

Revisions to Forms 1, 2, and 3 Questions and Answers – Set #4

Recording Abandonments on Form 1

- 85) **In some jurisdictions, a trustee can abandon an asset as part of the § 341(a) meeting report. Would this be recorded on Form 1 as a formal abandonment “OA”?**

Yes.

- 86) **A trustee consents to a relief from stay motion filed by a secured creditor. How should this be reflected on Form 1?**

An order granting relief from stay does not remove property from the estate. Handbook 8-3. If the property may expose the estate to some type of liability (such as a large tax liability from a foreclosure sale), the trustee should abandon the property under § 554(a). If so abandoned, this would be reflected on Form 1, Column 4 with an “OA”; otherwise, “DA”.

Recording Values in Columns 3 and 6 on Form 1

- 87) **The Instructions for recording values in Column 6 on Form 1 appear to be inconsistent. See Forms - 6 in the Handbook. The first sentence of the second paragraph states: “For assets still being administered by the trustee, Column 6 should reflect the trustee’s current best estimate of the gross value remaining to be collected or administered.” Immediately below this sentence, at the first bullet, the Handbook states: “If the asset has not been liquidated, normally the value from Column 3 should be entered in Column 6.”**

However, on the Form 1 itself, Column 3 is described as the Estimated Net Value determined by the trustee and Column 6 is supposed to be the Gross Value of Remaining Assets. Therefore, it appears unlikely that the values in Columns 3 and 6 would be the same. Is this interpretation correct?

Yes. The Handbook will be updated to clarify what should be reported in Column 6. The bullets on Forms - 6 will be changed as follows:

- !** The Column 6 value is rarely the Column 3 value. The Column 3 value equals the trustee’s estimated net value at the beginning of the case or when the asset is discovered. The Column 6 value is the trustee’s current estimate of the gross remaining value of the asset. “Gross Remaining Value” means current fair market value without any deduction for liens, exemptions, and other costs.

! If “unknown” or “N/A” is entered in Column 3, “unknown” should appear in Column 6.

! The difference between Columns 3 and 5 is not intended to necessarily equal the figure recorded in Column 6.

88) A particular asset has a petition value of \$25,000. It has an exemption claimed of \$7,000, and a lien of \$11,000. By the end of the 3rd reporting period (20 months later), the asset has a fair market value of \$18,000. The Column 2 value would be \$25,000. What values are recorded in Columns 3 and 6?

1st reporting period: Assuming the petition value of \$25,000 was a reasonable estimate at the time of filing, the trustee would have initially reported \$7,000 (\$25,000-\$7,000-\$11,000, or less if other costs needed to be considered) in Column 3 and \$25,000 in Column 6.

3rd reporting period: Based on the facts presented in the question, the trustee would report a value of \$18,000 in Column 6 for the 3rd reporting period. The Column 3 value would still be \$7,000, because it is not to be changed after the 2nd reporting period.