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**INTRODUCTION.** Chapter 13 is one method under the Bankruptcy Code to obtain relief from your creditors while at the same time providing a fair means to pay them back as much as you can. It allows you to keep some or all of your property during the time you are paying creditors back, and it permits you to modify some contract payments, interest rates and lengths of obligation. Chapter 13 has gained widespread acceptance across the country as an attractive alternative to a straight bankruptcy. It is very important to remember that because the Chapter 13 has modified the rights of your creditors, you, as the debtor, have a responsibility to fulfill your obligations as set out in your plan and to remain current on all payments to the Trustee.

**Please remember that this is YOUR case.** It is your responsibility to carefully examine all reports and notices sent to you by the Bankruptcy Court or the Trustee. Any irregularities that you find should be reported to the Trustee's office **IN WRITING** so that they can be properly reviewed and administered. The Chapter 13 Trustee's office has a system of checks and balances to ensure that your case is paid according to your Plan or amended Plan. Despite all precautions, an occasional miscalculation is made and we depend upon you to notify us when this happens. Always remember that no one is as familiar with your case and your creditors and as you are.

**YOUR CASE NUMBER.** At the time your Chapter 13 petition was filed, the Bankruptcy Clerk assigned your case a 7-digit number. **This number is very important.** You will need to provide this number whenever you write or call the Trustee's office or make a payment to the Trustee. Your case number has been provided on the cover of this booklet for your reference. Please make a note of it and keep it readily available for future use.

**YOUR ATTORNEY.** Under the rules of the Bankruptcy Court, your attorney must continue to appear and represent you for as long as your case is active or until the Judge permits your attorney to withdraw from your case. If you have a legal question concerning your case, creditors, your rights, or your options, **make it a rule to ask your attorney first.**

In most cases, your attorney will be paid his or her legal fee through your Chapter 13 Plan. Make sure that you and your attorney have fully discussed whether additional legal services during your plan will be an additional charge or whether the initial fee will cover all legal services. Keep in mind that all legal fees must be reviewed and approved by the Bankruptcy Judge. If you need to change attorneys, please make sure to inform the Bankruptcy Court and your Trustee who your new attorney is along with their contact information.

**YOUR MAILING ADDRESS.** The Trustee's Office needs to know your exact mailing address for as long as you are under Chapter 13. The Trustee and the Bankruptcy Court will send all notices to the address provided on your initial Petition until you or your attorney informs us **IN WRITING** of a new address. Again, if you change your mailing address, you **MUST** inform your attorney, the Bankruptcy Court and the Trustee **IN WRITING** of your new address. This will ensure that you continue to receive all notices and updates as to the status of your Chapter 13 case.

**CALLS TO THE TRUSTEE'S OFFICE.** The Chapter 13 Trustee's phone number is printed on the cover of this booklet. Generally, our staff will accept calls from 8:00 am to 4:30 p.m., Monday thru Friday, unless otherwise stated on the front cover. If you have a question that your attorney cannot answer, you may direct your questions to the Trustee in writing. Mail all correspondence to the address noted on the cover of this booklet with your name, case number and specific question(s) that you have. If you cannot wait for a written response, you may call the Trustee's office during regular office hours. Do not feel that you have to talk personally with the Trustee; the staff is familiar with the policies and guidelines under Chapter 13 and is well qualified to discuss with you any problems or questions that may arise. Please remember that the **Trustee and his staff cannot give any legal advice.** All legal questions need to be directed to your attorney.

**PAYMENTS.** YOUR FIRST CHAPTER 13 PAYMENT IS DUE WITHIN THIRTY (30) DAYS OF YOUR CASE BEING FILED. Per Local Bankruptcy Rule, Chapter 13 payments must be made through a payroll deduction at your place of employment. If you are making your own plan payments, we prefer that you do so by money order, postal order or cashier's check. Disbursements from payments made by personal check will be delayed until the check has been cleared by the bank.

