

Index for Local Rule Revisions

<u>Pages</u>	<u>Rule Revision</u>
1-4	LBR 3011-1 and Appendix 3H (and the Committee Notes) are revised to conform to the changes to Director's Form 1340 and to avoid duplication with the federal rules and the Practice Pointers for the local rule.
5-7	The Committee Notes for Appendix 3F are amended to reflect that a Debtor's Certification and Request for Discharge will now be viewable on the public docket.
8-9	LBR 9072-1(a)(2) is revised to clarify that each page of a multi-page proposed order should be numbered.
10-11	Appendix 9I is amended to reflect that orders confirming plans will no longer be entered as docket text orders.
12-15	LBRs 2016-2 and 2016-3 have been revised to provide for the addition of a procedure for presumptively reasonable fees for attorneys for Chapter 13 debtors.
16-17	Appendix 2O has been re-titled Appendix 2O-1 since it is going to be the sample "Standard Application" for attorneys' fees.
18-21	Appendix 2O-2 and the Committee Notes have been added as a sample "Simplified Application" for fees for attorneys of Chapter 13 debtors.
22	Appendix 2P has been re-titled Appendix 2P-1 since it is going to be the sample Order Awarding Fees when a "Standard Application" is filed.
23	Appendix 2P-2 has been added as the sample Order Awarding Fees when a "Simplified Application" is filed for fees for attorneys of Chapter 13 debtors.
24-30	Revisions have been made to LBR 3072-1A and the Chapter 12 filing checklist to reflect that debtors will no longer need to file a final report and final account in Chapter 12 cases.

Rule 3011-1. Payment of Unclaimed Funds.

~~(a) **Application.** An applicant shall fully complete, sign, date, and file an application for payment of unclaimed funds that substantially conforms to Appendix 3H, which is a fillable version of Director's Form 1340. **Definitions.** For the purpose of this local rule and Appendix 3H only, the following definitions apply:~~

- ~~—— (1) "applicant" means the individual or the entity filing the application;~~
- ~~(2) "claimant" means the individual or the entity entitled to the unclaimed funds, including a successor claimant as the result of an assignment, purchase, merger, acquisition, or other formal means of transfer from the "owner of record." The "applicant" and the "claimant" may be the same person or entity;~~
- ~~(3) "owner of record" means the original payee entitled to the unclaimed funds, as appears in the bankruptcy case file, including the claims register;~~
- ~~(4) "unclaimed funds" means money deposited with the Court pursuant to 11 U.S.C. § 347(a) and Fed.R.Bankr.P. 3011 for an individual or an entity that is entitled to the money but has failed to claim ownership of it; and~~
- ~~(5) "United States person" means an individual who is a United States citizen or United States resident alien; a partnership, corporation, company, or association created or organized in the United States or under the laws of the United States; an estate, other than a foreign estate; or a domestic trust as defined in 26 C.F.R. § 301.7701-7.~~

~~(b) **Application.** An applicant shall fully complete, sign, date, and file an application for payment of unclaimed funds that substantially conforms to Appendix 3H of these local rules or Director's Form 1340.~~

(be) Supporting documents. The applicant shall provide supporting documents establishing the claimant's entitlement to the funds. Any personal identifying information, such as a Social Security number, a date of birth, or a full account number, must be redacted from the supporting documents before they are filed. The applicant may provide the supporting documents by referencing a specific proof of claim that contains the supporting documents or by filing the supporting documents, as described below based on the classification of the claimant, as an attachment to the application:

- (1) Individual. Documents establishing the individual's entitlement to the funds, including, if the individual is a successor claimant, documents establishing the transfer of the claim from the owner of record to the individual.
- (2) Business entity. Documents establishing the business entity's entitlement to the funds, including, if the business entity is a successor claimant, documents establishing the transfer of the claim from the owner of record to the business entity.
- (3) Decedent's estate:

Appendix 3H

Fill in this information to identify the case:

Debtor 1 _____
First Name Middle Name Last Name

Debtor 2 _____
(Spouse, if filing) First Name Middle Name Last Name

United States Bankruptcy Court for the: _____ District of _____
(State)

Case number: _____

Form 1340 (12/23)

APPLICATION FOR PAYMENT OF UNCLAIMED FUNDS

1. Claim Information

For the benefit of the Claimant(s)¹ named below, application is made for the payment of unclaimed funds on deposit with the court. I have no knowledge that any other party may be entitled to these funds, and I am not aware of any dispute regarding these funds.

Note: If there are joint Claimants, complete the fields below for both Claimants.

Amount:	
Claimant's Name:	
Claimant's Current Mailing Address, Telephone Number, and Email Address:	

2. Claimant Information

Applicant² represents the following:

The Claimant is the Owner of Record³ entitled to the unclaimed funds appearing on the records of the court.

