

**WHAT YOU SHOULD
KNOW ABOUT YOUR
CHAPTER 13 CASE.**

This booklet contains answers to most of the questions in your Chapter 13 Bankruptcy. PLEASE READ IT COMPLETELY.

Your Chapter 13 Case Number is:

Attorney Name: _____

Address: _____

Phone #: _____

Huon Le
Chapter 13 Trustee
Augusta, Georgia

CONTACT INFORMATION

Mail payments to lockbox address:

Office of the Chapter 13 Trustee - **Augusta**
P.O. Box 102173
Atlanta, GA 30368-2173

Send overnight payments to:

Office of the Chapter 13 Trustee - **Augusta**
Lockbox #102173
100 South Crest Drive
Stockbridge, GA 30281

Website access:

www.chpl3aug.org

View your case information after you obtain a login and password at this website

Mail documents to:

Chapter 13 Trustee
P.O. Box 2127
Augusta, GA 30903

Send overnight documents to:

Chapter 13 Trustee
570 James Brown Blvd.
Augusta, GA 30901

Office hours:

8:30 a.m. to 5:00 p.m.
Monday through Friday
706-724-1039
706-724-1096

What you need to know about your Chapter 13 Case.

- ❖ This booklet contains answers to most of the questions in your Chapter 13 case. **READ IT COMPLETELY.** See page 27 for Frequently Asked Questions.
- ❖ **Start Making Plan Payments Immediately!** Your first payment is due within 30 days after your plan is filed. See page 11 for payment details.
- ❖ **Send NO Money to the Trustee's Office!** We do not accept payments in the Trustee's Office. Do not bring or mail payments to our office. All payments must be mailed to our bank lockbox.
- ❖ Cash, credit cards, and personal checks **ARE NOT ACCEPTED.** Hand-delivered payments are not accepted at the Trustee's Office, meetings, or hearings.
- ❖ Your **CASE NUMBER** and your **NAME** must be **PRINTED LEGIBLY** on your payment.
- ❖ Make all payments payable to **Chapter 13 Trustee - Augusta**

Notes: _____

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INTRODUCTION

Chapter 13 is a part of the United States Bankruptcy Code. It is a way for you to take charge of your personal financial situation, to repay your creditors in an orderly fashion without the loss of any of your property and without creditor collection pressure. What makes it work are your payments into the Trustee's Office for the benefit of your creditors. At the time you filed your petition, you filed a proposed repayment plan which assigns a portion of your earnings to the Trustee for the benefit of your creditors. Based on that wage assignment, we will send a Salary Deduction Order to your employer ordering them to withhold that amount of money from your earnings and to send it directly to the Trustee's Office. Until those deductions begin, it is your responsibility to make the payments to the Trustee's Office. The law requires those payments to begin within 30 days of the date your case was filed. We do not accept cash or personal checks so you must get a cashier's check, a postal money order, a bank money order or some other form of certified payment to pay to the Trustee's Office. You should save all of your receipts and bring them with you to court.

If you suffer any interruption of employment, it is still your responsibility to make the payments to the Trustee's Office. If your case becomes delinquent, we will file a Motion to Dismiss. That motion will be served on you by mail. If you receive a Motion to Dismiss from our office and you want to save your case, first contact your attorney to see what steps are available to you to avoid dismissal.

It is important for you to notify our office if your address changes during the pendency of the case. All notices, such as the Motion to Dismiss and annual statements showing the amount of money that has been received in your case and the amount of money disbursed to your creditors, will be forwarded to the address listed in our records.

If you change employers, you should give us the name and address of the new employer so that a new Salary Deduction Order can be issued.

When you send in payments, be sure to put your name and your case number on the money order. This will assist us in posting the money into the correct case. Also, if you call or write, please give us your case number. Your case number is on the notice that you received which instructed you to be here today.

You have been given this blue booklet which contains general information about the operation of the Chapter 13 program. As questions occur to you during your case, first refer to the blue book. If you are unable to find the answer, call your attorney or our office. The address to which you should send payments or any letters about your case is in the booklet. Please note that there are two different addresses. **Payments should be made payable and sent to the *Augusta Office of the Chapter 13 Trustee*, P.O. Box 102173, Atlanta, Georgia, 30368-2173.** Letters and correspondence should be sent to Office of the Chapter 13 Trustee, P.O. Box 2127, Augusta, Georgia, 30903.

The phone number where you can reach us with questions is (706) 724-1039. You may call us at (800) 292-2883 without long-distance charges if you live beyond the Augusta area.

Write your case number on the blue book. Keep it where you can find it and you will have all of the information together when you need it.

The Domestic Support Obligation Questionnaire should be filled out completely and accurately. Sign it, enter your Social Security number, and hand it in when you come up to the table at the 341 Meeting of the Creditors.

You must come back for a confirmation hearing. At that time, the Court will consider your plan and make a determination that it is feasible, that you can do it, that it is fair to you and your family, and that it is fair to your creditors. You must be present at that hearing.

The United States District Court has imposed a dress code for appearances in Federal Court in the Southern District of Georgia, which requires men to wear trousers, a dress shirt (with collar), and shoes; ladies are to wear dresses, pants or skirts with blouses, and shoes. If you are inappropriately dressed in the opinion of the court's security officers, you will not be allowed into the court room; your case will be put at the end of the docket and you will stay longer than otherwise would be required. That dress code applies to all appearances before the Bankruptcy Court.

