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Bankruptcy 101

Manual for Michigan Municipalities

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Purpose and limitations of this manual

This manual is designed to assist local units of government to:

- 1) respond effectively when a taxpayer/debtor of the municipality files for bankruptcy and
- 2) prepare and file proofs of claim in bankruptcy cases filed by a taxpayer/debtor of the municipality.

This is not to say that this manual will assist you in all situations. Some proofs of claim, particularly in the area of tax claims, are technical and difficult to “get right.” Those claims may require the assistance of an attorney. It is our hope that this manual will assist municipal staff in being able to make the distinction between knowing when to prepare and file a proof of claim and when to refer the job to its municipal attorney or outside bankruptcy counsel.

As you might expect, this manual cannot and does not provide legal advice. Only the attorney representing your municipality can provide legal advice. Economics aside, it would be a reasonable position to recommend that a governmental unit always ask an attorney to prepare and file a proof of claim. We recognize, however, that proofs of claim can be prepared and filed by municipal staff in a large number of cases.

However, the preparation and filing of proofs of claim can be a trap for the unwary; the issues can be complex and the money owed to the municipality significant. For example, many tax claims are not discharged in bankruptcy and can be collected even though the taxpayer has filed for bankruptcy. This manual does not intend to weigh in on those types of issues. But we do hope this manual provides your unit of government with a basic understanding of bankruptcy which will lead to better efficiency and allow for greater recoupment of money owed.

As a start, we suggest that you use this manual as a basis of discussion with your municipal attorney or outside bankruptcy counsel. Ask your attorney to review this manual the advice contained and the recommendations made.

You should then develop procedures for your unit of government in concert with your attorney to address what to do when the bankruptcy notice is mailed to your governmental office. Your procedures should be written and understood by all staff that may have any contact with that bankruptcy notice. And, obviously, to the extent that the advice given to you by your attorney differs from that provided in this manual, you should follow the advice of your attorney.

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THE BASICS

1. What is bankruptcy?

Bankruptcy is a process to legally eliminate (or discharge) debt or to arrange to pay off debt at a reduced amount. Bankruptcies are governed by the Federal Bankruptcy Code, Title 11 of the United States Code. It occurs *only* in a federal bankruptcy court.

2. What is a bankruptcy court?

A bankruptcy court is a specialized court of the federal court system. There are two federal bankruptcy courts in Michigan—the U.S. Bankruptcy Court for the Eastern District of Michigan and the U.S. Bankruptcy Court for the Western District of Michigan. There are several locations of bankruptcy courts within each district. Each state has at least one bankruptcy court. See Appendix for list of courts.

3. What is a debtor?

The debtor is the person or company that files a petition for bankruptcy. It is the current term for what used to be called the “bankrupt.”

4. What is a creditor?

A creditor is anyone who has any kind of claim against the debtor when the debtor files a petition for bankruptcy. A doctor who is owed money on a bill is a creditor. Detroit Edison might be a creditor. Someone who claims the debtor injured him in an auto accident is a creditor. A municipality that is owed taxes is a creditor.

5. Are all bankruptcy cases the same?

No. There are three basic types of bankruptcy cases: Chapter 7 (liquidations), Chapter 11 (reorganizations or liquidations), and Chapter 13 (reorganizations for individuals with regular income). Every case has the same goal: to *discharge* (or cancel) the debtor’s debts at the close of the proceedings. Individuals or businesses can file Chapter 7 or Chapter 11. Only individuals can file Chapter 13. All bankruptcy cases begin when a *petition* is filed with the bankruptcy court.

6. What is a Chapter 7 case?

A Chapter 7 case always involves the liquidation, i.e. sale, of all of the debtor’s assets (property.) The debtor loses all of its assets; however, individuals may keep exempt property, such as retirement plans and homesteads. There is always a trustee.

The case usually ends in a few months with an order granting the debtor a discharge and closing of the case. Creditors can object to the discharge if the debtor committed fraud in creating the debt. If the creditor is successful in its claim that fraud has been committed, the creditor can still collect the debt after the bankruptcy.

7. Chapter 11 case?

Usually businesses file in Chapter 11, but occasionally an individual will do so as well. A Chapter 11 debtor may try to confirm a plan of reorganization in order to keep its business alive or to sell the business. Frequently in today’s world, Chapter 11 debtors sell their businesses without a plan in a “363 sale” (like GM and Chrysler did). After the sale, the case might “convert to” (change to) a Chapter 7, but it does not have to. Chapter 11 cases typically last many months and sometimes years.

