

## **STATEMENT OF FINANCIAL AFFAIRS**

### **I. INTRODUCTION**

The Statement of Financial Affairs provides a summary of the debtor's financial history, transactions, and operations over certain periods of time before the commencement of this case, as specified in the questions. It is important for debtors to pay special attention to these different time periods as requested in the items below. For example, when an item asks the debtor to list payments made to creditors within 90 days of the commencement of this case, that means the debtor should list only those payments to creditors made during the 90-day period before the date of the filing of the bankruptcy petition.

This form should be cross-checked for consistency with assets listed in Schedule A (real property), Schedule B (personal property), and Schedule G (executory contracts and unexpired leases).

The Statement of Financial Affairs must be completed by all debtors.

Items 1-18 should be completed by all debtors. In addition, items 19-25 are to be completed by debtors that are or have been in business. Definitions for the terms "in business" and "insider" are set out on page 1 of Official Form 7. An individual debtor who is not or has not been in business, should skip directly to the signature page after answering Item 18(b).

If the answer to any applicable question is "None," the debtor should mark the box labeled "None." In the event sufficient space is not provided to fully answer any questions, the debtor should use continuation sheets and attach them to the form. Each continuation sheet should be clearly marked with the corresponding number of the question from the form.

To indicate payments, transfers and the like to minor children, 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 and Fed. R. Bankr. P. 1007(m), 9037.

### **II. APPLICABLE LAW AND RULES**

The Bankruptcy Code and Federal Rules of Bankruptcy Procedure (referred to as "Bankruptcy Rules" or "Fed. R. Bankr. P.") require a debtor to perform many duties. One such duty is to file a statement of financial affairs. 11 U.S.C. § 521(a)(1)(B)(iii); Fed. R. Bankr. P. 1007(b)(1). This statement must be filed with the bankruptcy petition in a voluntary case, or if the petition is accompanied by a list of all the creditors and their addresses, within 14 days after the filing of the petition. Fed. R. Bankr. P. 1007(c). In an involuntary case, the debtor must file

the statement of financial affairs within 14 days after the entry of the order for relief, i.e., a court order that places the debtor in an involuntary bankruptcy case. Id.

An extension of time for filing the statement may be granted by the court only on motion for cause shown and on notice to the United States trustee, any committee, trustee, examiner, or other party as directed by the court. Id.

A statement filed before the case is converted to chapter 7 will be treated as filed in the chapter 7 case, unless the court directs otherwise. Fed. R. Bankr. P. 1019(1).

At any time before the case is closed, a statement of financial affairs may be amended by the debtor as a matter of course. Fed. R. Bankr. P. 1009(a). The debtor must give notice of the amendment to the trustee and any entity affected by the amendment.

### **III. DIRECTIONS**

Items 1-18 are to be completed by all debtors.

#### **1. Income from Employment or Operation of Business**

This item requires the debtor to state the gross amount of income received from employment, trade, or profession, or from operation of the debtor's business. Include part-time activities either as an employee or in independent trade or business. Debtors should note that the information is required for the following two time periods: (1) from the beginning of this calendar year to the date of the commencement of the case, and (2) the two years before the calendar year in which the case is commenced. The form allows debtors to use a fiscal year rather than a calendar year, if necessary. The amount and source of the income should be listed for each time period. Spouses that have filed a joint petition should list the income for each spouse separately. Married chapter 12 and 13 debtors must list the income of both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.

#### **2. Income Other than from Employment or Operation of Business**

All other income, other than from employment, trade, or profession, or from operation of the debtor's business, that the debtor received during the two years before the commencement of the case should be disclosed under item 2. This category may include, but is not limited to, income from tax refunds, Social Security and other public benefit payments, alimony, child support, interest, dividends, pensions, annuities, capital gains, money judgments from lawsuits, royalties, licenses, rents, leases, and subleases. The amount and source of the income should be listed in the space provided. Spouses that have filed a joint petition should list the income for each spouse separately. Married chapter 12 and 13 debtors must list the income for each spouse

whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.

