

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF VERMONT**

IN RE. )  
 )  
IMPLEMENTATION OF )  
TEMPORARY RULE ON ELECTION OF )  
TRUSTEE IN CHAPTER 11 CASE UNDER )  
BANKRUPTCY REFORM ACT OF 1994 )

**GENERAL ORDER 95-3**

a) **REQUEST FOR AN ELECTION.** A request to convene a meeting of creditors for the purpose of electing a trustee in a Chapter 11 reorganization case shall be filed and transmitted to the U.S. Trustee, in accordance with Bankruptcy Rule 5005, within the time prescribed by 11 USC §1104(b). Pending Court approval of the person elected, a person appointed trustee under §1104(d) shall serve as trustee.

b) **MANNER OF ELECTION AND NOTICE.** An election of a trustee under 11 USC §1104(b) shall be conducted in the manner provided in Bankruptcy Rules 2003(b)(3) and 2006. Notice of the meeting of creditors convened under §1104(b) shall be given in the manner and within the time provided for notices under Bankruptcy Rule 2002(a). A proxy for the purpose of voting in the election may be solicited by a committee appointed under 11 USC §1102 and by any other party entitled to solicit a proxy under Bankruptcy Rule 2006.

c) **APPLICATION FOR APPROVAL OF APPOINTMENT AND RESOLUTION OF DISPUTES.** If it is not necessary to resolve a dispute regarding the election of the trustee, or if all disputes have been resolved by the Court, the U.S. Trustee shall promptly appoint the person elected to be trustee and file an application for approval of the appointment of the elected person under Bankruptcy Rule 2007.1(b), except that the application does not have to contain names of parties in interest with whom the U.S. Trustee has consulted. If it is necessary to resolve a dispute regarding the election, the U.S. Trustee shall promptly file a report informing the Court of the dispute. If no motion for the resolution of the dispute is filed within 10 days after the date of the creditors' meeting called under §1104(b), a person appointed by the U.S. Trustee in accordance with 11 USC §1104(d) and approved in accordance with Bankruptcy Rule 2007.1(b) shall serve as trustee.

**NOTE**

This temporary rule implements the amendments to 11 USC §1104 applicable in cases commenced on or after October 22, 1994, regarding the election of a trustee in a Chapter 11 case. The requirement that creditors receive at least 20 days' notice of the meeting may be reduced to a shorter period under Bankruptcy Rule 9006(c)(1).

The procedures for reporting disputes to the Court, and the time limit for filing a motion to resolve any disputes derive from Bankruptcy Rule 2003(d). Because the person elected must be "disinterested," the U.S. Trustee must file an application for Court approval of the elected person in accordance with Bankruptcy Rule 2007.1(b).

This temporary rule shall become effective immediately. So Ordered.

DATED at Rutland, Vermont, this 7<sup>th</sup> day of March, 1995



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Francis G. Conrad  
U.S. Bankruptcy Judge