All payments should be made **payable to Brett N. Rodgers, Trustee.** You should include your name, address and your Chapter 13 case number on all payments mailed directly by you. All payments must be made to **the Payment Address** located on the front cover of this booklet. Please note that only payments are made to this address. This is a "Lock Box" from which payments are picked up directly by the bank for deposit in the Trustee's account. All correspondence needs to be mailed to the Trustee at the correspondence address located on the front cover.

**PAYROLL DEDUCTION ORDERS.** Per Local Bankruptcy Rule the Court requires that your Chapter 13 plan payments be made by payroll deduction at your place of employment. It is important that both you and your employer understand that such an order is not a garnishment. A garnishment or attachment can come only from someone to whom you owe any money, and you do not owe the Court or the Trustee any money. The Court is simply carrying out its duty to administer the Plan you voluntarily filed and in which you gave the Court exclusive jurisdiction over your future wages as long as you are in a Chapter 13 plan. We find that most employers understand that you are making a serious effort to repay your debts and think more highly of an employee who seeks to pay his or her debts instead of avoiding them. If your employer has any questions, he or she may call our office for an explanation.

**OBLIGATION TO PAY.** Even though the Court will usually order your employer to deduct plan payments and send them to the Trustee, you must remember that **it is your obligation to make sure payments are made.** If your employer fails to make a payment deduction, you must notify your attorney that the deduction was not made. You must then send the required plan payment to the Trustee using the payment guidelines as noted in the PAYMENTS section of this booklet. It is a good idea to keep your pay stubs to demonstrate that the deductions are taking place. If payments are not received by the Trustee as required by your Plan, the Trustee will ask the Court to dismiss your case.

**If you change your place of employment you must advise the Trustee of the name, address and telephone number of your new employer.**

**DISMISSAL FOR FAILURE TO PAY.** If you fail to make the payments to the Trustee as required by your Plan, the Trustee will ask the Court to dismiss your case. It is very important to contact your attorney if you ever expect to miss payments due to being laid off, medically disabled or changing jobs. If your case is dismissed, your ability to seek Bankruptcy protection in the future may be diminished; therefore, it is important to talk to your attorney if you know of any reason why the Trustee will not receive a payment. The Trustee's office has no authority to let you miss payments or allow you to pay less than your plan requires. Only the Judge can make this decision. You should contact your attorney if you feel that you cannot meet the obligations of your Plan. The Trustee will not send you notices or letters that payments have been missed, but you will be advised, in writing, when the Trustee seeks to have your case dismissed.

**REQUEST FOR DISMISSAL BY YOU.** Federal Bankruptcy law allows you to request that your Chapter 13 case be dismissed at any time. No one can force you to remain under a Chapter 13 if you do not wish to remain. If you desire to stop your case, contact your attorney or the Chapter 13 office. However, you should understand that a dismissal will reactivate all unpaid or disputed debts, all interest and finance charges, all late charges not allowed by the Court, and all debts to creditors who did not file their claims. In addition, you will be forced to deal with those creditors on their terms, not yours or the Court's. The request for dismissal of your Plan must be IN WRITING and filed with the Bankruptcy Court.

**REAL ESTATE DEBTS.** Any debts you owe that are secured by a mortgage on real property that is your homestead or a contract for a mobile home are usually paid directly by you if you are current at the time the Chapter 13 is filed. If you are in a Chapter 13 to cure a default on your mortgage, the Trustee will be making payments to bring your mortgage current and will also make your post-petition monthly mortgage payments. If your house payments are being paid through your Chapter 13 Plan, it may be necessary to adjust your Chapter 13 plan payment and mortgage payment to reflect annual adjustments in the escrow portion of your house payment. If you receive a notice of a change in the amount of your house payment, contact your attorney.

Many times people will be current on their mortgage payments when they file their Chapter 13. Then, due to varying circumstances, they may fall behind on their payments. If this should happen, notify your attorney immediately. The mortgage company may agree to bring the mortgage debt inside the plan in order to bring it current.