### **3. Payments to Creditors**

Item 3 directs the debtor to list payments to creditors within two specific time periods. Debtors should include payments to creditors on secured and unsecured debt. Debtors must complete either item 3(a) or item 3(b), depending on the nature of their debts. All debtors are required to complete item 3(c).

Each creditor should be listed separately with the date of each payment, amount of each payment, and balance still owing on the debt. Married chapter 12 and 13 debtors must include payments by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.

a. Individual or joint debtors with primarily consumer debts are required to complete item 3(a). List all payments of \$600 or more on loans, installment purchases of goods or services, and other debts paid to any creditor on or within 90 days before the commencement of the bankruptcy case. Indicate with an asterisk (\*) any payments that were made to a creditor on account of a domestic support obligation or as part of an alternative repayment schedule under a plan by an approved nonprofit budgeting and counseling agency.

b. Debtors whose debts are not primarily consumer debts are required to complete item 3(b). List all payments or other transfers of property made to any creditor on or within 90 days before the commencement of the bankruptcy case if the aggregate value of the payment or transfer is \$5,475 or more. (The dollar amount is subject to adjustment on April 1, 2010, and every three years thereafter with respect to cases commenced on or after the date of adjustment.) Individual debtors are required to indicate with an asterisk (\*) any payments that were made to a creditor on account of a domestic support obligation or as part of an alternative repayment schedule under a plan by an approved nonprofit budgeting and counseling agency.

c. All debtors are required to complete item 3(c). List all payments made within one year before the commencement of the bankruptcy case to or for the benefit of a creditor who is or was an insider. The definition of an "insider" appears on page 1 of the form. Specify the relationship of the creditors listed in item 3(c) to the debtor.

### **4. Suits, Administrative Proceedings, Executions, Garnishments, and Attachments**

In Item 4(a) the debtor must list all law suits and administrative proceedings, to which the debtor was a party within one year before filing the bankruptcy case. This includes, but is not limited to, divorce proceedings and state and federal administrative proceedings. Debtors must list each suit or administrative proceeding and case number separately, a description of the nature of the proceeding, the court or agency and location of the proceeding, and the status of

any pending proceeding or the disposition (final result) of any proceeding. Married chapter 12 and 13 debtors must include information concerning either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.

Item 4(b) requests the debtor to describe all property that has been attached, garnished, or seized under any legal or equitable process within one year before the commencement of the bankruptcy case. This includes, but is not limited to, wage garnishments, tax liens, and workmens' liens. Debtors should list separately the name and address of each person or entity for whose benefit property was attached, garnished, or seized, the date of such action, and a description and value of the property. Married chapter 12 and 13 debtors must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.

## **5. Repossessions, Foreclosures, and Returns**

Debtors should list all property that has been repossessed by a creditor, sold at a foreclosure sale, transferred through a deed in lieu of foreclosure or returned to the seller, within one year before the commencement of the case. The name and address of each creditor or seller, the date of repossession, foreclosure, sale, transfer, or return, and a description and value of the property should be included. This item would include repossession or voluntary return of any personal property, such as vehicles, tools, or household goods, as well as foreclosure and sale of any real estate. Married chapter 12 and 13 debtors must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.

## **6. Assignments and Receiverships**

Item 6(a) asks the debtor to describe any assignment of property for the benefit of creditors made within 120 days before the commencement of the case. The name and address of the assignee, date of assignment, terms of the assignment or settlement should also be described. Married chapter 12 and 13 debtors must include any assignment by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.

Item 6(b) asks the debtor to list all property which has been in the hands of a custodian, receiver, or court-appointed official within one year before the commencement of the case. The name and address of the custodian, the name and location of the court, case title, case number, the date of the order, and a description and the value of the property should be included. This does not include a chapter 7 bankruptcy trustee. Married chapter 12 and 13 debtors must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.

## **7. Gifts**

The debtor must list all gifts or charitable contributions made within one year before the commencement of the case, except ordinary and usual gifts to family members that total less than \$200 in value per person and charitable contributions that total less than \$100 per recipient. The name and address of the person or organization, relationship to the debtor, date of the gift, and a description and the value of the gift must be listed. Item 7 includes both cash and non-cash items. Married chapter 12 and 13 debtors must include gifts or contributions by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.

