

Listed below are several questions regarding the Official Forms

Question – Official Form 23: With respect to the revised version of Official Form 23 becoming effective on October 1, 2006, can additional changes be made to the form's second statement (*i.e.*, debtor's request for a waiver of the requirement of completing the course in personal financial management)?

Background: While the recent revision of Official Form 23 has already brought a number of significant improvements, additional changes to the waiver-request portion of the form should be considered. Some possible changes are:

- 1) To make it clearer to the court as to the basis for the request, I would suggest placing "incapacity" and "disability" on **separate lines** so that debtors would select one or the other. There would, of course, be a box to check before each of these two lines.

Additionally, similar to what was done on new Exhibit D, I would suggest that the § 109(h)(4) definition for each term be listed immediately after the applicable term; providing the definitions would assist debtors in making the decision as to whether they wish to proceed with their request for a waiver using "incapacity" or "disability" as the basis for their request.

Furthermore, it should be considered whether blank lines should be placed below each of these two selections where debtors could provide information about the nature of their incapacity or disability. The provided information would assist judges in deciding whether 1) they are able to grant the request or 2) a hearing is needed before a decision can be reached. If blank lines were provided on the form, there should be an instruction such as:

*"In the space provided immediately below or on separate paper attached to this form, you may wish to provide information as to the nature of your **disability [incapacity]**. However, please keep in mind that any information provided will be part of the **public record** and, therefore, **available to the public**, so please do **not** provide private information such as a full social security number or the names of minor children."*

- 2) With respect to the last choice regarding the United States trustee's determination ("that the approved instructional courses are not adequate . . ."), is there any way to prevent a debtor from choosing this selection where the debtor resides in a district where **no** such determination has been made? For example, if the Executive Office (UST) were to maintain – on the EOUST's website – a notice providing a *centralized list* of the few districts where such a determination has been made [or, if no such districts currently exist, a notice indicating that there are

presently no districts where this determination has been made], Official Form 23 could provide the address for the EOUST's website and instruct debtors to check the notice appearing on that website (or, for debtors having no access to the Internet, check with the Clerk's Office) *before* choosing this particular selection.

Thank you very much.

Sincerely,

Mark Diamond
Operations Manager
US Bankruptcy Court, SDNY