

## **LIST OF CREDITORS HOLDING 20 LARGEST UNSECURED CLAIMS**

Official Form 4 is to be completed by a debtor in a chapter 11 case or a debtor in a chapter 9 municipality case. Other debtors should not complete or file this form.

### **I. APPLICABLE LAW AND RULES**

Rule 1007(d) of the Federal Rules of Bankruptcy Procedure (referred to as “Bankruptcy Rule” or “Fed. R. Bankr. P.”) requires chapter 11 and chapter 9 debtors to file, with the petition, a list containing the name, address, and claim of the creditors holding the 20 largest unsecured claims. Excluded from this list are any “insiders,” as defined in 11 U.S.C. § 101; and secured creditors, unless the value of the collateral is such that the unsecured deficiency places the creditor among the holders of the 20 largest unsecured claims. Debtors in an involuntary chapter 11 case are required to file this list within two days after entry of the order for relief under section 303(h) of the Bankruptcy Code. Bankruptcy Rule 1007(m) requires a debtor that knows a person on the list to be a minor child to include also the name, address, and legal relationship of any person upon whom process would be served under Bankruptcy Rule 7004(b)(2).

#### **Definitions:**

(1) Insider --- Debtors should refer to section 101(31) of the Bankruptcy Code for the definition of a “insider.”

(2) Secured Claim --- A claim is secured if the creditor has a lien on property of the debtor (collateral) that gives the creditor the right to be paid from the property before creditors who do not have liens on the property. A claim is secured only to the extent to which the value of the creditor’s interest in a property equals the amount of the debt. Any amount not protected by collateral is unsecured. 11 U.S.C. § 506. Examples of liens include a mortgage on real estate and a security interest in a car, boat, television set, or other item of property. A lien may have been obtained through a court proceeding before the bankruptcy case began; in some states a court judgment is a lien.

(3) Unsecured Claim --- If a claim is not a secured claim, it is unsecured. A claim may be partly secured and partly unsecured if the property on which a creditor has a lien is not worth enough to pay the creditor in full.

(4) Contingent Claim --- A claim is contingent if the debtor’s liability depends on a occurrence of a certain event, such as when the debtor is a consignor on another person’s loan and that person fails to pay.

(5) Unliquidated Claim --- An unliquidated claim is a claim the amount of which is not completely certain. The claim exists, but the amount is presently unknown. For example, a debtor may have been at fault in a car accident, but there is no judgment yet establishing the

amount of the debtor's liability. The debtor will have to estimate the amount of such a claim and designate it as unliquidated.

(6) Disputed Claim --- A claim is disputed when the debtor and creditor do not agree on the debtor's liability or on the amount of the debt.

(7) Setoff --- A "setoff" is when all or part of the debt owed by the debtor to the creditor is "canceled out" by a pre-existing debt owed by the creditor to the debtor.

## II. DIRECTIONS

1. Each creditor's name, complete mailing address, and zip code should be listed on the form. If a minor child is one of the creditors holding the 20 largest unsecured claims, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. § 112; Fed. R. Bankr. P. 1007(m), 9037.

2. The name, telephone number, complete mailing address, and zip code of the employee, agent, or department of the creditor should be placed on the form. Debtors are asked to list an individual who is familiar with the creditor's claim and who may be contacted, if possible.

3. The nature of the claim (such as a trade debt, bank loan, government contract, etc.) should be described on the form.

4. If any claim is contingent, unliquidated, disputed, or subject to setoff that fact should be stated.

5. The amount of the claim should be listed. Secured creditors should not be listed unless the value of the collateral is so much less than the amount of the claim that the unsecured deficiency places the creditor among the holders of the 20 largest unsecured claims. If the claim is partially secured, the value of the security should be stated. The debtor should indicate the amount of the secured and unsecured portions of the claim on the form.

6. Bankruptcy Rule 1008 requires all petitions, lists, schedules, statements, and amendments to be verified or contain an unsworn declaration conforming with 28 U.S.C. § 1746. Official Form 2, Declaration Under Penalty of Perjury On Behalf Of a Corporation Or Partnership, is incorporated for this purpose and should be signed by the authorized agent for the debtor and attached to the signed and dated form. An individual debtor should modify the declaration as appropriate.