**TAX ESCROW ACCOUNT.** Your Chapter 13 Plan may provide for a tax escrow account for payment of your property taxes that come due during the term of your Plan. This is often the case when your taxes are not paid through the mortgage company or if you are buying on a land contract and you have not been able to keep your taxes current in the past. **It is your responsibility to forward your property tax bills to the Trustee in a timely manner.** Upon receipt of your tax bill, mail the tax bill and a short letter to the Trustee indicating that the taxes are to be paid from your tax escrow account. Make sure to mail the letter and your tax bill to the Trustee at the **correspondence address**. Failure to comply with this procedure could result in your taxes not being paid or additional interest accruing because of a delay in payment. You may want to contact the Trustee's office to verify if the escrow account contains enough money to pay the taxes in full. If the escrow account does not have sufficient funds to pay the tax bill, you are responsible to pay the difference. The Trustee shall not be responsible for any interest or penalties incurred on taxes paid late.

**PRE-CONFIRMATION PAYMENTS.** As part of your Chapter 13 Plan, you may have elected to make pre-confirmation payments directly to certain secured creditors who have a lien against your personal property (for example, a creditor who has a lien on your car). If your Plan states you are to make these pre-confirmation payments directly to certain secured creditors, you will need to provide to the Trustee sufficient evidence that such payments are being made. Once your Plan is confirmed by the Court, you will want to ensure, through your attorney, that the creditor files an amended Proof of Claim to account for any pre-confirmation payments that you made. If your Plan states that all pre-confirmation payments are to be made through the Trustee, please disregard the above suggestions.

**SELLING PROPERTY.** You cannot dispose of any of your property, including any form of real estate, without prior Court approval. If you dispose of your property without permission, the transaction may be set aside. If you want to sell your property, trade in a car or sell your home, be sure to discuss it with your attorney first.

**AUTOMOBILE AND HOME OWNERS INSURANCE.** During the life of your case, the collision insurance on your automobile or homeowners insurance may expire. If this is the case, YOU are responsible for the renewal of the insurance within a reasonable period of time. The lienholder may petition the Court for the return of the vehicle or real estate due to the insurance expiring.

**CHECKS HELD BY OTHERS.** A creditor may hold a check you wrote for cash or purchase of goods that was not honored by your bank. The holder of the check may join the Plan as a creditor or prosecute the transaction as a crime. Giving a bad check is a criminal matter, and you may have to take care of this matter outside of the Plan. The Restraining Order in your case does not stop a criminal prosecution.

**CONTACTS BY CREDITORS.** All the creditors that you listed on your Chapter 13 petition are under an automatic Restraining Order which prohibits them from bothering you in any way. However, there may not be an automatic Restraining Order if you have filed a Bankruptcy case or cases prior to this case. If you continue to get notices from your creditors after your case has been confirmed by the Court, send them to your attorney. Delinquent notices need not cause any great concern, but if you get a more personal, direct contact from a creditor, such as a telephone call, a personal letter, a summons, or a visit in person, you should immediately inform them that you are under Chapter 13 and give them your attorney's name and address. Under no circumstances should you discuss the debt with them in any manner. Be sure you tell your attorney the name of the person who contacted you. Your attorney will want to follow up on such a call and the name of the person calling you is very important.

**DEALING WITH PRE-PETITION CREDITORS.** You may not deal with a creditor, just as a creditor may not deal with you. You cannot pick and choose some particular pre-petition creditor and pay him "on the side" because all of your pre-petition debts must be dealt with through the Court. Any payment which you make to a pre-petition creditor may well be illegal. All creditors must be paid under the authority of your Plan as confirmed by the Court.

**CLAIMS OF CREDITORS.** While every creditor listed on your Chapter 13 petition is given the opportunity to file a claim for payment, non-governmental creditors are allowed only ninety (90) days from the Meeting of Creditors to file their claim. After you have been under the Plan for about six months, the Trustee will send you a complete list of creditors that have filed a claim in your case, including the amount which they claim you owe them. You should read and examine this list, called a "Notice of Intent to Pay Claims" very carefully. If a creditor is listed incorrectly or any amount claimed does not appear correct, you should contact your attorney at once. Unless your attorney objects to the unsecured amount of a claim, we will pay the amount the creditor requests, not the amount listed on your schedules.