8. Chapter 13 case?

Only individuals can file Chapter 13. This chapter allows an individual with regular income to use that income to fund a plan to repay a percentage of his or her debts over time and retain his or her property. A Chapter 13 plan usually extends over five years and occasionally six years.

9. What is a trustee?

Generally, a trustee is the individual appointed to represent the interests of the creditors. There is more than one variety. The trustee in a Chapter 7 case is appointed from a panel of pre-approved trustees and is responsible for liquidating the assets (property) of the debtor, objecting to claims, and distributing any proceeds to creditors. The Chapter 13 trustee is one of a few appointed trustees who administer Chapter 13 cases. The United States Trustee is a federal office responsible for appointing and supervising the Chapter 7 and Chapter 13 trustees. It is possible but unusual for a Chapter 11 case to have a trustee.

10. What part do attorneys play in a bankruptcy case?

The debtor is generally represented by an attorney. The Chapter 7 trustee may also be represented by an attorney; however, in many cases the Chapter 7 trustee is, in fact, an attorney. In Chapter 11 cases, the creditors’ committee may be represented by an attorney. Chapter 13 trustees are almost always lawyers.

11. How will our local unit of government know if a debtor who owes money to the governmental unit files for bankruptcy?

When a debtor files a bankruptcy petition, the debtor is required to prepare and file with the bankruptcy court a list of creditors (those to whom the debtor owes money, see question 4. above) with addresses. The debtor also must file schedules listing all assets and liabilities, and a statement of affairs with additional information. The list of creditors should include taxing authorities. The court clerk will send a Notice of Bankruptcy Case, Meeting of Creditors, and Deadlines to all creditors on the list (“First Meeting Notice”). The First Meeting Notice is often the first indication that a unit of government will have that a debtor has filed for bankruptcy.

This notice will be sent, generally, by mail to the official address of the unit of government. It is possible that any number of different people within the unit of government could open this mailing.

See sample First Meeting Notice in the Appendix.

Tip #1 *Make sure that all staff who open mail for the municipality are made aware of the significance of any communication sent from a bankruptcy court, and in particular, a First Meeting Notice, and are given instructions as to whom the notice should be forwarded within the municipality.*

12. Is there a method by which our municipality can notify the court of the preferred mailing address and name of contact person within the unit of government for bankruptcy notices?

You may file a notice with the bankruptcy court specifying the address to be used in sending notices to the local unit of government in Chapter 7 cases and in Chapter 13 cases (but not Chapter 11 cases). Bankruptcy Code Section 342(f)(1). Filing such a notice is an easy and effective way to ensure that bankruptcy notices go to the right person or department in your governmental unit for most cases. A letter to the court at the addresses provided in the Appendix will accomplish this purpose.

Sample letter:

*Clerk, U.S. Bankruptcy Court
Eastern District of Michigan
211 W. Fort Street, Suite 2100
Detroit, MI 48226*

Pursuant to Bankruptcy Code Section 342(f)(1), please forward all notices in Chapter 7 and Chapter 13 cases for the City of River Good Luck:

*City of River Good Luck
Attn: Mary Jones, Clerk or Sarah Smith, Tax Assessor
1 First Street
City, MI 48928*

Tip #2 *File a notice with the bankruptcy court indicating the unit of government’s preferred address and name of the contact person to be notified for all bankruptcy notices.*

13. Are there other ways we can find out if an individual or business has filed for bankruptcy?

You can also inquire whether an individual or business has filed bankruptcy by calling the bankruptcy court and accessing the automated system. See contact information in the Appendix.

SUMMARY OF MICHIGAN TAX COLLECTION PROCEDURE

The tax status of taxable property in Michigan for any given year is determined on the December 31 immediately preceding the taxable year. December 31 is commonly referred to as “tax day.” MCL §211.2. Taxes, however, cannot be paid until the property is assessed, the tax rate is determined, and the taxes are levied. Taxes are not assessed and levied until May or June in the year following the applicable tax day. The chronology of the process is determined by state law and implemented by the charters of the various municipalities.

The process for most taxing authorities generally works like this. The municipality prepares its budget in early May. The assessor prepares and delivers a tentative assessment roll to the municipality’s Board of Review by the date of its first meeting, also in May. At the first meeting of the Board of Review, the Board reviews the assessment on each piece of taxable property. If the Board increases the assessed value of any property, the taxpayer is notified of the increase and given an opportunity to protest the increase at the next Board of Review meeting. At its next meeting, the Board may correct, lower, or raise any assessment. It then certifies that it has reviewed the assessment roll, and the assessor prepares and delivers the “general tax roll” to the treasurer. After the municipal clerk certifies to the assessor the total amount to be raised by taxes as reflected in the budget, the assessor calculates the tax for each parcel of property. After city, school, and county taxes have all been calculated, the taxes are then levied and collected.

