



**UNITED STATES TRUSTEE GUIDELINES
SOUTHERN DISTRICT OF CALIFORNIA
RE: CHAPTER 13 BUSINESS CASES**

U.S. DEPARTMENT OF JUSTICE

UNITED STATES TRUSTEE
SOUTHERN DISTRICT OF CALIFORNIA
OCTOBER 15, 1999

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UNITED STATES TRUSTEE GUIDELINES
SOUTHERN DISTRICT OF CALIFORNIA
RE: CHAPTER 13 BUSINESS CASES

The United States Trustee, pursuant to 28 U.S.C. § 586(3), promulgates the following Guidelines Regarding Chapter 13 Business Cases:

Sections 1302(c) and 1304(c) of Title 11 require debtors engaged in business to: 1) prepare, file, and serve on the Chapter 13 Trustee periodic business operating reports, and 2) provide the Chapter 13 Trustee with information necessary for the Chapter 13 Trustee's preparation, and filing of a § 1302(c) "Statement of Investigation" regarding the debtor's business operations. Generally, the Chapter 13 Trustee will prepare and file a "Statement of Investigation" where at least 51% of a debtor's gross earnings are derived from such business. In addition, debtors with business operations that generate gross earnings of at least \$10,000 per month, or that employ five or more persons, are required to prepare periodic business operating reports as described below.

The threshold requirements for providing information to the Chapter 13 Trustee in connection with the Trustee's "Statement of Investigation", or in connection with the debtors' obligation to prepare and file periodic operating reports, are not intended to limit the Chapter 13 Trustee's ability to request any information, as is appropriate, in any case where a debtor is engaged in business. Debtors are required to comply with any and all requests by the Chapter 13 Trustee, for information regarding any business operations of the debtor.

1. Debtor(s) Obligation to Provide Information to the Chapter 13 Trustee in Connection with the Chapter 13 Trustee's § 1302(c) Statement of Investigation:

In cases where a debtor is self employed, debtor(s) shall comply with the "Joint Chapter 13 Guidelines" promulgated by the Chapter 13 Trustee, including, but not limited to, providing the Chapter 13 Trustee with the following information *prior to the §341(a) first meeting of creditors*:

- a. Copies of federal tax returns with all supporting schedules for the two years preceding the chapter 13 filing;
- b. copies of bank statements (both business and personal accounts) for the three (3) months preceding the chapter 13 filing;
- c. an actual profit and loss statement for the three months preceding the chapter 13 filing, and a projected profit and loss statement, for at least one (1) month containing a reserve or expense item for post-petition income taxes and self

employment taxes; and,

- d. completion of the “Questionnaire for Chapter 13 Business Cases,” issued by the Chapter 13 Trustee, for each trade or business conducted by the debtors.

2. Debtor(s) Obligation to Prepare Semi-Annual Business Operating Reports:

Where the debtor’s business operations generate gross earnings of at least \$10,000 (ten thousand dollars) per month, or where the debtor employs five or more employees, debtor(s) shall, prepare, file, and serve on the Chapter 13 Trustee, semi-annual business operating reports in substantially the same format as required by the “Joint Chapter 13 Guidelines” promulgated by the Chapter 13 Trustee. These “earnings” and “number of employee” parameters are not, however, intended to limit the Chapter 13 Trustee’s ability to require business operating reports from debtors with less gross earnings or fewer employees, whenever the Trustee deems it appropriate.

The semi-annual operating report shall be completed and served on the Chapter 13 Trustee within sixty days of the end of the reporting period designated by the Chapter 13 Trustee for that given case. The Trustee may bring a motion to dismiss for material breach of a confirmed Plan in the event the debtor fails to serve on the Chapter 13 Trustee the completed business operating report as required by these Guidelines. See 11 U.S.C. § 1307.