The Bankruptcy Judges for this District have ruled that failure to file a required income tax return may be considered evidence of a bad faith bankruptcy filing and may warrant the dismissal of your case. If you have unfiled tax returns for any year, it is suggested that you immediately consult with your attorney to either file your returns or convince the taxing authorities that you are exempt from filing for that period.

At the time you filed your petition, schedules were attached to the petition listing all of your debts, all of your creditors, and all of your assets. You signed those schedules under oath and under penalty of perjury. It is necessary that your petition and schedules be complete and correct at the time you filed, at the time of this meeting, and at the time of your confirmation hearing. If additional debts, additional creditors, or additional assets have occurred to you since you filed your case, you should report that fact today. If additional assets or creditors occur to you after this meeting, you should take steps to see that your schedules are amended. Unless you testify to the contrary, it is assumed that the petition and schedules are complete and correct as filed.

As previously explained, you are protected from creditor collection pressure until your case is dismissed or discharged. In exchange for that protection, you are prohibited from changing your financial position. That is, you cannot create any new debt or sell any of your assets without the Court's permission. You cannot borrow money from banks, finance

companies, family members, or anyone else. You cannot sell any real or personal property belonging to you without permission of the Bankruptcy Court. If you feel it is necessary to enter into a credit transaction for emergency medical procedures, car repairs, or some other emergency, you must seek approval. You should contact your attorney and discuss the matter with him. He will advise you on whether or not he feels that you will be able to get approval. If he feels that it is possible, he will assist you in getting the credit transaction or the sale of property approved.

GENERAL CASE INFORMATION

CASE NUMBER

The Clerk assigned a case number when your Chapter 13 petition was filed. Your Chapter 13 case number is very important and is used by the Court and Trustee to access your case information. **Always write this number on all your payments and correspondence** and have the number available when you call the Trustee's Office.

YOUR ATTORNEY

Your attorney is the person who represents you during the life of your case. You should keep your attorney informed of all changes in your status, especially changes in employment, residence, phone number or marital status. You must call your attorney for ALL legal advice. The Trustee's Office cannot provide legal advice.

Attorney Responsibilities: Your attorney will file your petition and accompany you to the Meeting of Creditors, confirmation hearing, and any additional court hearings that may be necessary. Your attorney may need to provide additional services if a motion or objection is filed by creditors or the Trustee.

Attorney Fees: Your attorney's fees can be paid directly to your attorney or through your Chapter 13 plan. Be sure that you and your attorney have discussed whether additional legal services may be needed and whether the initial fees will cover the expected cost. All legal fees must be reviewed and approved by the Bankruptcy Court.

Changing Attorneys: If you wish to change your attorney, you may do so, but be sure that your new attorney notifies the Court and the Trustee that you have changed your attorney. Your present attorney may withdraw from your case but must receive the permission of the Court to do so.

THE OFFICE OF THE BANKRUPTCY COURT CLERK

The Clerk's Office will schedule all meetings and hearings and send notice of these important dates to all creditors listed in your petition, as well as to you and your attorney.

HEARINGS

341 Meeting of Creditors: The Trustee or the Attorney for the Trustee will conduct a Meeting of Creditors and review your budget along with the exemptions listed. The Attorney or the Trustee may file an Objection to Confirmation or Objection to Exemptions if you have not listed all your income or expenses, or if the exemptions you claimed are not proper. **You must notify the Trustee if additional creditors, additional debts, or additional assets have occurred to you since you filed your case.** You must notify the Trustee of these changes at the 341 Meeting of Creditors. If additional assets or creditors occur to you after the 341 Meeting, you should see your attorney to take steps to see that your schedules are amended. Unless you notify the Trustee to the contrary at this meeting, it is assumed that the petition and schedules are correct.

Confirmation Hearings: You must come back for a confirmation hearing. The date and time to appear at this hearing is on the notice you received for the 341 Meeting of Creditors. At this hearing, the Court will consider your plan and make a determination whether it is feasible and filed in good faith, i.e. that it is fair to you, your family, and your creditors. You **must** be

present at this hearing and dressed according to the dress code. If you are unable to attend due to an emergency, contact your attorney immediately.

Other Hearings: The Trustee or Attorney for the Trustee will be present at most hearings.

Dress Code for Hearings: If you are inappropriately dressed in the opinion of the Court Security Officers (CSO), they will not allow you into the courtroom. Your case will be put at the end of the docket and you will stay longer than otherwise would be required. The dress code applies to all appearances before the Bankruptcy Court.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA

IN RE: APPROPRIATE COURTROOM ATTIRE

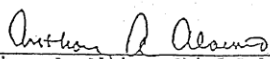
GENERAL ORDER

It appearing to the Court that a prescribed dress code for the courtroom is needed,

IT IS HEREBY ORDERED that all persons entering the United States Courtrooms for the Southern District of Georgia as spectators or participants shall be dressed in the following manner: Males shall wear long pants, dress shirts and shoes. Females shall wear dresses, long pants or skirts, blouses and shoes. Any deviation from this order shall be approved on a case by case basis by the presiding judge.

IT IS FURTHER ORDERED that this order shall be served on the United States Marshal and filed in the minutes of each division of the Clerk's Office for this district.

SO ORDERED, this 2nd day of December, 1988.



