

PART IV
THE DEBTOR: DUTIES AND BENEFITS

Rule 4001-1
RELIEF FROM THE AUTOMATIC STAY

- (a) **STANDING MODIFICATION.** The automatic stay provided in 11 U.S.C. § 362(a) is modified as follows:
- (1) Chapter 7.
 - (A) Secured Creditors. The automatic stay shall be modified as provided in Local Bankruptcy Rule 4001-2(a).
 - (B) Internal Revenue Service. The Internal Revenue Service is authorized to:
 - (i) make income tax refunds, in the ordinary course of business, directly to the debtors unless otherwise ordered by the court or otherwise instructed by the chapter 7 trustee;
 - (ii) offset against any refund due a debtor any taxes due the United States government pursuant to 11 U.S.C. § 553;
 - (iii) assess any tax liability satisfied by offsetting any refunds, when such liability has not been assessed previously; and
 - (iv) assess tax liabilities shown on voluntarily filed returns and other agreed-to liabilities.
 - (2) Chapter 11.
 - (A) Internal Revenue Service.
 - (i) The Internal Revenue Service may contact the debtor or the trustee and the debtor's depository to verify that all required tax deposits are being made and reported and that all tax returns are being filed and remittances paid in the manner prescribed by law.
 - (ii) The debtor or trustee and the debtor's designated depository shall assist the Internal Revenue Service with the monitoring and verification of the provisions of this rule.
 - (B) North Carolina Department of Revenue.
 - (i) The North Carolina Department of Revenue may contact the debtor or the trustee and the debtor's depository to verify that all required tax deposits are being made and reported and that all tax returns are being filed and remittances paid in the manner prescribed by law.
 - (ii) The debtor or trustee and the debtor's designated depository shall assist the North Carolina Department of Revenue with the monitoring and verification of the provisions of this rule.
 - (3) Chapter 12.
 - (A) Internal Revenue Service.
 - (i) The Internal Revenue Service may contact the debtor or the trustee and the debtor's depository to verify that all required tax deposits are being made and reported and that all tax returns are being filed and remittances paid in the manner prescribed by law.
 - (ii) The debtor or trustee and the debtor's designated depository shall assist the Internal Revenue Service with the monitoring and

verification of the provisions of this rule.

- (B) North Carolina Department of Revenue.
 - (i) The North Carolina Department of Revenue may contact the debtor or the trustee and the debtor's depository to verify that all required tax deposits are being made and reported and that all tax returns are being filed and remittances paid in the manner prescribed by law.
 - (ii) The debtor or trustee and the debtor's designated depository shall assist the North Carolina Department of Revenue with the monitoring and verification of the provisions of this rule.
- (4) Chapter 13.
 - (A) Secured Creditors. Secured creditors may:
 - (i) contact the debtor about the status of insurance coverage on property securing a claim; and
 - (ii) contact the debtor about any post confirmation payment in default if a confirmed plan provides for direct payments by the debtor to creditors.
 - (B) Internal Revenue Service. The Internal Revenue Service is authorized to:
 - (i) make income tax refunds, in the ordinary course of business, directly to the debtors unless otherwise ordered by the court or otherwise instructed by the standing chapter 13 trustee;
 - (ii) offset against any refund due a debtor any taxes due the United States government pursuant to 11 U.S.C. § 553;
 - (iii) assess any tax liability satisfied by offsetting any refunds, when such liability has not been assessed previously; and
 - (iv) assess tax liabilities shown on voluntarily filed returns and other agreed-to liabilities.
- (b) **RELIEF WITH RESPECT TO SURRENDERED PROPERTY IN CHAPTER 13 CASES.** If a chapter 13 debtor's plan provides that property is to be surrendered to a secured creditor, the order confirming the plan may provide for the modification of the automatic stay and co-debtor stay with respect to the property.
- (c) **MOTION FOR RELIEF FROM AUTOMATIC STAY.**
 - (1) Secured creditors seeking relief from the automatic stay on grounds of post-petition default by the debtor must specify in a motion that they seek relief on grounds of the debtor's default and must itemize, with specificity, all amounts alleged to be past due.
 - (2) If no response is filed, the motion may be granted without a hearing. If a response is filed, a debtor must comply with the requirements of Local Bankruptcy Rule 9014-1(f). Upon the debtor's request, the creditor shall immediately transmit the debtor's payment history to counsel for the debtor (or to the pro se debtor) by electronic or facsimile transmission or other expedited means.
- (d) **MOTION FOR CONTINUANCE OR IMPOSITION OF AUTOMATIC STAY.** The court may, in its discretion, rule on a motion for continuation or imposition of the automatic stay under 11 U.S.C. § 362(c)(3)(B) and § 362(c)(4)(B) without hearing if:
 - (1) the debtor files a motion for continuation of the automatic stay within 5 days of the petition date;

- (2) no objection is filed by a party in interest;
- (3) the motion is accompanied by a notice of motion and the debtor's affidavit with sufficient facts to support the motion; and
- (4) the motion and accompanying documents are timely served on all creditors and the trustee, if one has been appointed, contemporaneous with the filing of the motion.

Rule 4001-2
SECURED CREDITOR DUTIES

- (a) A secured creditor may send all payment coupons or statements of account that the creditor provides to its non-bankruptcy customers as follows:
 - (1) To chapter 7 debtors who have indicated, in their statement of intention, their intent to retain the secured creditor's collateral by complying with the terms of the contract.
 - (2) To chapter 13 debtors who have indicated in their proposed chapter 13 plan their intent to retain the secured creditor's collateral by complying with the terms of the contract.
- (b) The transmission of the payment coupons or statements of account shall not violate the automatic stay or the debtor's discharge injunction.
- (c) If a secured creditor, in its ordinary course of business, does not provide payment coupons and statements of account, then upon request by the debtor, that secured creditor shall provide the debtor with a telephone number or other means to access account information that would normally be provided by the payment coupons or statements of account
- (d) A secured creditor shall respond promptly to a trustee or debtor's reasonable requests for account information.

Rule 4002-1
DEBTOR DUTIES

- (a) The following shall apply to individual debtors in all cases.
 - (1) **FINANCIAL INFORMATION.** Every individual debtor shall bring to the meeting of creditors under § 341 and make available to the trustee evidence of current income, including copies of all payment advices or other evidence of payment, if any, with all but the last four digits of the debtor's social security number redacted, received by the debtor from an employer within 60 days before the filing of the petition.
 - (2) **TAX RETURN.** At the meeting of creditors under § 341, the debtor shall provide to the trustee a copy of the debtor's Federal income tax return for the most recent tax year ending immediately before the commencement of the case and for which a return was filed, including any attachments, or a transcript of the tax return, or provide a written statement that the documentation does not exist.
 - (3) The debtor's obligation to provide tax returns under Federal Bankruptcy Rules