If there is a creditor who has not filed a claim and you would like for them to be paid, either you or your attorney may file a claim on their behalf. Claim forms may be obtained from your attorney or the Bankruptcy Court. You may want to file a claim for a secured creditor who fails to file as the lien stays with the creditor. This means that if the secured creditor does not receive payment under the plan, he will be free to recover his collateral upon completion of the plan. Please consult with your attorney as to the advisability of filing a claim for any unfiled creditor.

The Trustee can pay only pay creditors that have approved filed claims and is prohibited from paying anyone who did not file a claim. If you complete your Plan, any claim that was not filed will be discharged EXCEPT some taxes, alimony, child support, student loans, and certain long term obligations and any debt that the creditor successfully objected to your discharge.

**BALANCE DUE CREDITORS.** Most people are very interested in knowing how much they owe to their creditors and how much they have left to pay on their Chapter 13 Plan. You will be mailed a computerized report approximately every six months which will show all the payments received by your Trustee and to whom that money was paid. The report will also list the payoff balance to each of your creditors and of your Chapter 13 plan. It will not include any accruing interest which your plan requires you to pay, therefore; the payoff balance is only an approximate figure.

Along with this booklet, the Trustee's office provided you with a copy of the National Data Center Chapter 13 Bankruptcy Case Information instruction leaflet. This information will allow you to view the status of your Chapter 13 case online at any time. Follow the instructions on the leaflet to log in and access your Chapter 13 case information and status.

**HOW CREDITORS ARE PAID.** The money that is paid to the Trustee is used to pay all expenses incurred in your Plan, including your attorney, and your creditors. There are three basic types of claims: priority, secured, and unsecured. Generally the Trustee pays administrative costs and ongoing monthly payments to the specified secured creditors, including your monthly mortgage payments, before any other creditor. Then, disbursements are made to pay your attorney's fees followed by taxes (priority claims) and/or creditors with claims on your property (secured claims). Depending on the terms of your Plan, the Trustee generally does not disburse funds to unsecured creditors until the priority and the secured claims are current in monthly payments and/or paid in full. Therefore, it could be a number of months before the first payments are made on the unsecured claims.

**CREDITORS NOT LISTED.** Creditors not listed by you when you file your Petition can cause a few problems. There are two kinds of unlisted creditors: Those you owed money to when you filed and forgot to list, "unlisted creditors", and those creditors who have a bill that was incurred after your Petition was filed, "post-petition creditors". If you find an unlisted creditor, one you owed but forgot to list, you must let your attorney know the details of this debt immediately. He/She will need to amend your schedules to add the unlisted creditor. Time is important here so do not delay if one is discovered.

Post-petition creditors, those whose bills were incurred after you filed, are rare based on the fact that you are not to use credit while under Chapter 13. However, doctor and various medical expenses cannot always be avoided, and repair bills do come up. When this happens you should recognize you owe the bill and you should pay it, as it cannot normally be added to your Chapter 13 case. There is an exception to this rule for certain debts, which arise after you filed your case. Under certain circumstances, taxes and debts which are necessary for your plan to work can be added later and paid through your Plan. You should contact your attorney if you think such a debt has come up. **REMEMBER: YOUR TRUSTEE CANNOT AND WILL NOT ALLOW YOU TO MISS A CHAPTER 13 PAYMENT SO THAT YOU CAN PAY "NEW DEBTS".** Your old debts being paid through your plan come first.

**LATE CLAIMS.** As noted above, most creditors have 90 days after the Meeting of Creditors to file their claims. Generally, any claim not filed within that time limit is not paid and is considered disallowed. You or the creditor will have 20 days to object to the disallowance of a late claim. Governmental claims are an exception to the 90 day time limit, as they have 180 days from the date you filed your case to file a claim. Our office will send you a “Notice to Allow Additional Claim” if we receive a late tax claim. If you do not want the Trustee to pay this tax claim, contact your attorney to discuss an objection to the claim.

