

**YOUR CASE NUMBER:** \_\_\_\_\_

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

Brief answers to most questions that come up while under a Chapter 13 Plan. Read this pamphlet completely to understand your obligations and responsibilities and then refer to it as needed when you have a question.

### **PUT YOUR CASE NUMBER ON ALL PAYMENTS AND CORRESPONDENCE SENT TO THE CHAPTER 13 TRUSTEE OR THE COURT.**

#### **CHAPTER 13 TRUSTEE ADDRESSES:**

##### **Mail Payments To:**

James M. Wyman, Chapter 13 Trustee  
P.O. Box 110  
Memphis, TN 38101-0110

##### **Mail Correspondence To:**

James M. Wyman, Chapter 13 Trustee  
P.O. Box 997  
Mt. Pleasant, SC 29465-0997

Phone (843) 388-9844

Fax (843) 388-9877

Web sites: [www.charleston13.com](http://www.charleston13.com)  
[www.ndc.org](http://www.ndc.org)

Email: [13info@charleston13.com](mailto:13info@charleston13.com)

**NO CASH  
PAYMENTS  
WILL BE  
ACCEPTED**

## **CALLS TO THE TRUSTEE'S OFFICE**

The Chapter 13 Trustee's phone number is (843) 388-9844. The office is open five days a week from 8:30a.m. – 4:30p.m. If you have a question, that does not pertain to legal advice, you can contact us by writing a letter to our correspondence address or emailing to [13info@charleston13.com](mailto:13info@charleston13.com) with your case number and your question. However, please remember that the Trustee and his staff **cannot give any legal advice** and will encourage you to direct all legal questions to your attorney.

**Notice is Hereby Given That Information Relating to Your Chapter 13 Bankruptcy Case Will Be Made Available on The Internet to You, Your Creditors, And Other Parties in Interest.**

Pursuant to 11 U.S.C. §1302(b)(1) and 704(A)(7), your Chapter 13 Trustee has a duty, unless otherwise ordered by the bankruptcy court, to furnish information concerning the administration of your bankruptcy case as is requested by parties in interest.

In furtherance of this duty, the Chapter 13 Trustee will make the following information available to parties in interest who request such information:

- 1) Your name, address, bankruptcy case number, state, and district in which your case is pending, and the Trustee assigned to your case. Your social security number will not be visible to parties in interest, but they will be able to search for your bankruptcy case using your social security number.
- 2) Information regarding claims filed against your bankruptcy case including the identity to the claimant, the type of claim (e.g., priority taxes, secured, unsecured, etc.) and the amount of the claim.
- 3) A history of all payments you make to the Chapter 13 Trustee in your bankruptcy case including the date and amount of each payment.
- 4) A history of all disbursements made by the Chapter 13 Trustee in your bankruptcy case including the date of the disbursements, the payee, and the amount.

You may review, without charge, the information about your Chapter 13 bankruptcy case that is posted on the Internet. If you believe the information about your bankruptcy case is inaccurate, you can contact the Trustee's office or the NDC to report the error and you should receive a written response from the NDC within thirty (30) days following receipt of such report.

Your information is posted at [www.ndc.org](http://www.ndc.org) which is operated by the National Data Center, Inc. ("NDC"). You can contact the NDC at 1-866-938-3639, Monday – Friday 9:00am – 5:00pm PT.

## **INTRODUCTION TO CHAPTER 13 BANKRUPTCY**

1. WHAT IS “CHAPTER 13 BANKRUPTCY?”
2. DO YOU KNOW YOUR CASE NUMBER?
3. DO WE HAVE YOUR CORRECT ADDRESS?

### **ATTORNEY RESPONSIBILITY**

4. WHAT DOES YOUR ATTORNEY DO?

### **CHAPTER 13 PAYMENTS**

5. WHEN MUST I MAKE MY FIRST PAYMENT?
6. HOW SHOULD I MAKE PAYMENTS?
7. WHAT ARE MY PAYMENT OBLIGATIONS?

### **CREDITOR INFORMATION**

8. WHAT IF MY CREDITORS CONTINUE TO CONTACT ME?
9. DEALING WITH CREDITORS
10. CLAIMS OF CREDITORS
11. CREDITORS NOT LISTED OR IMPROPERLY LISTED
12. HOW CREDITORS ARE PAID

