

**VBA Bankruptcy Committee
Bench-Bar Brown Bag Lunch Meeting
With
Colleen A. Brown, U.S. Bankruptcy Judge
Tuesday, February 13, 2007
12:30 pm – 2:00 pm**

United States Bankruptcy Court, Burlington
Participation may be in person or via the telephone

The topics for this information discussion may include:

1. Update from task force re post-petition invoices - Jan Sensenich
2. Should a standing order be entered now to amend Vt LBR 4001-3(b) to increase refinance amount from \$5,000 to \$15,000 (attached)
3. New Standing Orders:
 - 07-03 Presumed Reasonable Fees (attached)
 - 07-02 IRS Address (attached)
4. Department of Justice Bankruptcy Fraud Hotline (attached)
5. Status to form Litigation Subcommittee of the Bankruptcy Committee - Robert DiPalma
6. CM/ECF tip of the day – Kathy Ford
7. Update on Strategic Plan – Tom Hart
8. Bench-Bar Brown Bag Lunch Meeting Schedule – Next meeting March 20, 2007, Rutland.

These Bench-Bar Lunches are coordinated by the Bankruptcy Court Chambers and Clerk's Office.
Questions? Call Thomas J. Hart at 802-776-2002

No fee, no pre-registration required. Soft drinks and bottled water will be provided.

Vt. LBR 4001-3. OBTAINING CREDIT

(a) Generally. Except for Chapter 13 debtors seeking to borrow funds to purchase motor vehicles, see paragraph (b), below, parties seeking to obtain credit should follow the same procedures as described in Vt. LBR 4001-2.

(b) Purchase of a Motor Vehicle During a Chapter 13 Case. In order to borrow funds to purchase a motor vehicle, a debtor must request a “Certificate of Approval” from the Chapter 13 trustee upon ten (10) days’ notice to all parties in interest, and satisfactorily demonstrate that the purchase of the motor vehicle:

- (1) may be accomplished for a sum not in excess of \$5,000;
- (2) is necessary to ensure the debtor has reliable transportation; and
- (3) is reasonably necessary to the debtor’s successful completion of his/her plan.

In addition, the debtor’s request for a Certificate of Approval shall include a description of the motor vehicle sought to be purchased (e.g., make, model, year), its purchase price, the proposed lender of the funds, the terms of financing, and how the debtor proposes to make any down payment on the purchase of the motor vehicle. If no objections are timely filed, then after expiration of the notice period, the Chapter 13 trustee may issue a Certificate of Approval authorizing the debtor to borrow up to \$5,000 to purchase the motor vehicle in accordance with the debtor’s request. If a timely objection is filed, then the matter shall be set for a hearing. Where a debtor wishes to purchase a motor vehicle but cannot satisfy the requirements of this Rule, he/she must seek Court approval to do so. (Note: A motion seeking Court approval shall include substantially all the information required by this Rule together with an explanation as to why the movant cannot comply with the Rule.

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

In re:

**MODIFICATION OF
LOCAL RULES OF PRACTICE AND
PROCEDURE IN BANKRUPTCY COURT,
DISTRICT OF VERMONT**

STANDING ORDER # 07-03

**TO AMEND VT. LBR 2016-1 & 2 REGARDING
PRESUMED REASONABLE ATTORNEY FEES
IN CHAPTER 13 CASES**

WHEREAS since the local rules addressing attorney's fees were enacted, there have been several new obligations placed upon attorneys and many changes in the scope of work required to obtain chapter 13 bankruptcy relief, primarily as a result of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA"); and

WHEREAS fulfillment of these new obligations, compliance with the new law, and diligent representation of debtors in post-BAPCPA cases has necessarily increased the amount of time attorneys need to expend, and has reasonably increased the fee charged by attorneys, to represent chapter 13 debtors; and

WHEREAS it is vitally important that attorneys be compensated fairly for their time, both because it is just and because it enhances the likelihood that there will be competent attorneys available to represent chapter 13 debtors in this District;

THEREFORE, IT IS HEREBY ORDERED that the presumed reasonable fee for representation of a debtor (or joint debtors) in a chapter 13 case in this District will be twenty-five hundred dollars (\$2,500), and accordingly, Vt. LBR 2016-2(a) is amended, effective today, to read as follows:

Presumed Reasonable Fee in Chapter 13 Case. A fee of \$2,500 or less shall be presumed reasonable and may be allowed as an administrative expense in a chapter 13 case unless an objection is filed and sustained or the Court, *sua sponte*, determines otherwise. If the fee sought is over \$2,500, the plan must set forth the reason the higher fee is warranted in the case. Attorneys must maintain time records and be prepared to demonstrate the reasonableness of their fees, regardless of the amount charged.

IT IS FURTHER ORDERED that Vt. LBR 2016-1(f) is also amended, effective today, to specify that the list of required services to be performed in connection with the payment of a chapter 13 flat fee includes: (i) the filing of a pre-petition credit counseling certificate, pursuant to § 109(h) and a post-petition debtor financial management certificate, pursuant to § 1328(g); and (ii) the filing of a motion for discharge, pursuant to Standing Order # 06-10.

SO ORDERED.

