

YVONNE V. VALDEZ

Chapter 13 Trustee

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Date: _____

To: _____, Case #: _____

Dear Business Debtor:

According to the Schedules you have filed, we have identified you as a business debtor. Pursuant to the requirements of the U.S. Bankruptcy Code and the U.S. Trustee, we are required to make a review of your business operations.

Your case **CANNOT** be confirmed until this review is completed. Full cooperation with the Trustee is required as part of your duties under bankruptcy. Failure to cooperate in the review of your business may result in a motion by the Trustee, or other interested party, to dismiss or convert your case.

Attached is a document entitled "Sworn Testimony as to the Financial Affairs of the Debtor." You must mail this completed form, **along with copies of all requested documentation to the Trustee no later than 7 days prior to your § 341 Meeting of Creditors.**

You will be required to submit monthly profit and loss statements (MOR) beginning six months prior to filing bankruptcy until your plan has been confirmed. We use this information to determine if the projected income and expenses listed on your bankruptcy schedules is a reasonable basis for confirmation of your proposed plan. You should submit your statements on any form you or your bookkeeper currently utilize in your business, or, if none, you may use the form attached to this letter. If you use this form, make extra copies of it so that you will have a blank copy for each month you are required to submit the form.

We have also attached a list of general requirements applicable to a business case. Please read and familiarize yourself with these items as they apply to your situation.

If you have any questions regarding any of the above, please call your attorney.

Kind Regards,

Yvonne V. Valdez, Chapter 13 Trustee

Enclosures:

1. Sworn Testimony as to Financial Affairs
2. Duties and Responsibilities of Chapter 13 Business Debtors
3. Monthly Operating Report

DEBTOR: _____ CASE NO. _____

SWORN TESTIMONY AS TO THE FINANCIAL AFFAIRS
OF THE DEBTOR PURSUANT TO 11 U.S.C. 1302 (c)

This document shall form a part of the sworn testimony given before Yvonne V. Valdez, Chapter 13 Trustee, by the undersigned Debtor(s):

1. Do you swear or affirm that the information you are about to give in this document is the truth, the whole truth and nothing but the truth? Yes ___ No ___

 2. Before filing your petition in bankruptcy, did you read, sign and approve the correctness of the information about your assets, debts, income, expenses and financial transactions in documents called Schedules, Statement of Financial Affairs and Chapter 13 Plan?
Yes ___ No ___ If not, please explain:

 3. Are you presently self-employed or operating a business in the form of a corporation, partnership or other? Yes ___ No ___

If yes, when did you start your business? _____

If no, when did you stop operating your business? _____

 4. List current names and all past names used by the business (fictitious and corporate):

 5. Are ALL business assets that you owned at the time of filing your petition, including bank accounts, equipment, inventory, furnishings, and accounts receivable described and valued on Schedule B? Yes ___ No ___
If not, please explain: _____

 6. Are there any other additions, deletions or corrections that need to be made to the Schedules or Statement of Affairs in this case at this time? Yes ___ No ___
If so, please describe changes in the space below (attach additional sheets if necessary):

 7. Describe your business: _____

 8. Location(s) of Business: _____

- Do you own or lease the above business premises? _____
If leased, what is the name and address of the landlord? _____

9. If you do not own a business but are an independent contractor or otherwise paid on a 1099 basis, please describe the nature of your work and whether or not you do business with more than one individual entity. If more than one, how many? _____

10. List the names, addresses and percentage interest of all owners of the business including shareholders and amount of stock held by each if a corporation.

11. Do you have employees? Yes ___ No ___ If so, how many? _____

12. Do you withhold taxes for your employees? Yes ___ No ___

13. Are all tax returns that should have been filed with the IRS filed?

Yes ___ No ___ If no, what years and what type of returns are delinquent?

	<u>Year</u>	<u>Type of Tax</u>
a.	_____	_____
b.	_____	_____
c.	_____	_____
d.	_____	_____

14. Are all property taxes paid? Yes ___ No ___

15. Do you understand that while you are in Chapter 13 you must keep current with all of your business as well as your personal tax obligations? Yes ___ No ___

16. Do you have full insurance coverage on all assets of the bankruptcy estate?

Yes ___ No ___ If yes, with whom? _____

a.	Policy No. _____	Exp. Date _____
b.	Policy No. _____	Exp. Date _____
c.	Policy No. _____	Exp. Date _____

If no, why not? _____

17. Do you have liability coverage? Yes ___ No ___ If yes

a.	With Whom? _____
b.	Policy No. _____ Exp. Date _____

18. Is the business required to have any business licenses? Yes ___ No ___

If yes, please describe: _____

Are licenses current? Yes ___ No ___

19. Do you have an accountant/bookkeeper? Yes ___ No ___ If yes, provide:

a.	Name: _____
b.	Address: _____
c.	Telephone No. _____

If no, who is responsible for maintaining your business accounts and records? _____

20. What is the condition of your books and records? Good _____ Fair _____ Poor _____

21. Do either you or your bookkeeper/accountant regularly prepare profit and loss statements for your business? Yes _____ No _____. If yes, indicate if they are prepared monthly _____ quarterly _____ annually _____ other _____?