## **8. Losses**

Debtors must list all losses from fire, theft, other casualty, or gambling within one year before the commencement of the case or since the commencement of the case. Debtors should describe the property and state its value, describe the circumstances of the loss, and explain if any loss was covered in whole or in part by insurance. The date of the loss should also be included. Pending claims from insurance coverage should also be included on Schedule B. Married chapter 12 and 13 debtors must include losses by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.

## **9. Payments Related to Debt Counseling or Bankruptcy**

This item requires debtors to list all payments made to or property transferred by or on behalf of the debtor to any person, including attorneys and persons who are not attorneys, for consultation concerning debt consolidation, relief under the bankruptcy law, or preparation of a bankruptcy petition within one year before the commencement of the case. Debtors are requested to include the name and address of the person or entity paid, the date of the payment, the name of the payor if other than the debtor, the amount of money paid or a description and value of the property.

## **10. Other Transfers**

Item 10(a) requires the debtor to list all other property, other than property transferred in the ordinary course of the business or financial affairs of the debtor, transferred either absolutely or as security within two years before the commencement of the case. The name and address of the person or entity that received the property, and the relationship to the debtor should be listed. Any security interest that meets the foregoing criteria should be listed. The date of the transfer, a description of the property transferred, and the value received should also be included. Married chapter 12 and 13 debtors must include transfers by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.

Item 10(b) requires the debtor to list all property transferred within ten years before the commencement of the case to a self-settled trust or similar device of which the debtor is a beneficiary. See, 11 U.S.C. § 548(e).

### **11. Closed Financial Accounts**

In Item 11 the debtor must list all financial accounts and instruments held in the name of the debtor or for the benefit of the debtor which were closed, sold, or otherwise transferred within one year before the commencement of the case. These include checking, savings, or other financial accounts, certificates of deposit, or other instruments, shares and share accounts held in banks, credit unions, pension funds, cooperatives, associations, brokerage houses, and other financial institutions. Other examples include any Individual Retirement Accounts (commonly called “IRAs”), mutual funds, bonds, savings plans, and annuities. Debtors should list the name and address of the institution, the type of account, the last four digits of the account number, the amount of the final balance, and the amount and date of any sale or closing. Married chapter 12 and 13 debtors must include information concerning accounts or instruments held by or for either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.

### **12. Safe Deposit Boxes**

Item 12 requires the debtor to list each safe deposit or other box or depository in which the debtor has or had securities, cash, or other valuables within one year before the commencement of the case. Debtors are asked to include the name and address of the bank or depository, the names and addresses of those with access to the box or depository, a description of the contents, and the date of any transfer or surrender. Married chapter 12 and 13 debtors must include boxes or depositories of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.

### **13. Setoffs**

Item 13 asks the debtor to list all setoffs made by any creditor, including a bank, against a debt or deposit of the debtor within 90 days before the commencement of this case. A “setoff” is when part or all of a debt owed by the debtor to the creditor is “canceled out” by a pre-existing debt owed by the creditor to the debtor. Since certain pre-petition setoffs taken by a creditor may be subject to recovery by the bankruptcy estate, it is important that all setoffs be accounted for in this form. Debtors must include the name and address of the creditor, the date of setoff, and the amount of the setoff. Married chapter 12 and 13 debtors must include information concerning transactions of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.

#### **14. Property Held for Another Person**

Item 14 directs the debtor to list all property owned by another person that the debtor holds or controls. Debtors should list the name and address of the owner, a description and the value of the property, and the location of the property. Examples of this type of property may include property the debtor holds or controls in the capacity of a trustee, as a bailee, or property on consignment.

#### **15. Prior Address of Debtor**

Debtors that have moved within the three years before the commencement of the case must list all premises which the debtor occupied during that period and vacated prior to the commencement of the bankruptcy case. Spouses filing a joint petition should list any separate addresses individually for each spouse, including the name used and the dates of occupancy.