Anthony A. Alaimo, Chief Judge
United States District Court
Southern District of Georgia

THE TRUSTEE'S OFFICE

Contacting the Trustee's Office: You may contact the Chapter 13 Trustee's staff to ask non-legal questions about the administration of your case. Contact your attorney for answers to **legal** questions. The Trustee's Office will administer your case for the Court. You must keep the Trustee's Office informed of any changes in your status, such as address and employer.

Monthly Payments/Disbursements: The Trustee's Office will receive all your monthly payments and make disbursements to your creditors at the beginning of each month after your case has been confirmed.

Case Review: The Trustee's Office will review your case periodically or in response to circumstances which may change in your case.

Case Closing: The Trustee's Office will close your case once it has been completed as scheduled. Your Chapter 13 case may also be closed if a Dismissal or Conversion Order is received from the Court.

Trustee's Report on Confirmation: The Trustee's Office will mail you a copy of the Trustee's Report on Confirmation at the same time that copies are mailed to each of your creditors. This report has the confirmed date of your plan. It lists all creditors, their claim statuses, and claim amounts that are filed in your case. It also shows the percentage that will be paid to unsecured creditors at the approved monthly amount and according to the terms of your plan. You should examine it carefully to see that you understand the claims which are listed.

THE ANNUAL DEBTOR BALANCE LETTER

The Trustee's Office will send you and your attorney a report on your case once a year, on the anniversary of your confirmation date. The report shows:

1. The payments received by the Trustee's Office and posted to your case within the past twelve months.
2. Each claim in your case and the total disbursements made on each claim.

3. The amount of delinquency in your case, if any.

Please review each letter promptly and retain it for your records. If you have any questions about the information in your letter, you may call the Trustee's Office staff.

You can obtain a Status of Claims Report for your case at any time from our website or by contacting our office. The status report is a brief summary of the status of the claims in your case and is similar to the Debtor Balance Letter. Have your **case number ready** if you choose to contact our office.

BUSINESS CASES OPERATING REPORTS

Certain debtors with employers and all self-employed debtors are required by law to furnish the Trustee's Office with a **monthly operating report** of their finances. The Trustee's Office will review these reports for proper financial management in keeping with the debtor's plan. These reports must be filed each month as required by your plan or the Trustee may request the Court to dismiss your case.

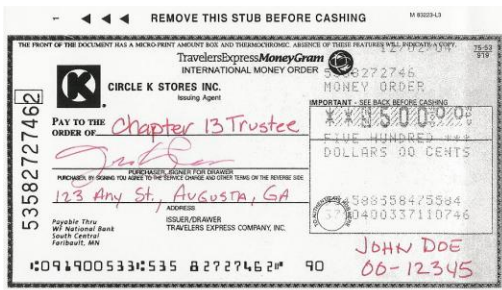
INCOME TAX RETURNS

The Bankruptcy Judges for this District have ruled that failure to file a required income tax return may be considered evidence of a bad faith bankruptcy filing and may warrant the dismissal of your case. If you have **unfiled tax returns** for any year, you need to immediately consult with your attorney to either file your returns or convince the taxing authorities that you are exempt from filing for that period.

PAYMENTS - YOUR RESPONSIBILITIES

The following items **must** be **NEATLY PRINTED** on all your payments:

1. Your **NAME**.
2. Your **CASE NUMBER**.
3. Make payable to **Chapter 13 Trustee-Augusta**



If your signature is unreadable, print your name near your case number.

4. **By law your first payment is due within 30 days of your case filing.** Failure to do so may result in your case being dismissed at the confirmation hearing. Succeeding payments are due no later than the 25th of each month.
5. The Chapter 13 Office **CANNOT** make payment arrangements. **Contact your attorney** to discuss your options if you are not able to make timely payments.
6. You are responsible for monthly payments at all times. If you have payroll deductions, you are responsible for verifying that the correct monthly payments are being deducted. You can visit our website www.chp13aug.org to verify your payments. You may also contact the Chapter 13 Office to verify if your plan payments are up-to-date.

Reconciling Payments: You should always keep copies of (1) your pay stubs that show the amounts that have been withheld for your bankruptcy case, and/or (2) the money orders or cashier's checks that you send directly to the lockbox

When you receive your Debtor Balance Letters, you should check to see that all the amounts have been posted in your case. Your employer's payroll office should be able to tell you which amounts have been withheld and forwarded to the Trustee's Office.

If you do not see a payment that should have been posted to your case, please contact the Trustee's Office with details of employer checks, money order numbers, dollar amounts and dates.

If you believe that your employer is not remitting all amounts withheld from your payroll, you should advise your attorney of the facts. Your attorney may decide to notify the Trustee's Office of serious problems.

If a money order or cashier's check has been lost, you may need to have the issuer of your money order or cashier's check trace the payment and reissue it.

DEBTOR ADDITIONAL RESPONSIBILITIES

Change of Address: You must notify our office if your address changes during the duration of your case. Address changes must be submitted in writing to the Chapter 13 Office.

Change of Name: Contact your attorney for name changes.

PAYROLL DEDUCTIONS

If you have an employer, your monthly Chapter 13 payments must be withheld from your paycheck by your employer and forwarded to the Trustee's Office.

Salary Deduction Order: A Salary Deduction Order (SDO) is mailed to your employer requiring your monthly Chapter 13 payments to be withheld and forwarded to the Trustee's Office. You and your attorney will be mailed copies of the order at the same time.

