

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLORADO

IN THE MATTER OF REFUSING TO ACCEPT
FOR FILING BANKRUPTCY PETITIONS
TENDERED WITHOUT THE PRESCRIBED
FILING FEE IN ALL CHAPTERS, OR WITHOUT
THE LIST OF 20 LARGEST UNSECURED
CREDITORS IN CHAPTER 9 AND 11 CASES

FILED
April 2, 2002
United States Bankruptcy Court
District of Colorado
Bradford L. Bolton, Clerk

GENERAL PROCEDURE ORDER NUMBER 2002-2

THIS MATTER arises *sua sponte* upon the need to establish procedures for ensuring compliance with title 28, United States Code, and the Federal Rules of Bankruptcy Procedure upon the receipt of petitions tendered for filing.

WHEREAS title 28, United States Code, section 1930(a) and Fed.R.Bankr.P. 1006(a) requires that parties commencing a case under title 11, United States Code, shall pay to the clerk of the bankruptcy court certain fees prescribed therein;

WHEREAS the requirement to pay filing fees prescribed by or authorized to be promulgated pursuant to title 28, United States Code, section 1930 is statutorily based, and not a requirement of form as may otherwise be contemplated under Fed.R.Bankr.P. 5005(a)(1);

WHEREAS Fed.R.Bankr.P. 1007(d) states that “a debtor in a chapter 9 municipality case or a debtor in a voluntary chapter 11 reorganization case shall file with the petition a list containing the name, address and claim of the creditors that hold the 20 largest unsecured claims, excluding insiders. . .”;

WHEREAS Fed.R.Bankr.P. 9006(b)(2) does not permit the Court to enlarge the time for taking action under Fed.R.Bankr.P. 1007(d); and

WHEREAS failure by the debtor to pay the filing fee to commence a case as prescribed by title 28, United States Code, section 1930 is contrary to the statutory requirement and creates an administrative hardship on the clerk of the bankruptcy court in properly filing and entering said case;

WHEREAS failure by the debtor or to file the list containing the name, address and claim of the creditors that hold the 20 largest unsecured claims in chapters 9 and 11 cases impedes the ability of the U. S. Trustee to oversee administration of the case pursuant to 28 U.S.C. 586(a)(3) and may compromise the rights of creditors entitled to receive notice of emergency motions and applications filed by the debtor upon or shortly after commencement of the case; it is therefore

ORDERED that upon the tendering of a bankruptcy petition tendered for filing under any chapter that is not accompanied by

(1) full payment of any fees prescribed by title 28, United States Code, section 1930(a) and required to be paid pursuant to Fed.R.Bankr.P, 1006(a) for the commencement of a case under title 11, United States Code, together with any additional fees promulgated by the Judicial Conference of the United States pursuant to title 28, United States Code, section 1930(b) for commencing a case under title 11, or

(2) in the event the debtor is an individual and the bankruptcy petition is voluntary, an application to pay filing fees in installments pursuant to Fed.R.Bankr.P. 1006(b)(1),

the clerk of the bankruptcy court shall not accept the bankruptcy petition for filing or commencement of the case without payment of the prescribed fees or, if applicable, the tendering of an application to pay filing fees in installments pursuant to Fed.R.Bankr.P. 1006(b)(1); and it is

FURTHER ORDERED that upon a petitioner seeking to commence a chapter 9 municipality or voluntary chapter 11 reorganization case where the debtor fails to file the list containing the name, address and claim of the creditors that hold the 20 largest unsecured claims, thereby failing to comply with Fed.R.Bankr.P. 1007(d), the clerk of the bankruptcy court shall not accept the petition for filing nor commence the case until such time as the debtor tenders for filing the list of 20 largest unsecured creditors required by Fed.R.Bankr.P. 1007(d); and it is

FURTHER ORDERED this order shall become effective for all bankruptcy petitions tendered for filing on an after May 1, 2002.

Dated: April 2, 2002.

BY THE COURT:

Donald E. Cordova, Chief Judge

Sidney B. Brooks, Judge

A. Bruce Campbell, Judge

Elizabeth E. Brown, Judge