Taxes become a lien on the December 1 following the prior December 31st tax day, unless the charter provides a different day. MCL §211.40.

MCL §211.40a authorizes the taxing authority to accelerate the lien date to the earlier tax day by filing an affidavit if the taxpayer has filed bankruptcy.

It is possible to subscribe to the national electronic PACER system, which enables checking bankruptcy filings (and obtaining pleadings and papers in bankruptcy cases) online. Most lawyers are subscribers and can do this at no cost and at minimal cost for copies.

14. What is a proof of claim?

A proof of claim is a form which a creditor files in a bankruptcy case. Only creditors who have filed a proof of claim prior to the bar date will receive any money that is distributed to creditors. If a creditor does not file (or does not file in a timely manner), the creditor will not be entitled to receive any money owed to it through the bankruptcy proceedings.

15. A debtor who owes property taxes to our local unit of government has filed for bankruptcy. Will our municipality be able to recover the taxes owed to it?

Generally, the answer is “yes.” However, what you can do to collect the tax is restricted. See Question 17 on page five with respect to the automatic stay.

There are two reasons the answer is generally “yes” and they are important reasons to know. First, MCL 211.40 provides that all property (real and personal) taxes become a first priority lien on December 1 following tax day (the prior December 31) or on another day if the charter so provides. Bankruptcy Code Section 362(b) (18) permits property taxes to become liens even after a debtor files for bankruptcy.

Because of the statutory imposition of a lien, there should be no question that the municipality has a lien on the personal property or real property which is being taxed. Debts that have become a lien are given priority for payment upon sale of the property to which they are attached. So long as the value of the property is sufficient to pay the amount of the tax, the tax claim should be paid in full either through a plan, a sale in the bankruptcy, or a lifting of the stay and a tax sale.

Tip #3 *All tax claims should be filed as secured claims in Box 4 on the proof of claim.*

Second, real property and personal property taxes incurred after the filing of the petition are given special status as *administrative claims*. Administrative claims are those debts incurred by a debtor during the pendency of the case. These claims must be paid in Chapter 7 and Chapter 13 cases before all other claims except other administrative claims. A municipality does not have to file anything to get this special status. Bankruptcy Code Sections 503(b)(B)(i); 503(b)(1)(D)

Tip #4 *Consult with your municipal attorney or bankruptcy attorney for claims for taxes covering periods of time after the filing of the bankruptcy petition.*

16. The same debtor owes money to the municipality for unpaid utilities. Will our municipality be able to collect the money owed to it?

The answer is generally “yes” for water and sewage. MCL 123.162 gives a municipality a statutory lien for collection of services for water or sewage treatment provided by a facility operated by the municipality. While the date the lien arises is unclear from the statute, a Michigan appellate court in *Saginaw Landlords Ass’n v City of Saginaw*, 2001 WL 1353641 (Mich App 2001) suggests it is immediate. Because of the automatic stay (see Question 17 below), charges for water used and sewage treated after the filing are probably not protected by the lien.

The lien attaches to the house, business and real estate to which the water and sewage treatment is provided. If the value of the property is at least as much as the amount owed, it should eventually be paid, through sale or otherwise.

However, a municipality should not terminate utility service on the basis that a debtor has filed for bankruptcy. Bankruptcy Code Section 366 gives special protection to utility providers if service is rendered after the filing date of the petition. Basically, the provider is not obligated to provide the utilities unless within 20 days of the filing it is given adequate assurance of payment.

17. Can our local unit government still take actions to collect taxes after a taxpayer files bankruptcy during the course of proceedings?

Generally, no. Section 362 of the Bankruptcy Code provides for an order when each bankruptcy case is filed which prevents creditors from continuing to collect any debts or enforcing any lien against the taxpayer. This order is referred to as an *automatic stay* because it automatically stops almost all creditor action to continue to try to collect debts.

There are important exceptions to the automatic stay to assist the collection of taxes. Section 362(b)(9)(B) permits the following actions to take place even after a taxpayer files for bankruptcy:

- An audit by a governmental unit to determine tax liability,
- The issuance of a notice of tax deficiency,
- A demand for tax returns, and
- The making of a tax assessment and issuance of a notice and demand for payment of such an assessment.

