

Business Cases
Brett N. Rodgers, Chapter 13 Trustee
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Over the last several years there has been an increase in the amount of information requested and reviewed by the Trustee prior to confirmation. We have recently hired an experienced Business Case Analyst, George Erwood who will be consulting with our office in requesting and reviewing all information required for self-employed debtors. The business case questionnaire, business case budget, financial reports, proof of insurance, and all other reports or documentation needed to determine the Best Interest of Creditors Test, feasibility and good faith of a business case debtor must be submitted to our office as soon as possible after the case has been filed. There is no excuse for not having all this information immediately available for the Trustee as you must have reviewed it all before you can file accurate schedules and business budgets.

You should also know that a business case debtor has been redefined to include all self-employed debtors! For example, if a debtor runs a day care with 3 children in her home, a definitive order (operating order) will be issued and that debtor will have to file all required financial information. Without complete and accurate information a business case debtor will likely not have their case confirmed. We will also be looking at the valuation placed on Schedule B for a debtor's business (dba) and any corporate or partnership interest the debtor has an interest in. Industry-wide profit margins, ratios, and other financial data will be used by our business case analyst to compare the value the debtor has listed on Schedule B for the value of their business, corporate or partnership interests.

Additionally, all business case debtors will have a definitive order which will require them to submit a series of monthly financial reports, reconciled bank statements, and other business documentation after their case has been confirmed. Failure to submit this information in an accurate, timely, and complete manner could lead to their case being dismissed.

The procedures noted above might seem burdensome to a debtor who is heading into bankruptcy. Quite often a business case debtor will state that they do not have the money to spend on a bookkeeper or the cost to buy computerized accounting software. However, keeping proper and complete records, reconciling bank statements, and comparing the actual results of a business to the budget are basic components of running any business. Just as importantly, it is the Trustee's fiduciary responsibility to monitor the estate and without the information we are requesting it is difficult to assess the current and future success of a business case debtor.

If the self-employed person is going to file Chapter 13 bankruptcy, they must be aware of all the requirements placed on them both pre and post confirmation. If they are unable to prepare the reports or documents they need to submit to our office, they may need to hire someone to do this for them.

Finally, we would like to begin e-mailing any letters, reports, and other requests for information to both the debtor and their attorney. Therefore, it would be helpful if you could provide the Trustee's office with the debtor's e-mail address if they have one. It would be quite beneficial to all parties in interest to reduce the time we communicate with each other and what better way than using e-mail...if the debtor has a computer.