

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

In re

GENERAL ORDER 08-06

GENERAL ORDER ADOPTING PROCEDURES
FOR THE PAYMENT OF UNCLAIMED FUNDS

The Court having determined that procedures should be adopted for parties requesting the payment of unclaimed funds, it is

ORDERED that parties requesting the payment of unclaimed funds shall follow the procedures set forth in Exhibit A to this Order.

ENTERED: **APR 17 2008**



RONALD G. PEARSON, JUDGE

UNCLAIMED FUNDS IN CHAPTER 7, CHAPTER 12, AND CHAPTER 13 CASES**(A) Deposit of Unclaimed Funds**

All unclaimed funds collected by the Court shall be immediately deposited into the United States Treasury and not into the registry of the Court. The Unclaimed Funds Ledger is available to the public in person at the Bankruptcy Court Clerk's Office in Charleston, West Virginia, or by written request for such ledger.

(B) Motion for Payment of Unclaimed Funds**1. Requirements for Pro Se Claimant - Self Representation**

A request for payment of unclaimed funds must be in writing and filed with the Court in the form of a motion (see attached Local Form 3011-1). The motion must:

- (a) state the debtor's name, the bankruptcy case number, the bankruptcy trustee in the case (if any);
- (b) state the name, address, telephone number of the claimant;
- (c) state a brief history of the claim from the date of filing of the claim to present (to reflect possible reasons for the funds not being deliverable at the time of original distribution);
- (d) state whether the claim has been assigned to the claimant, and if so, copies of all documents evidencing the assignment must be appended to the motion;
- (e) state whether or not the claimant believes that any other party may be entitled to the funds;
- (g) include a certificate of mailing reflecting that the motion was served, pursuant to 28 U.S.C. §2042, on the United States Attorney for the Southern District of West Virginia, Post Office Box 1713, Charleston, WV, 25326, and on the debtor and the debtor's counsel (the United States Trustee and case trustee will be served via the Court's electronic filing system);
- (h) if the creditor/claimant is a corporation, it must be represented by an attorney who is a member of the bar of this Court. In addition, if the creditor/claimant is a successor corporation, the creditor/claimant shall provide documentation establishing the chain of ownership of the original corporate claimant as proof of entitlement to the claim.

(2) Requirements for the representative of the estate of a deceased claimant

The representative of the estate of a deceased claimant must comply with all requirements in paragraph (1) above. In addition, certified copies of all probate documents to substantiate the representative's right to act on behalf of the decedent's estate must be attached to the motion as proof of entitlement.

(3) Requirements for any other entity representing the interest of a claimant

The representative of a claimant must comply with all requirements in paragraph (1) above. In addition:

If the representative asserts authority to represent the interests of an individual claimant as the result of a power of attorney, a copy of the power of attorney must be filed with the motion.

If the representative is a corporation, it must be represented by counsel in accordance with these local rules.

If the representative files a motion for payment of unclaimed funds on behalf of a claimant who is the debtor in the case, copies of any contractual agreements containing the amount of compensation to be received by the representative, as well as any power of attorney, must be filed with the motion.

Parties will be allowed twenty (20) days from the date of service of the motion to file written objections to the motion. If no written objection is timely filed, the Court may enter an order granting the motion without further notice. In the event there is any discrepancy in the motion, or if the Court has any question with regard to the propriety of granting relief, a hearing will be scheduled and the proper individuals expected to attend. Upon the entry of an order granting the motion, the Clerk will forward the proper documents to the Clerk's disbursing agent for payment.

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

In re

Case No. _____

_____,

Chapter _____

Debtor(s).

MOTION FOR PAYMENT OF UNCLAIMED FUNDS

name of movant, moves this Court for entry of an order directing the Clerk to remit to the movant the sum of \$ _____, which was deposited into the Treasury of the United States by name of trustee, Trustee, as unclaimed funds for name of individual or entity for whom funds are on deposit ("Claimant").

Movant certifies, under penalty of perjury, that:

1. The funds on deposit with the Treasury of the United States are owed to the Claimant, pursuant to proof of claim # _____ filed with the Clerk on _____ date _____.
2. The Claimant is: Name of Claimant
Current Address of Claimant
Telephone Number of Claimant
3. The funds sought have not been paid to the Claimant or to any agent on the Claimant's behalf. The funds were not deliverable at the time of original distribution because _____.
4. The claim has not/has been assigned to the claimant. If the claim has been assigned, copies of all documents evidencing the assignment are attached to this motion;
5. The Claimant does not believe/believes that any other party may be entitled to the funds. If the Claimant believes any other party may be entitled to the funds, include explanation _____.
6. No other motion is pending for recovery of the same unclaimed funds.

7. Movant is the Claimant. If the Claimant is an individual, a copy of the Claimant's driver's license or other photo identification is attached to this motion.
- or
- Movant has the authority to collect the funds on behalf of the Claimant, as shown by the attached Power of Attorney or other proof that the Movant is an authorized representative of the Claimant. If the Claimant is the Debtor in this case, copies of any contractual agreements containing the amount of compensation to be received by the representative are also attached to this motion.
- or
- If the Claimant is deceased, certified copies of all probate documents are attached to this motion as proof of entitlement.

Parties may object by filing a written objection within twenty (20) days of the date of service of this motion. In the event no written objection is timely filed, the Court may enter an order granting the motion without further notice.

Dated: _____

Signature of Movant or Representative

Printed Name of Movant or Representative

Address

Telephone Number

CERTIFICATE OF SERVICE

I hereby certify that, on the _____ day of _____, _____, I mailed a copy of the foregoing to the following:

Office of the U.S. Attorney
Southern District of West Virginia
Post Office Box 1713
Charleston, West Virginia, 25326

Debtor(s) - Names(s) and address

Counsel for Debtor(s) - Name and address

The United States Trustee and case trustee were served via the Court's electronic filing system.