Section 362(b)(18) permits a tax lien for property taxes under MCL 211.40 (discussed below) to become effective even after bankruptcy has been filed. A tax lien, however, cannot be enforced after the taxpayer files for bankruptcy.

18. Can our local unit of government charge interest on overdue taxes after bankruptcy has been filed?

Sometimes. Taxes that can be paid in installments in a Chapter 11 case or a Chapter 13 case must pay interest. The interest rate must be the same as determined under applicable nonbankruptcy law. Bankruptcy Code Section 511.

19. What information is contained on the First Meeting Notice?

The first piece of information to note is the name of the specific court where the bankruptcy petition was filed. This will appear at the top of the first page of the First Meeting Notice. This is important because it tells you which bankruptcy court is handling the case. Any document that the municipality files—including the proof of claim that the debtor owes money to the municipality—MUST be filed with that court.

The name of the person or company who has filed for bankruptcy (the “debtor”) and the case number should also be noted. The name will appear as *In re Farkwar, Inc.* In this case, Farkwar, Inc. (a company) has filed for bankruptcy. If the name of the case is *In re Henry Little*, it means that Henry Little (an individual) has filed for bankruptcy. The case number will frequently appear with the first two digits indicating the year of filing followed by additional numbers, e.g. 10-34265. The number will have letters at the end, e.g. “PJS,” which identifies the judge, in this case, Philip J. Shefferly.

The third piece of information to note is the type of bankruptcy case that has been filed. The title of the First Meeting Notice will state the type of bankruptcy. The types of bankruptcies are referred to as “Chapter 7,” “Chapter 11,” or “Chapter 13.”

The First Meeting Notice also contains bar dates by which certain actions must take place. The First Meeting Notice states the bar date by which creditors must file a proof of claim. Governmental units frequently have a different bar date from other creditors. If you fail to file a claim (or do not file timely) by the bar date, you will lose any right to collect payment from the debtor’s estate.

Tip #5 *Make sure you calendar all bar dates that appear in the First Meeting Notice.*

20. Should we prepare and file a proof of claim if we receive notice that the debtor has filed a Chapter 11 or Chapter 13 case?

A proof of claim should be always be filed; however you should always seek the assistance of either the municipal attorney or a bankruptcy attorney if the debtor has filed its case as a Chapter 11 or Chapter 13. Chapter 11 and Chapter 13 cases typically contain critical substantive and procedural issues which may require the expertise of an attorney.

Tip #6 *If the bankruptcy notice that your unit of government receives indicates that the debtor has filed a Chapter 11 or Chapter 13 bankruptcy, you should contact either your municipal attorney or bankruptcy counsel.*

THE PROCESS

21. How does a bankruptcy case start and end, and what happens in between? What’s the general process?

The case is started when the debtor files a petition in bankruptcy court. Occasionally, creditors will start a case by filing an involuntary petition. Contrary to popular opinion, any person or any business can file bankruptcy irrespective of whether the person or business is insolvent or is paying its debts. Of course, practically, only people or businesses with financial difficulties file bankruptcy.

The debtor files a list of all creditors with the petition. Using that list or matrix, the bankruptcy court clerk then mails a notice of commencement of the bankruptcy to all creditors on the matrix.

The notice of commencement

- states that a bankruptcy petition has been filed,
- states the chapter involved (7, 11, or 13),
- gives creditors advice about the “automatic stay,”
- advises of the deadline for filing claims or that claims do not have to be filed in this case,
- sets the date for the first meeting of creditors, and
- names the trustee in Chapter 7 cases and the standing trustee in Chapter 13 cases.

The debtor also files with the petition (or within 15 days after the petition is filed or within more time if the court authorizes)

- a schedule of all of its assets,
- a schedule of assets which an individual debtor claims as exemptions, and
- a schedule of all liabilities or debts, and in a Chapter 13 case, the Chapter 13 plan.

There are other filings, but these are the most important.

The trustee will then hold the first meeting of creditors. The debtor or its representative (as in a corporation) appears and answers questions creditors may ask. This takes place 20 to 50 days after the bankruptcy petition is filed. As a creditor, the unit of government is permitted to send a representative to this meeting.

The Trustee will keep the examination short; the meeting is rarely enlightening. As a result, creditors rarely attend the first meeting of creditors because it is not worthwhile.