### **CHAPTER 13 PLAN INFORMATION**

13. WHAT IS THE AMOUNT NECESSARY TO COMPLETE MY PLAN?
14. HOW WILL I KNOW WHO IS RECEIVING MY PAYMENT?
15. ARE MY CO-SIGNERS PROTECTED?
16. WHAT ABOUT MY MORTGAGE PAYMENTS?
17. WHAT IF I DON'T FILE MY TAX RETURNS?
18. CAN I SELL OR PURCHASE PROPERTY?
19. DO I HAVE TO STAY IN CHAPTER 13?
20. WHAT HAPPENS AFTER I MAKE MY LAST PAYMENT?
21. WHAT HAPPENS TO MY CREDIT RATING?
22. WHAT IF MY CREDITORS STILL CALL ME?

### **CHAPTER 13 PLAN COMPLIANCE – ON FINAL WORD**

23. ACCURACY OF INFORMATION
24. YOUR ATTORNEY

## 1. WHAT IS “CHAPTER 13 BANKRUPTCY”?

Chapter 13 is one method under the Bankruptcy Code to obtain relief from your creditors while at the same time providing a fair means to pay them back as much as you can. It allows you to keep some or all of your property during the time you are paying your creditors back, and it permits you to modify some contract payments and interest rates. Your plan can eliminate late charges and penalties and allows you to extend payments on some of your debts. Chapter 13 has gained widespread acceptance across the country as an attractive alternative to Chapter 7 bankruptcy.

## 2. DO YOU KNOW YOUR CASE NUMBER?

At the time your Chapter 13 petition was filed, the Bankruptcy Clerk assigned the case a number. **This number is very important.** You will need it whenever you write to the Trustee’s office or when you make a payment to the Trustee. Your case number has been printed on the cover of this booklet.

## 3. DO WE HAVE YOUR CORRECT ADDRESS?

You must keep us advised of your current mailing address for as long as you are under Chapter 13. The address on your petition will be used for all notices, correspondences, and reports. **If your address changes, you must contact your attorney so that they can file the proper pleadings with the U.S. Bankruptcy Court to change your address. If you do not have an attorney, please contact the U.S. Bankruptcy Court at 803-765-5436 about the pleadings required to change your address.**

**\*\*OUR OFFICE CANNOT CHANGE YOUR ADDRESS IN OUR SYSTEM UNTIL THE PROPER PLEADINGS TO CHANGE YOUR ADDRESS HAVE BEEN FILED WITH THE U.S. BANKRUPTCY COURT\*\***

## 4. WHAT DOES YOUR ATTORNEY DO?

Under the rules of the Bankruptcy Court, your attorney must continue to appear and represent you for as long as your case is active or until the judge permits your attorney to withdraw from your case. If you ever have a question concerning your case, a creditor, your rights, or your options, you should make it a rule to ask your attorney first. Be sure that you and your attorney have discussed fully whether additional legal services during your plan will cost you more money or whether the initial fee will cover all legal services. If you ever want to obtain a new

attorney, an Order must be entered by the Court appointing a new attorney and relieving your prior attorney. Some examples of your attorney's responsibilities are to:

1. Ensure that all secured debts are valid.
2. Handle disputes with your creditors.
3. Attend the meeting of creditors.
4. Appear at any other Court hearing in conjunction with your case.
5. Assist you in overcoming any obstacles that may arise during the course of your plan by filing any necessary documents. This includes, but is not limited to, suspension of payments, Motions to obtain credit and Motions to buy or sell real estate\*.

## **5. WHEN MUST I MAKE MY FIRST PAYMENT?**

Your first payment is due 30 days after you file your petition. If you are in the process of obtaining an order to deduct your Chapter 13 payments from your paycheck, you must make payments directly to the Trustee by check or money order until your employer begins deducting money from your paychecks. As the payment amount frequently changes when the plan is confirmed, you should insure that your attorney has advised you of the correct amount. If you lose your job, and/or the employer is no longer making the payments for you, it is your responsibility to make the payments directly to the Trustee on time.

