

HOW TO APPLY FOR PAYMENT OF UNCLAIMED FUNDS

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Under 28 U.S.C. § 2042, a party entitled to unclaimed funds "...may, on petition to the court, and upon notice to the U.S. attorney and full proof of the right thereto, obtain an order directing payment to him." This document describes this court's procedure for applying for payment of unclaimed funds.

HOW DO YOU KNOW IF THIS COURT HAS UNCLAIMED FUNDS FOR YOU?

This court's listing of funds deposited with us as "unclaimed" in a case is available on our website at http://www.vtb.uscourts.gov/issues/unclaimed_funds.php. This list is sorted alphabetically by the name of the person(s) or organization for whom the court is maintaining unclaimed funds ("Creditor Name" or the "Owners of Record").

WHO CAN CLAIM FUNDS?

Three types of people/organizations may claim funds:

- **Owners of Record:** the person shown in the courts' records as the owner of the funds (creditor).
- **Successor Claimants:** business successors, decedents estates, assignees, judgment creditors, etc., who now have direct claims to the funds but are not the owners of record.
- **Claimant Representatives:** typically funds locators who act on behalf of owners of record/successor claimants.

HOW CAN YOU CLAIM FUNDS?

OWNERS OF RECORD

When a claimant contacts the court to request unclaimed funds as owner or record, the claimant must submit an application to the court requesting release of the funds. To verify the claimant's identity as owner of record, the claimant must provide to the court the following:

1. An Application for Payment of Unclaimed Funds (see sample documents) that includes:
 - a. the case number;
 - b. the exact amount being claimed;
 - c. the full name, address, and telephone number of the claimant;
 - d. a statement that, under penalty of perjury, the information being provided is true to the best of the claimant's knowledge, information, and belief;
 - e. a notarized signature of the claimant;
 - f. the social security or tax identification number of the claimant; and
 - g. a brief history of the claim from the time of filing the original claim to the present, addressing possible reasons why the funds were not deliverable at the time of the initial distribution, such as change of address.
2. Supporting Documentation. This includes any documentation that supports the application.

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3. Certificate of Service indicating the date that the claimant sent a copy of the application to the U.S. Attorney for the District of Vermont (see Sample Documents) and how the claimant sent the application (e.g. U.S. Mail, Fax, courier).
4. Proposed Order (see Sample Documents). The Proposed Order must include, at minimum:
 - a. the case number and name(s) of the debtor(s) in the case;
 - b. the exact amount being claimed; and
 - c. the name of the creditor/claimant and the mailing address to which the check should be mailed.

The claimant must send a copy of the application and supporting documentation to the U.S. Attorney for the District of Vermont:

United States Courthouse and Federal Building
P.O. Box 570
11 Elmwood Avenue, 3rd Floor
Burlington, VT 05402-0570
Fax: 802-951-6540

The U.S. Attorney has 20 days to object to the application.

SUCCESSOR CLAIMANTS

Unclaimed funds may be claimed by (1) successor businesses, (2) an entity to which the original claim was transferred, or (3) an administrator, executor, or representative of a decedent's estate.

SUCCESSOR BUSINESSES

When a successor business claimant applies for release of unclaimed funds, the successor claimant must submit an application to the court requesting release of the funds, including the following:

1. An Application for Payment of Unclaimed Funds (see sample documents) that includes:
 - a. the case number;
 - b. the exact amount being claimed;
 - c. full name of the owner of record;
 - d. the full name, address, and telephone number of the successor claimant;
 - e. the tax identification number of the successor claimant;
 - f. a brief history of the claim from the time of filing the original claim to the present, addressing possible reasons why the funds were not deliverable at the time of the initial distribution.
 - g. a statement of the signing officer's authority;

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- h. a statement that, under penalty of perjury, the information being provided is true to the best of the claimant's knowledge, information, and belief; and
 - i. a notarized power of attorney signed by an officer of the successor business.
2. Supporting Documentation that establishes chain of ownership from the original business claimant.
3. Certificate of Service indicating the date that the successor claimant sent a copy of the application to the U.S. Attorney for the District of Vermont (see Sample Documents) and how the claimant sent the application (e.g. U.S. Mail, Fax, courier).
4. Proposed Order (see Sample Documents). The Proposed Order must include, at minimum:
 - a. the case number and name(s) of the debtor(s) in the case;
 - b. the exact amount being claimed; and
 - c. the name of the successor claimant and the mailing address to which the check should be mailed.

The successor claimant must send a copy of the application and supporting documentation to the U.S. Attorney for the District of Vermont:

United States Courthouse and Federal Building
P.O. Box 570
11 Elmwood Avenue, 3rd Floor
Burlington, VT 05402-0570
Fax: 802-951-6540

The U.S. Attorney has 20 days to object to the application.