Tip #7 *The local unit of government, as a creditor, does not need to attend the first meeting of creditors.*

The court will hold a confirmation hearing in Chapter 13 cases and Chapter 11 cases and then enter an order confirming the plan or denying confirmation of the plan.

If a Chapter 13 plan or a Chapter 11 plan is confirmed, payments to creditors will then begin.

The plan will divide creditors in groups or classes. Usually, all unsecured creditors will be in one class. Each taxing authority is generally in its own class. The plan will provide for payment in some percentage to each class of creditors. For the reasons discussed above (see Questions 15), property taxes usually are paid in full.

The Chapter 7 Trustee will pay its own fees and costs and then distribute any excess to creditors in a certain order of priority provided by the Bankruptcy Code. Each case is then closed and the creditors on the matrix are notified. (A case may also be dismissed or converted to another chapter before it is closed.)

22. When should our local unit of government be represented during a bankruptcy hearing? Do we need a lawyer to represent us?

A first meeting of creditors is held in every bankruptcy case. Chapter 7 cases have few additional hearings that are of general interest to all creditors. Chapter 13 cases and Chapter 11 cases will often have confirmation hearings or hearings on sale of property. Every Chapter 13 and every Chapter 11 case has a confirmation hearing, unless the case is dismissed. Your counsel will determine whether attendance is necessary at the confirmation or sale hearings.

As a creditor, you will receive a notice of hearing whenever a hearing is scheduled. You should forward all notices of hearing to your municipal attorney or bankruptcy counsel and telephone him or her to advise that the notice is en route to ensure that you are protected. It is not a good idea to attend hearings without an attorney.

Tip #8 *Send all notices of hearing promptly to your municipal attorney or bankruptcy counsel. You should confirm with the attorney that the notice of hearing has been received.*

23. When should you consult with your municipal attorney or bankruptcy counsel?

- A trustee or another party files an objection to the municipality's claim. You will know this because you will receive a notice of the objection.
- The municipality is trying to collect an Industrial Facilities Tax. Bankruptcy law is unclear in this area.
- A trustee tries to subordinate the municipality's lien under Section 724(b).
- The municipality receives a challenge to its assessment.
- The municipality receives a notice of hearing.
- The municipality provides water and sewage services after the bankruptcy has been filed.
- The municipality receives any notice from a bankruptcy court other than the First Meeting Notice.
- The municipality receives a telephone call from a lawyer or the debtor about the case.

PROOF OF CLAIM

There is *only one* proof of claim form to use no matter where or in what court the bankruptcy case is pending. A copy of that form is included in the Appendix together with the official instructions, which, for the most part, are self-explanatory. The creditor must file a proof of claim with the clerk of the same bankruptcy court in which the bankruptcy case has been filed.

TAXES

All tax claims should be filed as **secured** claims in Box 4 of the proof of claim. Include in your claim all taxes for which a bill has already been sent. Include also taxes due to date but for which a bill has not yet been sent by estimating the amount of the tax.

WATER AND SEWAGE CHARGES

Tip #9 *Charges for sewer and water services provided BEFORE the bankruptcy petition is filed should be submitted as secured claims. Section 4 of the Proof of Claim should be completed. Include only the amounts for services provided before the petition was filed.*

Water and sewage services provided after the bankruptcy petition is filed will be a type of claim called an “administrative expense claim.” You should request the assistance of the municipal attorney or bankruptcy counsel for these claims.

Tip #10 *Water and sewage services provided AFTER the bankruptcy petition is filed are administrative expense claims. Consult with an attorney on how to preserve your claim with respect to these charges.*

FREQUENTLY ASKED QUESTIONS RE: PROOF OF CLAIM

In what cases can our municipality file a proof of claim without an attorney?

A non-lawyer is capable of filing a proof of claim in any bankruptcy case. However, it is recommended that a governmental body seek the assistance of an attorney in a Chapter 11 or Chapter 13 case since those cases often present critical issues requiring an attorney’s review.

In what cases should our municipality file a proof of claim?

Every case. In some cases, the First Meeting Notice will state that it is not necessary to file a proof of claim. File one anyway; it is safer than not.

In Chapter 13 and Chapter 11 cases, establish a fail-safe procedure to forward the bankruptcy information promptly to your municipal attorney or outside bankruptcy counsel.

What debts can we include in a proof of claim?

Any debt.

Should we include all debts in one proof of claim?

No. Each type of debt must be set forth in a separate proof of claim form. Tax debts should not be included with other debits; and each type of taxes (i.e., real property and personal property tax claims) should be reflected in separate proofs of claim. Claims for unpaid utilities should be filed in a separate proof of claim.