**CREDIT CARDS AND POST PETITION DEBT.** The use of credit cards or charge accounts of any kind while under Chapter 13 is the use of credit and it is prohibited. You cannot buy anything over time, like a car or an appliance, and you cannot run up a bill to anyone without Court permission. This prohibits you from borrowing any money from a finance company or bank or your credit union. You cannot sign, co-sign or guarantee an installment note. The only exception to this is for medical emergencies. If, for some reason you feel that is important for you to be able to buy something in installments, or to be able to borrow money, you should contact your attorney to assist you in applying for the Judge’s permission. If you are paying regularly into your Chapter 13 case, there is a good reason to incur the debt, and your ability to make your plan payment is not threatened, the court may grant you permission.

**OBTAINING CREDIT WITHOUT PERMISSION.** Obtaining credit without permission of the Court is not only a violation of the Court’s order it is subject to reversal by the Court. Any credit purchase you make without approval of the Court would be illegal, the goods would have to be returned and you very likely would be out any payment you had made. You would also place your Plan in serious jeopardy if you obtain credit without approval.

**CO-SIGNERS AND CO-MAKERS.** A co-signer, co-maker or guarantor on any of your consumer debts is generally protected from contact by the creditor by something called the “Co-Debtor Stay”. The Co-Debtor Stay will only protect co-signers, co-makers or guarantors for the amount of debt your plan proposes to pay. If your Plan is not scheduled to pay all of the co-signed debt in full, a creditor may obtain permission to collect from the co-signer, co-maker or guarantor, that portion of the debt that your plan is not going to pay. If the co-signer, co-maker or guarantor has given collateral for the loan, the creditor must request a hearing before the Judge in order to proceed against the property. Remember, this protection for co-signers lasts only as long as your Chapter 13 case does. If your case ends without a creditor receiving all the money, which was due to him, he can collect the rest from your co-signers (including interest and other charges which were not allowed in your cases). Your discharge on a debt does not affect a co-signer’s obligation.

**TAX RETURNS AND REFUNDS.** Remember, your Plan may require that all or a portion of your tax refund be paid to the Trustee. Complete copies of Federal, State and Local tax returns will need to be submitted to the Trustee for the applicable commitment period of your plan, which could last either 36 or 60 months. **Send tax REFUNDS to PO Box 3538, Grand Rapids, Michigan 49501;** put your name and case number on the check or money order with a note on the check or money order stating that it is payment for a tax refund and designate the type of the refund (example: IRS 2005). Send complete copies of all future tax **RETURNS to the Trustee at our correspondence address or fax number.** Please ensure you black out social security numbers and bank account numbers from the copies you provide to our office. You can also have future tax returns emailed to the Trustee and/or your attorney by filing the appropriate IRS forms. You should consult with your attorney if you decide to do this. To be certain that you receive any refund in a timely manner, you should file your tax return as early as possible. If you need to know the amount of interest paid to various creditors for tax purposes, you should contact the specific creditor by letter to request this information.

**ANNUAL STATEMENT OF INCOME AND EXPENSES** Annually after your case is confirmed, you may need to file a statement of income and expense for the previous year. This would be done within 45 days from the anniversary of your Chapter 13 filing. Therefore, it is crucial that your tax returns are timely filed so that your attorney can accurately file any necessary statements of income.

**SELF-EMPLOYMENT/BUSINESS CASES.** If you are self-employed, have an interest in a LLC, are in a partnership, or work for a company in which you or your spouse has an interest, we may have already reviewed your case as a potential business case. In order to review all documentation and other related information for potential business cases, we have asked you to **submit the required information** to our office at or near the **same time that you file your case.** This will save a tremendous amount of time and effort for you, your attorney, and our staff by limiting phone calls, faxes, letters, and the like. In addition, your case will proceed more rapidly through our review process if everything is properly accounted for in a timely manner.

When your case was processed by our intake department, a letter was sent to you and your attorney along with a business questionnaire to be completed and returned to our office by you. It is imperative that this business questionnaire is filled out completely and returned to the Trustee's office as soon as possible.

In addition to the completed business questionnaire, you are expected to provide the following:

1. A complete business budget that correlates to Schedules I and J;
2. Federal, state, and city (if applicable), individual, partnership, and corporate (if applicable) tax returns for the prior four years;
3. Proof of insurance for the business;
4. A listing and value of business furniture and equipment;
5. A listing of goods for sale (if applicable);
6. Other required information listed on the business questionnaire.