TRANSFERRED CLAIMS

When a successor claimant holding a transferred claim applies for release of unclaimed funds, the successor claimant must submit an application to the court requesting release of the funds, including the following:

1. An Application for Payment of Unclaimed Funds (see sample documents) that includes:
 - a. the case number;
 - b. the exact amount being claimed;
 - c. proof of identity of the owner of record;
 - d. proof of identity of the successor claimant;
 - e. the full name, address, and telephone number of the successor claimant;
 - f. the tax identification number of the successor claimant; and

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- g. a statement that, under penalty of perjury, the information being provided is true to the best of the claimant's knowledge, information, and belief.
2. Supporting Documentation must include evidence documenting the transfer of claim.
3. Certificate of Service indicating the date that the successor claimant sent a copy of the application to the U.S. Attorney for the District of Vermont (see Sample Documents) and how the claimant sent the application (e.g. U.S. Mail, Fax, courier).
4. Proposed Order (see Sample Documents). The Proposed Order must include, at minimum:
 - a. the case number and name(s) of the debtor(s) in the case;
 - b. the exact amount being claimed; and
 - c. the name of the successor claimant and the mailing address to which the check should be mailed.

The successor claimant must send a copy of the application and supporting documentation to the U.S. Attorney for the District of Vermont:

United States Courthouse and Federal Building
P.O. Box 570
11 Elmwood Avenue, 3rd Floor
Burlington, VT 05402-0570
Fax: 802-951-6540

The U.S. Attorney has 20 days to object to the application.

DECEDENT'S ESTATE (ADMINISTRATOR, EXECUTOR, REPRESENTATIVE)

When the owner of record is deceased, an administrator, executor, or representative of the decedent's estate may apply for release of unclaimed funds by submitting an application to the court requesting release of the funds, including the following:

1. An Application for Payment of Unclaimed Funds (see sample documents) that includes:
 - a. the case number;
 - b. the exact amount being claimed;
 - c. proof of identity of the owner of record;
 - d. proof of identity of the estate administrator;
 - e. the full name, address, and telephone number of the estate administrator;
 - f. the social security number or tax identification number of the estate administrator; and
 - g. a statement that, under penalty of perjury, the information being provided is true to the best of the claimant's knowledge, information, and belief.

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2. Supporting Documentation must include certified copies of probate documents establishing the representative's right to act on behalf of the decedent's estate.
3. Certificate of Service indicating the date that the successor claimant sent a copy of the application to the U.S. Attorney for the District of Vermont (see Sample Documents) and how the claimant sent the application (e.g. U.S. Mail, Fax, courier).
4. Proposed Order (see Sample Documents). The Proposed Order must include, at minimum:
 - a. the case number and name(s) of the debtor(s) in the case;
 - b. the exact amount being claimed; and
 - c. the name of the successor claimant and the mailing address to which the check should be mailed.

The successor claimant must send a copy of the application and supporting documentation to the U.S. Attorney for the District of Vermont:

United States Courthouse and Federal Building
P.O. Box 570
11 Elmwood Avenue, 3rd Floor
Burlington, VT 05402-0570
Fax: 802-951-6540

The U.S. Attorney has 20 days to object to the application.

CLAIMANT REPRESENTATIVES (I.E. FUNDS LOCATORS)

When a representative of the owner of record or successor claimant petitions the court for release of unclaimed funds, the claimant representative must submit an application to the court requesting release of the funds, including the following:

1. An Application for Payment of Unclaimed Funds (see sample documents) that includes:
 - a. the case number;
 - b. the exact amount being claimed;
 - c. proof of identity of the owner of record;
 - d. a notarized, original power of attorney signed by the claimant on whose behalf the representative is acting;
 - e. proof of identity of the representative;
 - f. the full name, address, and telephone number of **both** the claimant and the claimant representative;
 - g. the social security number or tax identification number of **both** the claimant and the claimant representative; and

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- h. a statement that, under penalty of perjury, the information being provided is true to the best of the claimant's knowledge, information, and belief.
2. Supporting Documentation must be sufficient to establish the claimant's entitlement to the funds.
3. Certificate of Service indicating the date that the claimant representative sent a copy of the application to the U.S. Attorney for the District of Vermont (see Sample Documents) and how the claimant representative sent the application (e.g. U.S. Mail, Fax, courier).
4. Proposed Order (see Sample Documents). The Proposed Order must include, at minimum:
 - a. the case number and name(s) of the debtor(s) in the case;
 - b. the exact amount being claimed; and
 - c. the names of both the claimant and the claimant representative and the mailing address to which the check should be mailed.
5. The court will not issue a check payable solely to a claimant representative (funds locator). The court will issue one check in the name of the rightful owner of record (the claimant) only or jointly to both the claimant **and** the funds locator, if authorized by the power of attorney. The court will not make a separate payment to the fund locator to split out its fee or commission. If the power of attorney requests that the court send the payment directly to a representative claimant, the court will notify the owner of record of the disbursement.