ATTACHMENTS TO PROOF OF CLAIM

Taxes: Attach all tax bills. For taxes not yet billed, produce a pro forma bill or invoice or simply a statement of taxes that will be due when billed.

Water and Sewage: Attach all bills. For services provided before the petition was filed but not yet billed, produce a pro forma bill or a statement of charges that will be due when billed.

CHECKLIST FOR PROOF OF CLAIM

- Determine whether case is Chapter 7, 11, or 13.
- Calendar the date by which a proof of claim must be filed, i.e., within 30 days of the filing of the petition for bankruptcy.
- If Chapter 11 or 13, forward First Meeting Notice to your municipal attorney or bankruptcy counsel and confirm that the attorney received it.
- Collect bills and prepare pro forma bills and statements as discussed above.
- Complete proof of claim form, attach bills, and forward to the appropriate bankruptcy court for filing. Retain a copy and request that the court return a filed copy to you.

PROCEDURAL RECOMMENDATIONS

Designate one person to receive all notices from bankruptcy courts. This is the person who should be trained in dealing with claims.

Create your own procedures checklist to ensure proofs of claims are timely and properly filed.

Create a calendar or docket system to track the timely filing of proofs of claim.

Have a backup system which will be monitored by a different person.

Review your procedures with your municipal attorney or bankruptcy counsel.

Understand the use of *jeopardy assessments*. MCL 211.691 et. seq. Jeopardy assessments of personal property taxes accelerate the date on which the personal property tax is due so that it becomes immediately due and payable. This can be an effective pre-bankruptcy collection device for municipalities with respect to financially troubled taxpayers.

Understand the possibility of *accelerating the date on which a real or personal property tax becomes a lien*. MCL 211.40a. You can accelerate the lien date to the tax day in a number of situations, such as foreclosure by a secured lender, seizure or assignment of assessed personal property, or legal proceedings that place collection of the tax in jeopardy.

Appendix

Exhibit 1: United States Bankruptcy Courts

Eastern District of Michigan

Court Location

Bay City

111 First Street
Bay City, MI 48708
Phone (989) 894-8840

Counties

Alcona, Alpena, Arenac, Bay, Cheboygan, Clare, Crawford, Gladwin, Gratiot, Huron, Iosco, Isabella, Midland, Montmorency, Ogemaw, Oscoda, Otsego, Presque Isle, Roscommon, Saginaw, and Tuscola

Detroit

211 West Fort Street
Detroit, MI 48226
Phone (313) 234-0065

Counties

Jackson, Lenawee, Macomb, Monroe, Oakland, St. Clair, Sanilac, Washtenaw, and Wayne

Flint

226 West Second Street
Flint, MI 48502
Phone (810) 235-4126

Counties

Genesee, Lapeer, Livingston, and Shiawassee

Western District of Michigan

Court Location

Grand Rapids (Southern Division)

U.S. Bankruptcy Court, WDMI
One Division Avenue, North (Room # 200)
Grand Rapids, MI 49503-3132
Phone (616) 456-2693
Fax (616) 456-2919

Counties

Allegan, Antrim, Barry, Benzie, Berrien, Branch, Calhoun, Cass, Charlevoix, Clinton, Eaton, Emmet, Grand Traverse, Hillsdale, Ingham, Ionia, Kalamazoo, Kalkaska, Kent, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montcalm, Muskegon, Newaygo, Oceana, Osceola, Ottawa, St. Joseph, Van Buren, Wexford

Marquette (Northern Division)

Post Office & Federal Courthouse
202 West Washington Street (3rd Floor)
Marquette, MI 49855
Phone (906) 226-2117

Counties

Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinaw, Marquette, Menominee, Ontonagon, Schoolcraft

Exhibit 2: Chapter 7 First Meeting Notice

B9C (Official Form 9C) (Chapter 7 Individual or Joint Debtor Asset Case) (12/07)