Rutland, Vermont
February 2, 2007



Colleen A. Brown
U.S. Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

In re:

**MODIFICATION OF
LOCAL RULES OF PRACTICE AND
PROCEDURE IN BANKRUPTCY COURT,
DISTRICT OF VERMONT**

**STANDING ORDER
07-02**

**REGARDING THE FILING OF CERTIFICATION
OF A DEBTOR'S COMPLETION OF REQUIRED
FINANCIAL MANAGEMENT COURSE ; AND
NECESSITY FOR *NUNC PRO TUNC* MOTIONS**

WHEREAS Federal Rule of Bankruptcy Procedure 1007(b)(7) [Interim] states:

An individual debtor in a chapter 7 or chapter 13 case shall file a statement regarding completion of a course in personal financial management, prepared as prescribed by the appropriate Official Form.

WHEREAS Federal Rule of Bankruptcy Procedure 1007(c) [Interim] states in pertinent part:

. . . In a chapter 7 case, the debtor shall file the statement required by subdivision (b)(7) within 45 days after the first date set for the meeting of creditors under § 341 of the Code, and in a chapter 13 case no later than the date when the last payment was made by the debtor as required by the plan or the filing of a motion for a discharge under § 1328(b). . . .

WHEREAS 11 U.S.C. § 727 states in pertinent part:

(a) The court shall grant the debtor a discharge, unless –

 (11) after filing the petition, the debtor failed to complete an instructional course concerning personal financial management

WHEREAS this Court's Standing Order # 06-08 states in pertinent part:

. . . Every individual debtor in a chapter 7 or 13 must file the Official Form 23 *Debtor's Certification of Completion of Instructional Course Concerning Personal Financial Management*. Failure to file Official Form 23 by the 45th day after the first meeting of creditors in a chapter 7 case, or the date either the last payment is due from the debtor (under the terms of the confirmed plan) or the date the debtor files a motion for entry of discharge under § 1328(b) in a chapter 13 case, may result in the case being closed without a discharge.

It appears that there may be instances where debtors will seek to file such a Certification after the time period for filing has expired, in order to obtain a discharge, and a procedure for addressing such circumstances is necessary.

THEREFORE, IT IS HEREBY ORDERED that if a debtor fails to file timely the Official Form 23 *Debtor's Certification of Completion of Instructional Course Concerning Personal Financial Management* (Form 23)ⁱ and seeks to file it thereafter, the debtor must file a motion to extend the time, *nunc pro tunc*, on notice to those parties designated under Federal Rule of Bankruptcy Procedure 1007(c) [Interim], and demonstrate cause to extend the time.

IT IS FURTHER ORDERED that a motion for discharge will not be granted unless the debtor has filed a *Debtor's Certification of Completion of Instructional Course Concerning Personal Financial Management* (Form 23) within the timeframe specified in Federal Rule of Bankruptcy Procedure 1007(c) [Interim] or has obtained an order extending the time *nunc pro tunc*.

IT IS FURTHER ORDERED that if a case is closed without entry of a discharge due to the debtor's failure to file timely a *Debtor's Certification of Completion of Instructional Course Concerning Personal Financial Management* (Form 23), the debtor may move to reopen the case to file it. The motion to reopen must (i) include a request to extend time to allow the late filing of the certification, (ii) be on notice to those parties designated under Federal Rule of Bankruptcy Procedure 1007(c) [Interim], (iii) demonstrate cause to extend the time and (iv) be accompanied by a filing fee.

SO ORDERED.

Rutland, Vermont
January 12, 2007



Colleen A. Brown
United States Bankruptcy Judge

ⁱ i.e., within 45 days after the first date set for the meeting of creditors under § 341 of the Code in a chapter 7 case, or either the date the last payment is due from the debtor (under the terms of the confirmed plan) or the date the debtor files a motion for entry of discharge under § 1328(b) in a chapter 13 case.



ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

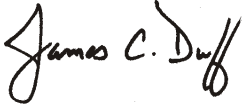
JAMES C. DUFF
Director

WASHINGTON, D.C. 20544

February 6, 2007

MEMORANDUM

To: Chief Judges, United States Bankruptcy Courts
Clerks, United States Bankruptcy Courts

From: James C. Duff 

RE: DEPARTMENT OF JUSTICE (DOJ) BANKRUPTCY FRAUD HOTLINE
(ACTION REQUESTED)

As part of the DOJ's efforts to combat bankruptcy fraud and abuse, and to protect the integrity of the bankruptcy system, the Executive Office of the United States Trustees (EOUST) launched an Internet hotline which will allow the public to report suspected instances of bankruptcy fraud to the EOUST. A link to the hotline has been added to the United States Trustee homepage and to the website for the Federal Bureau of Investigation. To raise public awareness of the hotline, as well as highlight the important role the public can play in assisting with the prevention and prosecution of bankruptcy fraud, the EOUST has requested that the Administrative Office ask all bankruptcy courts to consider adding a hotline link to their websites.

To that end, following is the DOJ hotline web link which details the information the public should provide: <http://www.usdoj.gov/ust/eo/fraud/index.htm>. Please consider adding this link to your court's website. For courts in North Carolina and Alabama, corresponding links to bankruptcy administrator web pages should be developed.

If you have any questions about the web page, please contact Monique Bourque, Chief Information Officer, EOUST, at (202) 353-3548.

cc: Bankruptcy Administrators
Monique Bourque