**Checks returned by the bank for insufficient funds may result in our office requiring a cashier's check or money order for all future payments, and may result in a motion to dismiss being filed in your case.**

## **6. HOW SHOULD I MAKE PAYMENTS?**

### **AUTOMATIC PAYMENTS THROUGH TFS BILL PAY**

You can register and set up an account at [www.tfsbillpay.com](http://www.tfsbillpay.com). This is a third-party web site, unaffiliated with the Trustee's Office, that offers the ability to pay Chapter 13 plan payments electronically, on-line for a small fee. Payments can be setup to automatically send your plan payments each month using this service.

## **PAYROLL DEDUCTION**

The Court may issue an order directing your employer to deduct your plan payment and send it to the Chapter 13 Trustee. Such an order is not a garnishment, but a voluntary deduction being made and forwarded to the Trustee in payment of your plan, for as long as you are actively involved in a Chapter 13 plan. If your employer has questions, they may call our office for explanation.

You may request a payroll deduction at any time by mailing or faxing a written request to:

James M. Wyman, Chapter 13 Trustee  
Office of the Chapter 13 Trustee  
PO Box 997  
Mt. Pleasant, SC 29465-0997  
Fax (843) 388-9877

Please make sure to include the employer's payroll name and address to process your requests. A wage order request form can be found on our website at [www.charleston13.com](http://www.charleston13.com) by clicking on the Information/Forms link and then Debtor Information.

## **OTHER FORMS OF PAYMENT**

In some circumstances, such as not having access to a computer or not having a checking account, the Court will allow you to make payments directly to the Trustee. If you make direct payments, we strongly recommend money orders issued from the United States Postal Service. In the event of a lost payment, these are easier to track.

If you send a check or money order, we recommend that you retain copies of the checks and/or money orders. **Be sure to include your name, address, and your Chapter 13 case number on the front of your check to ensure proper credit.** Please **print** this information to avoid errors or delays in posting payments due to illegible writing, and mail the payment to:

**James M. Wyman, Chapter 13 Trustee  
P.O. Box 110  
Memphis, TN 38101-0110**

**Please be mindful of the delays that may arise with the United States Postal Service so please send your payments in advance so that the payment posts ON OR BEFORE the due date to avoid possible dismissal of your case.**

## **7. WHAT ARE MY PAYMENT OBLIGATIONS?**

Remember that **YOU** are ultimately responsible for making sure that your payments are made and received by the Chapter 13 Trustee.

**THE TRUSTEE WILL ASK THE COURT TO DISMISS YOUR CASE IF YOU FAIL TO MAKE THE REQUIRED PAYMENTS DUE UNDER YOUR PLAN.**

If you are unable to make your Chapter 13 payments as required by your plan, please **CONTACT YOUR ATTORNEY IMMEDIATELY.**

## **8. WHAT IF MY CREDITORS CONTINUE TO CONTACT ME?**

All creditors that you listed on your Chapter 13 petition are under an order for relief which prohibits them from contacting you in any way. You will hear this referred to as the “Automatic Stay”. If you get notices in the mail from your creditors, let your attorney know. Delinquent notices need not cause any great concern, but if you get a more personal, direct contact from a creditor, such as a telephone call, a personal letter, a summons, or a visit in person, you should immediately inform them that you are under Chapter 13 and give them your attorney’s name and address. Under **NO** circumstances should you discuss the debt with them in any manner. Be sure you tell your attorney the name of the person who contacted you. Your attorney will want to follow up on such a call and the name of the person calling you is very important.

## **9. DEALING WITH CREDITORS.**

Unless your plan explicitly calls for you to make these payments directly, such as the normal monthly mortgage payments, you may not deal directly with a creditor. You cannot pick and choose some particular creditor and pay him “on the side”. Any such payments may be illegal. All creditors must be paid under the authority of the Court, by the terms of the law, and not by any personal desires. If you want to pay creditors, you must do so through the Chapter 13 plan.

## **10. CLAIMS OF CREDITORS.**

In order to be paid by the Trustee, a creditor must file a proof of claim. After expiration of the time to file claims, the Trustee will send you a “Notice of



Allowed Claims” report. You and/or your attorney should review the claims filed in your case for accuracy. Claims may be reviewed at the Bankruptcy Court or on the website. If a creditor is listed incorrectly or the amount claimed does not appear correct, you should contact your attorney at once. Unless your attorney objects, we will pay the amount on the claim, not the amount listed in your bankruptcy schedules.