By issuing the Salary Deduction Order, the Court is simply carrying out its duty to administer the plan that you voluntarily filed and in which you gave the Court jurisdiction over your future payments during the course of the plan

The Salary Deduction Order is not an "attachment" or "garnishment". An attachment or garnishment can only be issued by someone to whom you owe money. You do not owe the Court any money; you are making an attempt to pay your debts, with the assistance of the Court, instead of avoiding them.

Employer Information: The Trustee's Office uses the employer information that you provided to your attorney on your petition or in subsequent correspondence to prepare the Salary Deduction Order. Please be sure that the name and payroll address of your

employer are correct to avoid any delays. If you have more than one employer, please clearly indicate which employer is to be subject to the order.

Withholding Amounts: The Salary Deduction Order specifies the total amount to be withheld from your paycheck(s) on a weekly, biweekly, semimonthly or monthly basis.

Payment Deadline to Trustee: The Salary Deduction Order specifies that the total amount withheld by your employer should be remitted to the Trustee's Office by the 25th of the following month.

Changing Employers: If you change employers while your case is active, you must notify the Trustee's Office so that a new Salary Deduction Order can be issued. You should provide the Trustee with the name and payroll mailing address of your new employer as soon as possible after your hire date.

Temporary Unemployment: If you lose your employment, you should let the Trustee's Office know that you are no longer working for the employer who is responsible for remitting your monthly payment. You are responsible for making the payments directly to the bank lockbox until you are once again employed and your employer is deducting pursuant to the Salary Deduction Order.

Employer Harassment: From time to time, debtors have reported that they feel they are being harassed by their employer or feel their job is in jeopardy. It is illegal for an employer to harass a debtor or put the debtor's job in jeopardy simply because the employee has filed bankruptcy. If this happens, you should contact your attorney with all available details.

DEBTORS WHO ARE SELF-EMPLOYED

The Court will allow debtors who are self-employed to make "direct payment" to the Trustee. Direct payments must be made by money order or cashier's check. No cash payments or personal checks can be accepted by the Trustee's Office. Payments should include your name, address, your Chapter 13 case number and the voucher form provided to you by the Trustee's Office. Payments

must be made payable to “Chapter 13 Trustee”. Payments should be mailed to the P.O. Box listed on the front inside cover of this booklet. Incorrect or missing information on your money order or cashier’s check can lead to misdirected payments that can cause a delinquency in your case.

EXTRA PAYMENTS

If your case pays 100% to unsecured creditors (100% Plan): If you are able to increase your payments to the Trustee, even if only by a few dollars, you may do so at any time. Paying a little more than required may reduce interest payments by reducing secured debt balances more quickly. Because you are paying all of your debts, extra payments will help shorten your plan. **Your case may be paid off sooner than originally estimated.**

If your case pays less than 100% to unsecured creditors (Individual Composition Plan): The law requires you to pay “all disposable income” to the Trustee’s Office for at least 36 months or the original confirmed length of your plan, whichever is greater. Extra payments will increase the amount (the percentage) paid to unsecured creditors. **Your case will not be paid off sooner than originally estimated.**

PAYMENT CHANGES

If your case pays 100% to unsecured creditors (100% Plan): If you wish to change your plan payments, you may increase your plan payments to the Trustee at any time. Decreases in plan payments may result in your plan exceeding the 60 months allowed by law. If you want to decrease your payments, you will need to have your attorney file a modified plan which must be approved by the Court.

If your case pays less than 100% to unsecured creditors (Individual Composition Plan): If you wish to change your plan payments in any way, you should contact your attorney and file a modified plan, which must be approved by the Court.

DELINQUENCIES

If **you or your employer** fail to make required payments or your total payments fall short of the required total payments (i.e. your

case is delinquent), any of your creditors may ask the Court to dismiss your case or ask for relief from the automatic stay so that they can repossess their collateral. As long as your employer is deducting by the payment amount specified (weekly, biweekly, semimonthly or monthly) according to the Salary Deduction Order, your case should be current.

You should keep your attorney informed if you have changes in your financial situation that would cause a delinquency in your case. Your attorney may suggest changes to your plan or other remedies if your situation changes greatly.

Motion to Dismiss: The Trustee’s Office routinely reviews all cases to determine whether or not monthly payments have been made. The Trustee’s Office may file a Motion to Dismiss if your case review reflects a delinquency. The Motion to Dismiss will be mailed to you.

If no payments have been received in your case within 30 days after the 341 Meeting of Creditors, the Trustee’s Office must file a Motion to Dismiss your case before confirmation.

When a Motion to Dismiss is filed, you must bring your case current within 20 days from the date of the Motion to Dismiss in order for the Trustee to withdraw the Motion to Dismiss. You have the option to make a written request to the Court for a hearing to discuss your case. If you do neither, your case may be dismissed at the stated deadline.

Motions to Dismiss may be filed for reasons other than delinquent payments. Consult your attorney if you receive a copy of a motion that has been filed in your case.

CREDITORS AND CREDITOR CLAIMS

CREDITOR STAY

Filing a Chapter 13 “stays” (stops) your creditors from further collection efforts. This protection begins at the time that your petition is filed with the Court.

Violations of Stay: All creditors listed in your Chapter 13 plan are prohibited from bothering you in any way. [NOTE: If you

have filed previous bankruptcy cases, some creditors may not be “stayed”. Contact your attorney.] If you get notices from creditors, keep them. Regular statements and delinquency notices need not cause any great concern. However, if you receive direct contact from a creditor, such as a telephone call, letter, summons, or visit, immediately inform the creditor that you are under Chapter 13 and that you may not discuss the debt with them. Give them the name and address of your attorney and give your attorney the details of the contact by the creditor.