Failure to provide any or all of the requested documentation on the business questionnaire will likely result in a motion to dismiss your case.

If your case is determined to be a business case, monthly, quarterly, and annual reports will be required during the life of the plan. An operating order will be signed by the Trustee and Judge and its requirements tracked by our office.

If your case is determined **not** to be a business case, you still need to file a statement of your income and expense on each anniversary of your date of filing along with yearly income tax returns during the life of the case. This is done so that we can monitor the continued viability of the source of income that may be derived from self-employment endeavors. This type of review is far less burdensome since there are fewer reports and they need to be submitted only once each year.

We look forward to working with you in streamlining this process for potential business cases. You may call Bill Anderson, Controller/Operations Manager at 616-454-9638 at extension 15 or email him at [bill@roddersch13.com](mailto:bill@roddersch13.com).

**PERSONAL FINANCIAL MANAGEMENT COURSE.** In order to receive any discharge you are entitled to, you must first take an instructional course on financial management. This course is offered by your Trustee. The course is free and should last approximately 2 ½ hours. Contact your attorney or Trustee to set up a time to take this course. In addition, a personal financial management course can be taken on-line for a fee. Please contact your attorney for additional information on any on-line courses.

**WHEN YOU'RE THROUGH.** After you have successfully completed your case, that is, when the Trustee has received enough funds from you to pay your creditors what you promised to pay them, a final audit of your case will be conducted. After the audit of your case, you will receive a Final Report and Account and then shortly thereafter, a written discharge notice from the Bankruptcy Court (if you are entitled to one). Once you receive the discharge, you will generally not owe any debts, other than alimony, child support, mortgage payments, student loans, and taxes. If you are not sure which of your debts will be discharged, you should discuss this with your attorney.

After the audit on your case is completed, the Trustee will notify your employer to discontinue your payroll deduction order. If the Trustee was paying your continuing mortgage payment, you will receive a letter from our office indicating when to make your next full mortgage payment. In addition, you may also receive a refund check from the Trustee which will be the amount of your last few payments not needed to pay your creditors.

**CONTACT BY CREDITORS AFTER COMPLETION OF CHAPTER 13.** When a creditor has had his claim paid by Chapter 13, whether partially or in full, he should, and usually does, send paperwork to you indicating that the claim has been paid in full. Even if the creditor fails to do this, it is not too significant since the official records of the Court show your case has been completely paid. Your receipt of a discharge would overrule any claim a creditor might make for additional money. If you receive a request for additional money after your case is completed, make sure to discuss the request with your attorney before sending payments to that creditor.

**CREDIT RATING.** Your credit rating during and after completion of Chapter 13 will be, as it is now and was in the past, the personal opinion of any credit grantor who looks at your record. A credit rating is not A, B, or C, or 1, 2, 3, it is a record of all your past credit performance. This record is made available to a credit grantor and he makes up his mind, by his own standards, as to whether or not he wants to grant credit to you. Suits, collections, attachments, straight bankruptcy, credit counseling, and Chapter 13 are indications in one degree or another, of credit problems. Any credit record that has been blemished by a problem must be gradually rebuilt. If after completing your Chapter 13, your credit report does not reflect the fact that your case was discharged, you may need to provide a copy of your discharge and your final report and account to the credit bureau to prove that you successfully completed your Chapter 13. Keep in mind that the Chapter 13 Trustee has no control over the credit bureau and cannot change your credit rating. How quickly you rebuild your credit will be up to you.

**It is recommended that you retain all of your Chapter 13 pleadings, discharge, and final report in a safe place for 7-10 years for future reference.**

**ONE FINAL WORD.** Complying with a Chapter 13 Plan is not easy. You may have to make a real sacrifice to meet obligations specified in your Plan and still live within your Chapter 13 budget. Thousands of families have successfully completed their Chapter 13 cases. They know that they have resolved their debt problems without filing straight bankruptcy and have paid most, if not all, of their obligations to their creditors. **Chapter 13 will only work for you if you work very hard at meeting your obligations under your Plan.**