UNITED STATES BANKRUPTCY COURT _____ District of _____	
Notice of Chapter 7 Bankruptcy Case, Meeting of Creditors, & Deadlines	
<p>[A chapter 7 bankruptcy case concerning the debtor(s) listed below was filed on _____(date).] or [A bankruptcy case concerning the debtor(s) listed below was originally filed under chapter _____ on _____(date) and was converted to a case under chapter 7 on _____(date).]</p> <p>You may be a creditor of the debtor. This notice lists important deadlines. You may want to consult an attorney to protect your Rights. All documents filed in the case may be inspected at the bankruptcy clerk’s office at the address listed below. NOTE: The staff of the bankruptcy clerk’s office cannot give legal advice.</p>	
See Reverse Side for Important Explanations	
Debtor(s) (name(s) and address):	Case Number:
	Last four digits of Social-Security or Individual Taxpayer-ID (ITIN) No(s)/Complete EIN:
All other names used by the Debtor(s) in the last 8 years (include married, maiden, and trade names):	Bankruptcy Trustee (name and address):
Attorney for Debtor(s) (name and address):	
Telephone number:	Telephone number:
Meeting of Creditors	
Date: / / Time: () A. M. Location:	() P. M.
Presumption of Abuse under 11 U.S.C. § 707(b) See “Presumption of Abuse” on the reverse side.	
<p><i>Depending on the documents filed with the petition, one of the following statements will appear.</i></p> <p>The presumption of abuse does not arise. <i>Or</i> The presumption of abuse arises. <i>Or</i> Insufficient information has been filed to date to permit the clerk to make any determination concerning the presumption of abuse. If more complete information, when filed, shows that the presumption has arisen, creditors will be notified.</p>	
Deadlines: Papers must be <i>received</i> by the bankruptcy clerk’s office by the following deadlines:	
Deadline to File a Proof of Claim:	
For all creditors (except a governmental unit):	For a governmental unit:
Creditor with a Foreign Address: A creditor to whom this notice is sent at a foreign address should read the information under “Claims” on the reverse side.	
Deadline to File a Complaint Objecting to Discharge of the Debtor or to Determine Dischargeability of Certain Debts:	
Deadline to Object to Exemptions: Thirty (30) days after the <i>conclusion</i> of the meeting of creditors.	
Creditors May Not Take Certain Actions:	
In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor’s property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.	
Address of the Bankruptcy Clerk’s Office:	For the Court:
	Clerk of the Bankruptcy Court:
Telephone number:	
Hours Open:	Date:

Exhibit 3: Sample Proof of Claim for Utilities

UNITED STATES BANKRUPTCY COURT NORTHERN DISTRICT OF ILLINOIS	PROOF OF CLAIM
<p>Name of Debtor: National Steel Corporation Case Number: 02-08699</p> <p>NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.</p> <p>Name of Creditor (the person or other entity to whom the debtor owes money or property): City of No Name Name and address where notices should be sent: clo Louis P. Rochkind, Esq. Jaffe, Raitt, Heuer & Weiss, P.C. 27777 Franklin Road, Suite 2500 Southfield, MI 48034-8214 Telephone number: (248) 351-3000</p> <p>Name and address where payment should be sent (if different from above): Telephone number:</p>	
<p><input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.</p> <p>Court Claim Number: _____ (If known)</p> <p>Filed on: <u>09/19/02</u></p> <p><input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.</p> <p><input type="checkbox"/> Check this box if you are the debtor or trustee in this case.</p>	
<p>1. Amount of Claim as of Date Case Filed: <u>\$162,726.77</u></p> <p>If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.</p> <p>If all or part of your claim is entitled to priority, complete item 5.</p> <p><input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.</p>	
<p>2. Basis for Claim: Utility/Water _____ (See instruction #2 on reverse side.)</p> <p>3. Last four digits of any number by which creditor identifies debtor: _____</p> <p>3a. Debtor may have scheduled account as: _____ (See instruction #3a on reverse side.)</p> <p>4. Secured Claim: (See instruction #4 on reverse side.) Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information. Name of property or right of setoff: <input checked="" type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other _____ Describe: _____ Value of Property: <u>Unknown</u> Annual Interest Rate: _____ % Amount of arrearage and other charges as of time case filed included in secured claim: _____ If any: \$ _____ Basis for perfection: _____ Amount Unsecured: \$ _____ Amount of Secured Claim: \$ _____</p>	
<p>6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.</p> <p>7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See instruction 7 and definition of "redacted" on reverse side.)</p> <p>DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.</p> <p>If the documents are not available, please explain:</p>	
<p>FOR COURT USE ONLY</p>	
<p>Date: _____</p> <p>Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any. Louis P. Rochkind, Attorney for /s/ Louis P. Rochkind City of No Name</p>	

Attachment to Sample Proof of Claim for Utilities

Debtor's Remaining Unpaid Pre-Petition Water Bills*

Account Number: 005-00021-00

3/02 Customer Balance	\$212,491.57
3/02 Penalty	- 6,962.90
2/02 Penalty	- 7,771.26
1/02 Penalty	- 8,339.18
12/01 Penalty	- 7,639.36
Total 1	\$181,778.87 (debtor's unpaid water bill)