DEALING WITH CREDITORS

While your case is pending, you may not deal with a creditor just as a creditor may not deal with you. You cannot pick certain creditors to pay “on the side”. All your debts must be dealt with through the plan that you filed. However, the plan may provide for payment outside of the plan on your home mortgage or mobile home contract. All creditors must be paid under the authority of the Court, by the terms of the law.

Any payment you make directly to a creditor that has not been approved by the Court may be set aside and may jeopardize your Chapter 13 plan. This includes paying off loans from the sale of property and paying off loans by refinancing or consolidating loans. You must ask the Court’s permission to make any of these financial arrangements.

CREDITOR CLAIMS

The Clerk’s Office sends a notice of your bankruptcy to all creditors that you listed in your petition. The notice informs the creditors of the date of the 341 Meeting of Creditors, the bar date for filing claims, and the date of your confirmation hearing.

Bar Date: Non-governmental creditors have 90 days from the first scheduled date of the 341 Meeting of Creditors to file their claims. Governmental creditors have 180 days after the date of the filing of your petition to file their claims. Creditors are “barred” from filing claims after that date. Any claim not filed within that time is a late claim and will not be allowed without the approval of the Court.

Discharge of Debt: The Trustee’s Office is prohibited from paying anyone who did not file a claim. When you complete your plan and the required debtor education, all dischargeable debts listed in your schedules will be discharged, whether or not the creditors filed claims.

Non-dischargeable Debt: Some debts will remain an obligation if they are not paid in full even though you complete your Chapter 13 Bankruptcy Plan. Child support, certain student loans and most taxes are examples of non-dischargeable debts. Secured debt with payment terms that extend beyond the plan may have remaining balances due at the end of a plan, if prepayment provisions have not been factored into the creditor’s claim. Such debts can survive the plan and you will have to pay off the remaining balance after your Chapter 13 plan is completed.

Returned Checks: A check that you have written which has been returned by your bank for insufficient funds gives the person to whom you wrote the check the right to file a claim in your case.

That person may also prosecute the transaction as a crime. If it is treated as a criminal matter, you will have to take care of it yourself. Filing a Chapter 13 case does not stop a criminal prosecution. You should discuss this with your attorney.

CREDITORS NOT LISTED

Creditors that you did not list when you filed bankruptcy can cause problems. There are two kinds of unlisted creditors: (1) those you owed money to when you filed but forgot to list (“unlisted creditors”) and (2) those creditors who have a bill incurred after you filed (“post-petition creditors”).

Unlisted Creditor: If you find an “unlisted creditor”, contact your attorney immediately. If it is not too late, you may be able to include this creditor in the plan. Time is important, so do not delay.

Post-petition Creditors: “Post-petition creditors” are rare because you are not permitted to use credit while you are under Chapter 13. However, medical expenses or repair costs cannot always be avoided. If this happens, you are responsible for the bill

and should pay it. In most cases, it cannot be added to your Chapter 13 case.

COSIGNERS AND GUARANTORS

Cosigner/Guarantor Stay: A cosigner or guarantor on any of your debts is also protected while you are under Chapter 13. This protection for your cosigners or guarantors is available only to the extent that your plan proposes to pay the creditor. For example, if your plan proposes to pay 50% of the balance due a creditor, the cosigner or guarantor is still liable for the other 50% of the debt. This protection lasts only as long as your Chapter 13 case is active.

Creditor Permission: If your plan proposes to pay the creditor less than 100%, the creditor may obtain permission to collect from the cosigner or guarantor the amount of the debt that your plan is not going to pay.

If the cosigner or guarantor has given collateral for the loan, the creditor must obtain permission from the Court in order to proceed against the cosigner's or guarantor's property.

REAL ESTATE DEBT

Debt secured by real property is usually paid directly by you to the creditor unless the Court orders otherwise. These payments are included in your budget when your plan is set up. You are responsible for these debts yourself.

If you are not making your real estate or mobile home payments regularly, notify your attorney of this immediately. These problems can be worked out more easily if they are reported before the account becomes too delinquent.

Insurance: You must maintain homeowner's insurance coverage for the real estate that secures your debt. A creditor may seek permission to foreclose if you do not obtain adequate insurance or let your insurance lapse even if you are in Chapter 13.

"WINDFALLS"

A windfall is any event that reduces the amount of any claim, which must be paid by the Trustee's Office to your creditors. Such events include insurance recovery on a destroyed or damaged car

or mobile home, the surrender of collateral in satisfaction of a debt or forgiveness of a debt by one of your creditors.

100% Case: A windfall will shorten the length of time that is required to pay off your entire plan.

Individual Composition Case: A windfall **will not shorten your case.** The law requires you to pay “all disposable income” to the Trustee’s Office during the life of your case. Your plan was approved for a specific number of monthly payments at a specific dollar amount. Payments that are not required to pay off certain claims due to a “windfall” will increase the amount paid to unsecured creditors.

HOW CREDITORS ARE PAID

The money you pay to the Trustee’s Office is used to pay your creditors. Your administrative fees, including your attorney and filing fees, may also be paid through your plan.

The claims and fees are paid in this order:

Administrative and Filing Fees for the Clerk and Trustee

Attorney Fees: The first disbursement to your attorney, if the funds are available, will be for at least \$500 unless you owe less. Subsequent payments will be at least \$100 per month until the fee is paid in full.