The claimant representative must send a copy of the application and supporting documentation to the U.S. Attorney for the District of Vermont:

United States Courthouse and Federal Building
P.O. Box 570
11 Elmwood Avenue, 3rd Floor
Burlington, VT 05402-0570
Fax: 802-951-6540

The U.S. Attorney has 20 days to object to the application.

WHAT HAPPENS NEXT?

The court will verify that the requested funds remain on deposit with the court and review the application, supporting documentation, certificate of service, and proposed order for completeness. The court may schedule a hearing if there are questions or if a dispute arises. The U.S. Attorney has 20 days to object the application.

After the order is signed, the court will issue a check to the claimant or jointly to the claimant and a funds locator, depending on the circumstances. If an individual signed/submitted the application on behalf of a business entity, then the court will issue the check in the name of the business entity.

Any indication of fraud will be referred to the U.S. Attorney.

QUESTIONS?

Please feel free to contact our financial administrator:

U.S. Bankruptcy Court, District of Vermont
P.O. Box 1663
Burlington, VT 05402-1663
Voice: 802-657-6403
E-mail: theresa_davidson@vtb.uscourts.gov

SAMPLE DOCUMENTS

Applicants may modify the following sample documents as necessary to provide a complete application package that meets all of the requirements described above.

Sample Application

Sample Affidavit of Claimant

Sample Affidavit of Funds Locator

Sample Certificate of Service

Sample Proposed Order

In re: _____

Case No. _____

Debtor(s)

Application for Payment of Unclaimed Funds

It appearing that a dividend check in the amount of \$_____ was issued by the trustee to _____, creditor in the above-referenced case.

It also appearing that said check was not negotiated by said payee, and the trustee, pursuant to 11 U.S.C. §347(a), delivered the unclaimed funds to the Clerk, U.S. Bankruptcy Court, District of Vermont. These funds are currently being held in the United States Treasury.

If applicant is a funds locator, this application includes a Power of Attorney authorizing the undersigned, _____ Attorney in Fact, to petition the Court on behalf of the claimant for the release of these funds. This application includes an Affidavit of the undersigned that he/she has made all reasonable efforts to believe that the person or entity claiming right to these funds is the legal owner of such funds.

The U.S. Attorney for the District of Vermont has been provided a copy of this application allowing 20 days from the date of service to file an objection to payment of the unclaimed funds.

Therefore, an application is made for an order directing the Clerk of Court to pay said unclaimed funds to the order of _____, applicant, and to _____, joint applicant, if the application is made jointly by a funds locator, and mail said check to the following address:
_____.

Dated: _____

Applicant or Attorney in Fact

Subscribed and Sworn Before Me this _____ day of _____, 20__.

Notary Public in and for the State of _____

My commission expires: _____

Affidavit of Claimant

I, _____, do hereby state that I am the claimant to the unclaimed funds referenced in this application and that I am, to the best of my knowledge, the legal owner of these funds. My mailing address and phone number are:

Address: _____ Phone No.: _____

My social security number is _____. If claimant is a business entity, the federal tax I.D. number of the business entity is _____.

Dated: _____

Claimant (or representative of Business Entity)

Subscribed and Sworn Before Me this _____ day of _____, 20____.

Notary Public in and for the State of _____
My commission expires: _____

Affidavit of Funds Locator

I, _____, have obtained the consent of the claimant to make application for the unclaimed funds as provided in this application. I have made all reasonable efforts required to believe to the best of my knowledge that _____ is legally entitled to the unclaimed funds referenced in this application. I am familiar with the State of Vermont requirements for acting in the capacity of Attorney in Fact.

Dated: _____

Attorney in Fact

Subscribed and Sworn Before Me this _____ day of _____, 20____.

Notary Public in and for the State of _____

My commission expires: _____

In re: _____

Case No. _____

Debtor(s)

Certificate of Service

I, _____, hereby certify that on _____, 20____, I forwarded the Application for Payment of Unclaimed Funds via _____, to the Office of the U.S. Attorney at P.O. Box 570, Burlington, Vermont, 05402-0570.

Dated: _____

Claimant (or Attorney in Fact)

In re:

Case No. _____

Debtor(s)

ORDER FOR PAYMENT OF UNCLAIMED FUNDS

IT APPEARING that the funds from the uncashed dividend check totaling \$ _____, payable to _____, a creditor in this case, was deposited in the registry account of the Clerk, United States Treasury, and that the proper recipient for said funds has now been located.

IT IS THEREFORE ORDERED that the application is granted and that the Clerk, U.S. Bankruptcy Court for the District of Vermont is ordered to pay these unclaimed funds in the amount of \$ _____ to the order of:

and mail the check to:

Burlington, Vermont

[DATE]

Colleen A. Brown
United States Bankruptcy Judge