Account Number: 005-00029-00

3/02 Customer Balance	\$18,417.08
3/02 Penalty	- 1,095.45
2/02 Penalty	- 724.64
1/02 Penalty	- 186.86
Total 2	\$16,410.13 (debtor's unpaid water bill)

Account Number: 005-00019-00

3/02 Customer Balance	\$225,243.00
3/02 Penalty	- 9,701.37
2/02 Penalty	- 10,447.55
1/02 Penalty	- 7,746.63
12/01 Penalty	- 7,096.53
Total 3	\$220,250.92 (debtor's unpaid water bill)

Total 1	\$181,778.87
Total 2	\$16,410.13
Total 3	\$220,250.92
Grand Total =	\$418,439.92
	- \$225,713.15 (amount debtor has or will pay pursuant to the Stipulation)

Debtor's remaining unpaid water bills: **\$162,726.77**

*Exhibit reflects agreement between debtor and city re: payment of unpaid utilities

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 132 and 3571.

Exhibit 4: Sample Proof of Claim for Taxes

Attachment to Sample Proof of Claim for Taxes

<p>PROOF OF CLAIM</p> <p>Case Number: 02-08699</p> <p>5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box, and state the amount.</p> <p>Specify the priority of the claim.</p> <p><input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).</p> <p><input type="checkbox"/> Wages, salaries, or commissions (up to \$1,725*) earned within 180 days before filing of the bankruptcy petition or the debtor's business, whichever is earlier—11 U.S.C. §507 (a)(4).</p> <p><input type="checkbox"/> Contributions to an employees benefit plan—11 U.S.C. §507 (a)(5).</p> <p><input type="checkbox"/> Up to \$2,600* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use—11 U.S.C. §507 (a)(7).</p> <p><input type="checkbox"/> Taxes or penalties owed to governmental units—11 U.S.C. §507 (a)(8).</p> <p><input type="checkbox"/> Other—Specify applicable paragraph of 11 U.S.C. §507 (a)(): _____</p> <p>Amount entitled to priority: \$ _____</p> <p><small>*Amounts are subject to adjustment on 4/1/13 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</small></p>	<p>PROOF OF CLAIM</p> <p>City and School Taxes for Yearend 6/30/2002 \$2,398,515.00</p> <p>City and School Taxes for Yearend 6/30/2003* \$6,697,945.27</p> <p>Total = \$9,096,460.27</p>
<p>UNITED STATES BANKRUPTCY COURT NORTHERN DISTRICT OF ILLINOIS</p> <p>Name of Debtor: National Steel Corporation</p> <p><small>NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.</small></p> <p>Name of Creditor (the person or other entity to whom the debtor owes money or property): City of No Name</p> <p>Name and address where notices should be sent: c/o Louis P. Rochkind, Esq. Jaffe, Raitt, Heuer & Weiss, P.C. 27777 Franklin Road, Suite 2500 Southfield, MI 48034-8214</p> <p>Telephone number: (248) 351-3000</p> <p>Name and address where payment should be sent (if different from above):</p> <p>Telephone number:</p> <p>1. Amount of Claim as of Date Case Filed: \$9,096,460.27</p> <p>If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.</p> <p>If all or part of your claim is entitled to priority, complete item 5.</p> <p><input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.</p> <p>2. Basis for Claim: Taxes <small>(See instruction 2 on reverse side.)</small></p> <p>3. Last four digits of any number by which creditor identifies debtor: _____ <small>(See instruction 2 on reverse side.)</small></p> <p>4. Secured Claim (See instruction 4 on reverse side.) Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information. Nature of property or right of setoff: <input checked="" type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: _____ Value of Property: \$ Unknown Annual Interest Rate: _____ % Amount of arrearage and other charges as of time case filed included in secured claim, if any: \$ _____ Basis for perfection: _____ Amount of Secured Claim: \$9,096,460.27 Amount Unsecured: \$ _____</p> <p>6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.</p> <p>7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. <small>(See instruction 7 and definition of "redacted" on reverse side.)</small></p> <p>DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.</p> <p>If the documents are not available, please explain: _____</p> <p>Date: _____</p> <p>Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any. Louis P. Rochkind, Attorney for /s/ Louis P. Rochkind City of No Name</p> <p style="text-align: right;"><small>Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.</small></p>	