Administrative Priority Claims: Claims deemed to be paid before secured and unsecured creditors.

Secured Claims: Secured creditors are paid the claim amount plus interest. Secured claims may include debts secured by vehicles or real property (land).

Unsecured Priority Claims: Unsecured priority claims may include child support and taxes.

General Unsecured Claims: 100% or a lesser percentage of the claim amount is paid according to your plan. General unsecured claims may include credit card debt and medical bills.

Disbursements to your creditors are made **once a month** during the first week of the month.

ACTIONS REQUIRING COURT APPROVAL

OBTAINING “POST-PETITION” CREDIT

The use of credit while under Chapter 13 is prohibited without permission from the Trustee. The only exceptions are medical emergencies and emergency repairs.

Under certain circumstances, taxes and debts which are necessary for your plan to work can be added later and paid through the Chapter 13 plan. Contact your attorney if you think such a debt has come up.

The Trustee cannot and will not allow you to miss a Chapter 13 payment so that you can pay “new debts”. Your old debts paid through your plan must come first.

Credit Cards: The use of credit cards is “obtaining credit”. You may not use credit cards or charge accounts while under Chapter 13. This applies to any member of your family who is supported by you. All charge cards should be returned to the creditor.

Tax Refunds: Obtaining a “quick refund” of your income taxes is “obtaining credit”. You may not receive this type of loan while you are under Chapter 13. Your refund should be sent to you directly from the Internal Revenue Service (IRS).

If the IRS has a claim in your case, you need not be concerned that the IRS will hold your refund for that reason. The Trustee’s Office does not request payment to your Chapter 13 case from your IRS refund. The IRS may intercept your tax refund to apply to your debt to them. If this happens, notify your attorney.

Refinancing or Debt Consolidation: Refinancing a loan to reduce the monthly payments or agreeing to a new loan to consolidate debt is “obtaining credit”. You must seek and receive permission from the Trustee for these financial arrangements.

Obtaining Credit Without Permission: Obtaining credit without permission is a violation of the Court’s Order. Any credit purchase made without approval is improper and may jeopardize your case. The items you purchased may have to be returned and your case can be dismissed for such a violation.

Obtaining Credit With Permission for Emergencies Only: If during the course of your Chapter 13 case you find it necessary to incur new debt for emergencies, you must put your request in writing to the Trustee seeking his permission. An emergency would be considered an emergency medical problem or vehicle repair situation. The Trustee will review your request and will mail you a letter with his decision. **This approval process can take up to ten business days.** If you have not received your letter after two weeks, you may contact our office to check on the status of the approval. Since your letter is mailed to the address we have on record for you, it is extremely important that we have your correct current address. If you have not already supplied that address to us, you need to submit your address change **in writing**.

This office cannot accept requests to incur debt that are prepared by a third party (i.e. a car dealer, a mortgage loan processor) and we cannot fax your approval letter to a third party.

The following items are necessary in your request. **Failure to include any of these items will result in the denial of your request to incur debt.**

1. You must include your name, address and case number.
2. You must include the reason you need to incur new debt.
3. You must include the purchase price and the monthly payment amount. For example, if you wish to purchase a car, you must tell us the total car price as well as how much your monthly payments are going to be.
4. You must also include a statement that the new debt, if approved, is not going to prevent you from making your regular Chapter 13 payments. You must also include the amount of your monthly Chapter 13 payment. For example, if your Chapter 13 payment is \$450.00, your request must state that approval of the new debt will not interfere with you making your monthly Chapter 13 payments of \$450.00.
5. You must sign your request.

If you do not understand how to submit your request, please consult with your attorney. No one in this office is permitted to assist you with the preparation of your request.

Your request **CANNOT** be processed without all required information and failure to provide such information will result in your request being denied.

SELLING PROPERTY

You cannot dispose of any property, including land and automobiles, without permission from the Court. Disposing of property without the Court's permission may cause your case to be dismissed. If you wish to sell any property, contact your attorney about asking the Court's permission. The Court will direct how the proceeds of the sale are to be applied.

REQUESTS FOR REFUNDS

Any request for a return of payments made into your active case must be approved by written order of the Court before the Trustee's Office can refund money to you.

OTHER

INSURANCE

You must maintain insurance on property pledged as collateral to any of your creditors during the entire term of your case. The secured creditor has the right to ask the Court to dismiss your case if you do not maintain insurance.

TOTALED VEHICLES

In the event that a vehicle in your plan is involved in an accident and deemed a total loss by your insurance company, you should notify the Trustee's Office and your attorney **immediately**. The Trustee is not responsible for collecting any overpayment from the creditor secured by your automobile if the Trustee is not notified immediately after the accident.

CASE CLOSING

Your case can be closed due to:

1. Dismissal (voluntary or involuntary)
2. Conversion to Chapter 7 or Chapter 11

3. Hardship discharge
4. Successful completion of all payments.

Release of Wages Order: If you complete your case, the Trustee's Office will mail an Order for Release of Wages (ROW) for cases in which payments are payroll-deducted from an employer. The Trustee's Office will mail the ROW for **completed** cases and the Clerk's Office will mail the ROW for **dismissed** or **converted** cases. You and your attorney will each be sent a copy of the order when it is mailed to the employer.

For completed cases, the ROW is prepared as soon as the final payment has been received.