#### **16. Spouses and Former Spouses**

A debtor who resides or formerly resided with a spouse in a community property state at any time within the eight years before the commencement of the case is required to disclose the name of the spouse or any former spouse who resides or resided with the debtor in the community property state. Community property states include: Alaska, Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, and Wisconsin.

#### **17. Environmental Information**

This item requires the debtor to provide information concerning any environmentally Hazardous Material or Hazardous Site or sites which the debtor owns, manufactures, releases or may formerly have owned, manufactured, or released. These would include biological as well as chemical or radioactive materials. An individual non-business debtor may own or have released Hazardous Material or property on which Hazardous Material exists; accordingly, every debtor must answer this question. The terms "Environmental Law," "Site," and "Hazardous Material" are defined in item 17. Note that there is no time limit on any matter. All notices, releases, and proceedings of which the debtor has knowledge must be reported, regardless of when they occurred.

a. This item requires the debtor to list every Site for which the debtor has received a notice from a government agency that the debtor may be liable under or in violation of an Environmental Law. The debtor should give the name and address of the governmental unit that issued the notice, the date of the notice, and (if known) the name and section number(s) of the Environmental Law (for example, Illinois Waterways Protection Act, section 38-7.01).

b. The debtor is required to list the name and address of any Site for which the debtor provided notice to a government agency of a release of Hazardous Material. In addition

to the name and address of the Site or Sites involved, the debtor should state the name and address of the governmental unit to which notice was sent, the date(s) of any notice(s), and, if known, the name and section number(s) of the Environmental Law under which the debtor acted.

c. This item requires the debtor to list all judicial or administrative proceedings under any Environmental Law in which the debtor is or was a party. The debtor is required to disclose the name of the governmental unit that was a party in the proceeding and the docket number of the proceeding. The name of the court or other tribunal also should be stated. In reporting the status or disposition of the case, the debtor should include any settlements and any orders of any court or other tribunal.

## **18. Nature, Location, and Name of Business**

a. Individual debtors must list the names and addresses of all businesses in which the debtor was an officer, director, partner (other than a limited partner) of a partnership, or managing executive of a corporation, partnership, or sole proprietorship within the six years before the filing of the voluntary bankruptcy petition or the order for relief in an involuntary case. Individual debtors who were self-employed in a trade, profession, or other activity, either full- or part-time during the six years before the commencement of the case, also must list the information. In addition, the debtor must list the names and addresses of all businesses in which the debtor owned five percent or more of the voting or equity securities, within the same six years.

Partnership debtors are asked to list the names and addresses of all businesses in which the debtor was a partner or owned five percent or more of the voting or equity securities, within the six years before the commencement of the case.

Corporate debtors are asked to list the names and addresses of all businesses in which the debtor was a partner or owned five percent or more of the voting or equity securities, within the six years before the commencement of the case.

All of the above types of debtors should state the name, address, last four digits of the taxpayer identification number, nature of the business, and the beginning and ending dates of operation in the spaces provided.

b. All debtors must identify any business listed in item 10(a) which is “single asset real estate” as defined in section 101(51B) of the Bankruptcy Code, 11 U.S.C. § 101(51B).

### **Questions 19 - 25:**

Items 19-25 are to be completed by every debtor that is a corporation or partnership and by any individual or joint debtor who is or has been “in business,” as defined on the first page



of Official Form 7. An individual or joint debtor should complete items 19-25 only if the debtor is or has been in business, as defined in the form, within the six years before the commencement of the case. Care should be used to provide information for the years specified in each item. Additional sheets may be attached, if necessary.

An individual or joint debtor who does not meet the definition of “in business” should proceed directly to the last page of the form and the section labeled “Signatures of Debtors” (instructions below).

## **19. Books, Records, and Financial Statements**

a. Business debtors must list all bookkeepers and accountants who kept or supervised the keeping of books of account and records of the debtor, within the two years before the filing of the bankruptcy case. The name, address, and dates of services rendered should be placed in the space provided.

b. Business debtors must list all firms or individuals who have audited the books of account and records or prepared a financial statement of the debtor, within the two years before the filing of the bankruptcy case. The name, address, and dates of services rendered should be placed in the space provided.

c. List all firms or individuals who were in possession of the books of account and records of the debtor, at the time of the commencement of this case. The name and address of the firms or individuals should be placed in the space provided.

d. All financial institutions, creditors, and other parties, including mercantile and trade agencies, to whom the debtor issued a financial statement, within the two years before the commencement of the case, should be listed. The name and address of the entity and the date the financial statement was issued should be placed in the space provided.