## **11. CREDITORS NOT LISTED OR IMPROPERLY LISTED.**

Creditors not disclosed or improperly listed when you filed can cause quite a few problems. There are two kinds of undisclosed creditors: Those you owed money when you filed your petition but did not list (“unlisted creditors”), and those creditors whose claim was incurred after you filed (“post-petition creditors”).

If you discover an undisclosed creditor, you should let your attorney know the details immediately. Also, if you fail to list the correct address for a creditor, they may not receive notice of your bankruptcy case. This could result in a debt surviving the bankruptcy, or the failure to pay a secured creditor through your bankruptcy plan. This could cause a lien to remain against your property at the conclusion of your case.

Post-petition creditors are your responsibility. They will not be paid by the Trustee. You must obtain permission from the court in order to obtain post-petition debt. If you feel that this is necessary, you should contact your attorney.

## **12. HOW ARE CREDITORS PAID?**

The money paid to the Trustee is used to pay expenses to administer your case, including any payments to your attorney and your creditors. Creditors are generally paid in the following order:

- 1) administrative expenses (remaining filing fees and the Trustee’s percentage fee)
- 2) secured claims and pre-petition alimony and/or child support claims; remaining attorney fees
- 3) priority claims (generally taxes)
- 4) general unsecured claims

The Trustee’s office generally does not pay anything to unsecured claims until priority claims and secured claims are paid in full. Therefore, it could be some time before the first payment is made on any unsecured claims.

### **13. WHAT IS THE AMOUNT NECESSARY TO COMPLETE MY PLAN?**

You should be aware that, unless all creditors are being paid in full, you will be required to pay the “**BASE**” (monthly payment multiplied by the number of months provided for in the plan). As this concept can be confusing, we encourage you to review this with your attorney. Hopefully, this will eliminate any misunderstanding about the amount necessary to complete your obligation.

### **14. HOW WILL I KNOW WHO IS RECEIVING MY MONEY?**

Most people are very interested in knowing how much they owe to their creditors and how much they have left to pay on their Chapter 13 plan. The Chapter 13 Trustee mails to you an Annual Report, which lists the payments received by the Trustee, and the payments made to each creditor, and approximates the amount owed on the plan. This Annual Report is sent during January every year.

You may request the amount required to pay off your plan from the Trustee’s Office. Requests must be in writing, signed, and should be mailed, faxed, or emailed to:

James M. Wyman, Chapter 13 Trustee  
Office of the Chapter 13 Trustee  
PO Box 997  
Mt. Pleasant, SC 29465-0997  
Fax (843) 388-9877  
[13info@charleston13.com](mailto:13info@charleston13.com)

Please allow 30 days for a response.

### **15. ARE MY CO-SIGNERS PROTECTED?**

A co-signer, co-maker, or guarantor on any of your consumer debts is generally protected from contact by the creditor by something called the “Co-debtor Stay”. This automatic protection applies only in Chapter 13 cases. If the co-signer, co-maker, or guarantor has given collateral for the loan, the creditor must request a hearing before the Judge in order to proceed against the property. The co-debtor stay will only protect co-signers, co-makers, or guarantors for the amount of debt your plan proposes to pay. If your plan is not scheduled to pay all of the co-signer

debt in full, a creditor may obtain permission to collect from the co-signer, co-maker, or guarantor that portion of the debt that your plan is not going to pay.

## **16. WHAT ABOUT MY MORTGAGE PAYMENTS?**

If you are not obligated to make mortgage payments through your bankruptcy plan, you must make those payments directly to the mortgage company **ON TIME**. If you fail to do so, your mortgage company may obtain an Order from the Bankruptcy Court granting relief from the automatic stay which will entitle them to foreclose on your home. If you do not understand this, or have any questions about it, contact your attorney immediately. Again, we strongly encourage you to keep copies or receipts for all payments to mortgage creditors. We have seen many cases in which these creditors have improperly applied payments. If you don't have proof that you made these payments, you may lose your home.

## **17. WHAT IF I DON'T FILE MY TAX RETURNS?**

Failure to file tax returns is cause for denial of approval of your plan or dismissal of your case. Your attorney should discuss with you what is required. If you have not filed all tax returns due by the date of your First Meeting of Creditors, the Trustee cannot determine the appropriateness, or "feasibility" of your plan. Therefore, your plan may not be confirmed.