Any payments received after a notice of dismissal, conversion or hardship discharge will be dealt with as follows:

1. Payments received on a voucher check from the employer will be refunded to the debtor; or
2. Payments received solely for the closed case will be returned to the employer with instructions to return the money to the debtor.

FINAL REPORT

The Trustee's Office prepares the Final Report, which summarizes all payments received and payments made to each claim in the case.

A completed case must be audited by the Trustee's Office and the Final Report will not be available immediately upon receipt of the last payment. The final disbursements to creditors occur at the beginning of the month after the final payment is received and the Final Report is processed after all checks have cleared the bank.

A letter is mailed along with any refunds due to the debtor after final payments to creditors. After all checks have cleared, the Final Report is sent to the Clerk's Office and your attorney at the same time that it is sent to you.

DISCHARGE

If you complete all plan payments and the required debtor educational course, you will receive an order from the Court granting discharge of your listed debts. The Clerk's Office prepares this after receipt of the Final Report from the Trustee's Office.

A copy of the Discharge will be mailed to all the creditors listed in your petition. When a creditor has received the Discharge, a copy of loan papers marked "paid in full" should be sent to you. A creditor should also mail you the title to any automobile or mobile home for which the debt has been paid through the plan. The Trustee's Office does not hold the title to your automobile or mobile home during the life of your plan.

Please contact your attorney for assistance if you have trouble obtaining these items from your former creditors.

Contact by Creditor After Completion: The Discharge is proof of the completion of your plan and full satisfaction of all debts listed in the petition. You should keep the Discharge Order with your valuable papers. Any attempt to collect discharged debts is illegal. You should contact your attorney if a creditor whose debt has been discharged contacts you for additional money.

REQUEST FOR DISMISSAL BY DEBTOR

The law allows you to voluntarily dismiss your Chapter 13 case at any time. If you wish to dismiss your case, consult your attorney.

If you voluntarily dismiss your case, you will again be responsible for all unpaid debts. A dismissal will reactivate all unpaid or disputed debts, all interest, finance charges, late charges, and all debts of creditors who did not file claims. You will again have to deal with all creditors on their terms.

CREDIT REPORTS AND RATINGS

The fact that you have filed a bankruptcy is public information. Credit agencies acquire that information directly from the Court for their records. The records that credit agencies maintain are made available to creditors. Laws govern what the agencies can and cannot do with the information. A bankruptcy may remain on

your record for seven to ten years from the date that you completed your plan. If you have questions, please ask your attorney for guidance.

Each creditor will evaluate your credit history differently. Suits, collections, attachments, Chapter 7 bankruptcy, credit counseling, and Chapter 13 bankruptcy are all indications of credit problems.

WEBPAGE

You can access your case information on the internet at www.chp13aug.org after obtaining a login and password at our website.

NATIONAL DATA CENTER (NDC)

www.13datacenter.com In furtherance of certain privacy principles subscribed to by the National Data Center (NDC), Trustee shall, on or before the first Meeting of Creditors held under 11 U.S.C. 341, provide written notice to each debtor of the following:

1. Chapter 13 case information concerning the debtor's Chapter 13 bankruptcy case will be made available to Parties-In-Interest through the NDC's website.
2. The debtor can access, without charge, his or her Chapter 13 data on the NDC's website.
3. The debtor can contact the NDC to report an alleged inaccuracy regarding his or her Chapter 13 data on the NDC's website and the debtor will receive a written response from NDC regarding the alleged inaccuracy in the Chapter 13 data within 30 days of making such a report.
4. The debtor will be provided with the URL address of the NDC's website that will contain information on how to contact the NDC to report an alleged inaccuracy.

FREQUENTLY ASKED QUESTIONS

WHAT DOES CHAPTER 13 MEAN?

Chapter 13 is part of the United States Bankruptcy Code. It allows you to take charge of your personal financial situation and to repay your creditors in an orderly fashion without the loss of any of your property and without creditor collection pressure.

WHEN IS MY FIRST PAYMENT DUE?

By law, your first payment is due within 30 days from the filing of your Chapter 13 case. Subsequent payments must be received no later than the 25th of each month.

WILL MY CHAPTER 13 BE REPORTED TO THE CREDIT BUREAU AND HOW WILL IT AFFECT MY CREDIT RATING?

The Trustee's Office does not report this to the credit bureaus. However, your creditors may do so. Also, credit bureaus can also acquire this information from the Court for their records. As far as your credit rating is concerned, each creditor will evaluate your credit history differently.

I CAN'T MAKE A PAYMENT, WHAT SHOULD I DO?

All payments are required to be in our office no later than the 25th of each month. (Your first payment is due within 30 days of your case filing.) If you are unable to make your monthly payments, contact your attorney immediately and notify him/her of your situation. Your case will remain delinquent until your payment is posted to your case.

THE CHAPTER 13 TRUSTEE'S OFFICE CANNOT MAKE PAYMENT ARRANGEMENTS.

HOW MUCH LONGER DO I HAVE IN BANKRUPTCY?

This will vary depending on the type of case filed. In most circumstances, your case must go at least 36 months but can go no longer than 60 months, unless your attorney advises you otherwise. **Contact your attorney** if you are unsure of the type of case you filed.

WHAT DOES “RAP” MEAN? “RAP” (Reduced to the Amount Paid) means that we will no longer disburse funds to that particular creditor. We will reduce the claim to the amount paid at the time that we are notified to stop disbursing money from the Court or a creditor.