22. Are you leasing any business equipment? Yes _____ No _____

If yes, please describe the equipment and the terms of the lease:

23. Is your business seasonal? Yes _____ No _____.
If yes, specify your good months and the reasons for fluctuation. _____

24. Have you read the attached document "Duties and Responsibilities of Chapter 13 Business Debtors?" Yes _____ No _____

I solemnly swear or affirm that I will faithfully carry out the duties and responsibilities of a Debtor under Chapter 13 and that the information contained in my Bankruptcy Schedules, Statement of Affairs, and in this Sworn Testimony and all attached documents, is true and correct

Dated:

Debtor:

Co-Debtor:

Copies of the following documents must be submitted to the Trustee with this completed form. Indicate the documents attached. If not applicable to your business, write N/A.

- _____ Personal and Business Income Tax Returns for the past 2 years-include all 1040's, 1041's, 1120's and 1065's.
- _____ Sales tax returns for the past 2 reporting quarters.
- _____ Payroll tax returns for the past 2 reporting quarters.
- _____ Profit and loss statements (MOR) for the 6 months prior to filing bankruptcy and each month thereafter until confirmation of the plan.
- _____ Any financial statement prepared and given to third parties in the 12 months prior to filing bankruptcy if available.

This information will be used to compile the Trustee's report of investigation of your business that will be filed with the bankruptcy court. The report will include a statement concerning the acts, conduct, assets, liabilities, and financial condition of you, the debtor, the operation of your business and the desirability of the continuance of such business, and any other matter relevant to the case or to the formulation of a plan.

MONTHLY OPERATING REPORT (MOR)

Month _____ Year _____ Case # _____

(Include business expenses only - NO personal household expenses)

INCOME

- 1. Gross Receipts of Sales..... \$ _____
- 2. Cost of Goods Sold..... \$ _____
- 3. Gross Profit (subtract line 2 from line 1)..... \$ _____
- 4. Other Income..... \$ _____
- 5. Gross Income (add lines 3 and 4)..... \$ _____

EXPENSES

- 6. Business Property - Rent/Lease..... \$ _____
- 7. Salaries & Wages of Employees..... \$ _____
- 8. Employee Benefits..... \$ _____
- 9. Equipment Lease Payments..... \$ _____
- 10. Secured Debt Payments..... \$ _____
- 11. Supplies..... \$ _____
- 12. Utilities..... \$ _____
- 13. Telephone..... \$ _____
- 14. Repairs & Maintenance (Real Property)..... \$ _____
- 15. Fuel & Vehicle Maintenance..... \$ _____
- 16. Miscellaneous Office Expenses..... \$ _____
- 17. Advertising..... \$ _____
- 18. Travel & Entertainment..... \$ _____
- 19. Accounting & Bookkeeping..... \$ _____
- 20. Legal Fees..... \$ _____

Attorney Name: _____ Purpose: _____

- 21. Insurance:
 - 21(a) Liability \$ _____
 - 21(b) Property \$ _____
 - 21(c) Vehicle \$ _____
 - 21(d) Worker's Compensation \$ _____
 - 21(e) Other _____ \$ _____
- 22. Taxes:
 - 22(a) Payroll \$ _____
 - 22(b) Sales \$ _____
 - 22(c) Other _____ \$ _____
- 23. Other..... \$ _____
- 24. Total Expenses (add lines 6 through 23)..... \$ _____

TOTAL PROFIT (LOSS) FOR THE MONTH (subtract line 24 from line 5).. \$ _____

I/WE declare under penalty of perjury that the information provided is true and correct to the best of my/our knowledge, information and belief.

Date: _____ Debtor _____

Debtor _____

DUTIES AND RESPONSIBILITIES OF CHAPTER 13 BUSINESS DEBTORS

1. Make an entry on your books and records to indicate clearly the date of your bankruptcy filing. All business transactions conducted after your bankruptcy filing must be documented on your books and records. You may be asked to produce your books and records for inspection by the Trustee at any time during the course of your Chapter 13 case.
2. It is your responsibility to get and maintain comprehensive liability insurance for the operation of the business. Failure to obtain and maintain such insurance could result in the dismissal of the case.
3. You must have Court approval to use "cash collateral" such as rents or accounts receivable in which any creditor has a security interest. You will need to speak with your attorney immediately about obtaining Court permission for its use.
4. You should review your plan carefully. Payments which are to be made by you directly to your creditors should start at once. You should not wait until the meeting of creditors.
5. Plan payments to the Trustee's office should also start on schedule. Your first plan payment is due 30 days after the petition is filed. The mailing address for payments to the Trustee is P.O. Box 703, Memphis, TN 38101-0703.
6. All tax returns and reports should be filed on time with the appropriate tax authority. All delinquent returns must be filed prior to the § 341 Meeting of Creditors.
7. All tax payments - income, sales, property, etc - should be made on time and in full. If you have employees, you should be sure that all employee withholding taxes incurred after your filing date are paid regularly to the proper tax authorities.
8. Quarterly estimated income tax payments to the federal government should be made each January, April, June and September so as not to incur any unpaid income tax obligation when your returns are filed each April.
9. You should send complete copies of all federal and business income tax returns to the Trustee each year by April 15th, or the deadline designated by the Internal Revenue Service.
10. You must obtain Court approval for any sale or other disposition of property or any borrowing which is outside the ordinary course of your business. When in doubt, ask your attorney.