student loan obligation.
- Other:

D. Sims Crawford
Chapter 13 Standing Trustee

By: _____