WHEN WILL I GET THE TITLE TO MY CAR? Our office does not hold the original title to your car. Once your case has completed, contact your attorney for additional information.

WHEN WILL MY CREDITORS START GETTING PAID?

Court costs will be paid as soon as funds are available in your case. Our office does not disburse any money to your creditors until the Bankruptcy Court confirms your case. Once the Confirmation Order is signed by the Judge and received by our office, we will begin disbursing money to your creditors. All funds are disbursed during the first week of each month.

CAN I VIEW MY CASE ON THE CHAPTER 13 WEBSITE?

Yes, you can. Our website address is www.chp13aug.org. You must first obtain a login and password from our office. You can request a login and password by filling out the web access agreement information on our website. It takes about 24 to 48 hours to process your online request. You can also request a login and password by printing out the Web Access Agreement and mailing it to our office.

HOW DO I OBTAIN A BALANCE? When requesting a balance, the Trustee’s staff will provide you with a daily balance of what is owed to your creditors. Keep in mind that it is just a daily balance and **NOT** a pay-off of your case.

HOW DO I OBTAIN A PAY-OFF? If you are interested in obtaining a pay-off for your case, you must send a **written request** to our office. Be sure you include your **name** and **case number**.

HOW DO I OBTAIN A PAY-OFF ON MY CAR, HOUSE, LOANS, ETC? Our office cannot give you a pay-off quote for any of your creditors listed in your Chapter 13 case. Our office can only advise you of the balance of what is left owing to your

creditors based on the Proof of Claim that was filed for a particular creditor.

WHAT IS THE DIFFERENCE BETWEEN DISCHARGED AND DISMISSED? “Discharged” is when you have completed your case. Your case is not officially discharged until you receive your discharge paperwork from the Court, which may take 30 to 60 days from the final disbursement to your creditors. “Dismissed” is when your case is ordered to be closed at any time.

IF I HAVE MOVED AND NEED TO GIVE YOU MY NEW ADDRESS, WHAT DO I NEED TO DO? If you have a change of address during the duration of your case, you should send the new address to the Chapter 13 Trustee **in writing**.

IF I NEED TO GET A LOAN, WHAT DO I NEED TO DO? Under no circumstances are you allowed to obtain any credit while you are under your Chapter 13 plan. For emergency loans, you must ask the Trustee for permission prior to obtaining the loan. Please refer to page 21 for instructions on how to request permission to incur new debt.

IF I HAVE CHANGED EMPLOYERS, WHAT DO I NEED TO DO? You must notify the Chapter 13 Trustee if there is a change in your employment so that a new Salary Deduction Order (SDO) can be issued. When contacting our office, be prepared to provide the Trustee’s staff with your case number, employer name, and payroll mailing address. Remember, you are still responsible for making your monthly payments until you see that your employer is deducting according to your new SDO.

CONCLUSION

Completing a Chapter 13 plan is not easy. You will have to meet your financial obligations as specified in your plan. However once you have completed your plan, you will have proven that you can succeed in managing your finances. We wish you the best of luck in your new start toward financial responsibility and successful management of your money.

DEFINITIONS

Accurate Information: Notify the Trustee in writing immediately of any change of address, telephone numbers or employment.

Collateral: Any property that is pledged to secure the payment of a debt.

Composition Case: A case that proposes to pay less than 100% of the money due to unsecured creditors.

Confirmation Hearing: An appearance before the Judge to determine whether the proposed plan should be approved by the Court.

Confirmed: Approved by the Court.

Conversion: To change the bankruptcy from one under Chapter 13 to Chapter 7 or Chapter 11.

Court: For the purposes of this booklet, the Bankruptcy Court only.

Creditor: A person or company to whom money is owed.

Debtor: A person who is in debt to another person or company.

Delinquency: Any amount of money due when the payments to a Chapter 13 plan are behind.

Disbursement: Any payment of moneys from your Chapter 13 plan.

Discharge: An order of the Bankruptcy Court showing that debts properly listed in a bankruptcy proceeding can never be legally collected except long-term debts, student loans, back child support or alimony, and debts owed for death or injury caused by your operation of a motor vehicle while under the influence of alcohol or drugs (D.U.I).

Dismissal: An order terminating a Chapter 13 case. After dismissal, the debtor remains responsible for any money still owed to the creditors.

Motion: A document that is filed with the Court that requests a decision or ruling from the Court.

Non-dischargeable Debt: Student loans, back child support, alimony and money owed because of DUI.

Order: A ruling from the Court made in writing.

Petition: The document that is prepared by your attorney for you and filed with the Court asking for the protection of the Bankruptcy Court. When this document is filed and the Court enters an Order for Relief, bankruptcy begins.

Plan: The statement of proposed payments to the Trustee's Office and the treatment of certain claims.

Priority Claim: A claim that has special status, such as a tax claim.

Release of Wages (ROW): Allows an employer to stop deducting from the debtor's earnings.

Salary Deduction Order (SDO): An order to an employer to withhold amounts from the debtor's paycheck and forward to the Trustee's Office.

Secured Claim: A claim in which the creditor holds collateral for money loaned or services provided.

Stay: The barring of all debt collection efforts against the debtor or property of the bankruptcy estate while the case is pending.

Unsecured Claim: A claim in which no collateral is held or a claim whose liens have been avoided.

100% Case: A case that proposes to pay 100% of all claims.

341 Meeting of Creditors: A meeting in which the debtor is questioned, under oath, by the Trustee and creditors who attend, about debts, assets and income.

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