## **20. Inventories**

a. State the dates of the last two inventories taken of the debtor's property, the name of the person who supervised the taking of each inventory, and the dollar amount and basis of each inventory. Space is provided for the date of each inventory, the inventory supervisor, and the dollar amount. Debtors are asked to specify the cost, market or other basis.

b. State the name and address of the person having possession of the records of each of the two inventories reported in item 20(a). Space is provided to list the date of the inventory and the name and address of the custodian of the inventory records.

**21. Current Partners, Officers, Directors, and Shareholders**

a. Partnership debtors must list the nature and percentage of the partnership interest of each partner (member of the partnership), including general partners and limited partners. Space is provided to list the name and address, nature of the interest, and percentage of the partnership interest of each member of the partnership.

b. Corporate debtors must list all officers and directors of the corporation and each stockholder, who directly or indirectly owns, controls, or holds five percent or more of the voting securities of the corporation. Space is provided to list the name and address, title, and nature and percentage of stock ownership.

**22. Former Partners, Officers, Directors, and Shareholders**

a. Partnership debtors must list each partner (member of the partnership), including general partners and limited partners, that withdrew from the partnership within one year before the commencement of the case. Space is provided to list the name, address, and date of withdrawal.

b. Corporate debtors must list all officers or directors whose relationship with the corporation terminated within one year before the commencement of the case. Space is provided for the name and address, title, and date of termination.

**23. Withdrawals from a Partnership or Distributions by a Corporation**

Partnership debtors and corporate debtors must disclose all withdrawals or distributions credited or given to an insider, including compensation in any form, bonuses, loans, stock redemptions, options exercised, and any other benefit during one year before the commencement of the case. Space is provided to list the name and address of the recipient, relationship to the debtor, the date and purpose of the withdrawal, and the amount of money or a description and value of any applicable property.

**24. Tax Consolidation Group**

If the debtor is a corporation that is or has been, at any time within the six years before the commencement of the case, a member of a consolidated group for tax purposes, the debtor is required to report the name and federal taxpayer identification number of the parent corporation of the group.

**25. Pension Funds**

If the debtor is or has been an employer and is not an individual, the debtor must provide the name and federal taxpayer identification number of any pension fund to which the debtor

has been responsible for contributing at any time within the six years before the commencement of the case.

### **Signatures of Debtors**

It is very important that all debtors sign and date the Statement of Financial Affairs. Both spouses should sign in a joint case. By signing the Statement of Financial Affairs, the debtor(s) is (are) declaring, under penalty of perjury, that the information in the form is true and correct.

### **Signature of Individual Signing on Behalf of a Partnership or Corporation**

There is also a section for the partnership or corporate debtor. Individuals and joint debtors should leave this space blank. The individual authorized by the debtor entity (partnership, corporation, etc.) to file the petition should sign the Statement of Financial Affairs on behalf of the debtor and include the individual's name, title, and the date on the lines provided. The authorized agent of a debtor corporation or debtor partnership should indicate the agent's position or relationship to the debtor. By signing the petition, the authorized individual is representing that the information in the Statement of Financial Affairs is true and correct.

### **Continuation Sheets**

Debtors should count the number of continuation sheets and place that number in the space provided on the last page of the Statement of Financial Affairs. Continuation sheets should be attached to the Official Form.

### **Certification and Signature of Non-Attorney Bankruptcy Petition Preparer**

The Statement of Financial Affairs is a “document for filing” that may be prepared by a “bankruptcy petition preparer” as defined in 11 U.S.C. § 110. Accordingly, a signature line for such preparer is provided. In addition to signing and dating the form, a bankruptcy petition preparer is required by section 110 to disclose the information requested. If more than one person prepared the document, additional signed sheets conforming to the certification on the Official Form must be attached for each person.