## **18. CAN I SELL OR PURCHASE PROPERTY?**

Contact your attorney for assistance with selling or purchasing property or please review South Carolina Local Bankruptcy Rule 3015-8.

## **19. DO I HAVE TO STAY IN CHAPTER 13?**

Federal Bankruptcy law allows you to request that your Chapter 13 case be dismissed at any time. No one can force you to remain under a Chapter 13 plan. If you desire to stop your case, contact your attorney. However, you should understand that a dismissal will reactivate all unpaid or disputed debts, all interest, and finance charges, all late charges not allowed by the Bankruptcy Court, and all claims of your creditors on their terms. The request for dismissal of your plan must be in writing and sent to the Bankruptcy Court.

## **20. WHAT HAPPENS AFTER I MAKE MY LAST PAYMENT?**

After your final payment is made, the Trustee will audit your case to ensure that all payment requirements for your Chapter 13 plan have been met. In some cases, additional funds are needed to meet these requirements. The Trustee's office will then mail a "Trustee's Notice to Debtor of Plan Completion and Notification of Need to File Request for Discharge" to you and your attorney. The "Certification of Plan Completion and Request for Discharge" that is included with this notice must be completed and filed with the Bankruptcy Court with fourteen (14) days of the date of the Notice. Proof that you have completed the required Financial Management Course must also be filed with the Bankruptcy Court before your Chapter 13 case is discharged. Contact your attorney immediately after receiving the "Trustee's Notice to Debtor of Plan Completion and Notification of Need to File a Request for Discharge" so that you can be sure that you have completed all of the required steps to obtain a discharge of your Chapter 13 Bankruptcy case.

After all of your payments have been sent to your creditors, the Trustee will file his Final Report with the Bankruptcy Court.

The Bankruptcy Court issues discharge orders in all Chapter 13 Bankruptcy cases, not the Chapter 13 Trustee's Office. The Bankruptcy Court will only issue a discharge once it has determined that all items set by the Bankruptcy Code have been met. If all items have been completed properly, they will send you your Discharge Order and close your case. **PLEASE KEEP YOUR DISCHARGE ORDER IN A SAFE PLACE. It is your proof that you successfully completed your plan.**

## **21. WHAT HAPPENS TO MY CREDIT RATING?**

The Chapter 13 Office can not help you with any discrepancies or errors with the Credit Bureau. For issues with your credit rating, please contact your attorney or the credit agency directly.

## **22. WHAT IF MY CREDITORS STILL CALL ME?**

When a creditor has had his claim paid by Chapter 13, whether partially or in full, he should, and usually does, send the paid in full papers to you. Even if the creditor fails to do this, it is not too significant since the official records of the Court showing your plan is completely paid and you received a discharge would overrule any claim he might make for additional money. Should you receive any

request for additional money after your plan is completed, do not pay without first talking to your attorney.

### **23. ACCURACY OF INFORMATION:**

You have been given a copy of the schedules and other paperwork filed on your behalf with the Bankruptcy Court. This constitutes the permanent record in the Court of your bankruptcy filing. It must be accurate in all respects. You must review the paperwork which has been provided to you, and make sure it is correct. If it is not, contact your attorney immediately and arrange for corrections to be filed with the Bankruptcy Court and served on the appropriate parties. If your paperwork is later determined to be inaccurate, you may lose the benefit of the bankruptcy protection, and you may also face an assortment of Civil and Criminal penalties.

### **24. YOUR ATTORNEY:**

Your attorney is one of the most important resources in connection with a successful Chapter 13 case. You should keep in contact with your attorney throughout the course of your Chapter 13 case, and if you have any questions, or if your circumstances change, make your attorney aware of those facts. This will, to the maximum extent possible, assure the successful completion of your Chapter 13 plan.

### **ONE FINAL WORD**

Complying with a Chapter 13 Plan is not easy. You may have to make some real sacrifices to meet the obligations which you have specified in your plan and still live within your budget. Thousands of families have successfully completed their Chapter 13 plans and know that they have resolved their debt problems without filing Chapter 7 and have paid some, if not all, of their obligations to their creditors. The diligence of these people in making their payments and keeping track of their obligations has contributed to their successes. No one else can do this for you.