The Claimant (Successor Claimant) is entitled to the unclaimed funds by transfer, assignment, purchase, merger, acquisition, or succession by other means, and below are the name(s) of the Owner of Record and all previous owner(s) of the claim:

If the Claimant is a Successor Claimant, Applicant has sent a copy of the application to the Owner of Record and all other previous owner(s) of the claim at their current address or Applicant has enclosed a statement explaining why Applicant was not able to do so or an explanation of why doing so is not necessary.

3. Applicant Information

Applicant represents the following:

Applicant is the Claimant.

Applicant is Claimant's representative (e.g., attorney or unclaimed funds locator).

Applicant is a representative of the deceased Claimant's estate.

¹ The Claimant is the party entitled to the unclaimed funds.
² The Applicant is the party filing the application. The Applicant and Claimant may be the same.
³ The Owner of Record is the original payee.

4. Supporting Documentation

Applicant has read the court's instructions for filing an Application for Unclaimed Funds and is providing the required supporting documentation with this application.

5. Notice to United States Attorney

Applicant has sent a copy of this application and supporting documentation to the United States Attorney, pursuant to 28 U.S.C. § 2042, at the following address:

Office of the United States Attorney
District of South Dakota
Post Office Box 2638
Sioux Falls, South Dakota 57101-2638

6. Applicant Declaration

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and any fraud in the application or supplemental materials may result in criminal penalties, see, e.g, 18 U.S.C. § 152.

Date: _____

Signature of Applicant

Printed Name of Applicant

Address: _____

Telephone: _____

Email: _____

6. Co-Applicant Declaration (if applicable)

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and any fraud in the application or supplemental materials may result in criminal penalties, see, e.g. 18 U.S.C. § 152.

Date: _____

Signature of Co-Applicant (if applicable)

Printed Name of Co-Applicant (if applicable)

Address: _____

Telephone: _____

Email: _____

7. Notarization

STATE OF _____

COUNTY OF _____

This Application for Unclaimed Funds, dated _____ was subscribed and sworn to before me this _____ day of _____, 20____ by _____

who signed above and is personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument. WITNESS my hand and official seal.

[Notarial wording to be adjusted based on state requirements]

(SEAL) Notary Public _____

My commission expires: _____

7. Notarization

STATE OF _____

COUNTY OF _____

This Application for Unclaimed Funds, dated _____ was subscribed and sworn to before me this _____ day of _____, 20____ by _____

who signed above and is personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument. WITNESS my hand and official seal.

[Notarial wording to be adjusted based on state requirements]

(SEAL) Notary Public _____

My commission expires: _____

Committee Notes

~~An applicant may file an application that conforms to this appendix or use Director's Form 1340.~~

If an attorney is the applicant or an agent for the applicant, the attorney shall electronically file the application, the supporting documents, and the required identifying information. ~~To ensure~~Se the required identifying information is not viewable on the public docket, the applicant must separately file the required identifying information using the CM/ECF event "Unclaimed Funds Identifying Information" found under "Bankruptcy-Other."

~~A nonindividual (business) debtor is not required to employ an attorney to file this application on its behalf. Any authorized agent of the business may do so.~~

REFERENCE: [Bankr. D.S.D. R. 3011-1](#).

Appendix 3F. Chapter 11, Chapter 12, or Chapter 13 Individual Debtor's Certification and Request for Discharge.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH DAKOTA

In re:	)	Bankr. No. 18-90000
	)	Chapter 11
WADE JOEL EARNER)	
aka W.J. Earner)	
SSN/ITIN xxx-xx-0000)	
	)	DEBTOR WADE JOEL EARNER'S
and	)	CERTIFICATION AND
	)	REQUEST FOR DISCHARGE
WANDA GAIL EARNER)	
SSN/ITIN xxx-xx-0001)	
)	
Debtors.)	

I, Wade Joel Earner, an above-named debtor, certify and request as follows:

I. Eligibility. I am asking the Court to enter a discharge order in this case because:

- (a) I have completed all payments, including any disposable income payments, due through the end of the plan term, as provided by my confirmed plan and any subsequent modifications approved by the Court; and
- (b) I have not received a prior discharge that would render me ineligible for a discharge in this case.

II. Personal financial management course. I have completed an instructional course concerning personal financial management and a certification of the same has been filed by the course provider or I have completed and filed an Official Form 423.

III. Domestic Support Obligation (check A or B and, if B is checked, complete part B in full):

A. NO Support Debt. I have not been required by a judicial or administrative order or by statute to pay any Domestic Support Obligation, as defined by 11 U.S.C. § 101(14A), either before this bankruptcy case was filed or at any time thereafter.

OR **B. Support Debt.** I have been required to pay a Domestic Support Obligation, as defined by 11 U.S.C. § 101(14A), either before this bankruptcy case was filed or at any time thereafter. I certify that prior to the date of this affidavit I have paid in full any Domestic Support Obligation payments required by a judicial or administrative order or by statute, including amounts due before or since this bankruptcy case was filed, to the extent provided by the confirmed plan and any subsequent modifications thereto.

The name and address of each holder of a Domestic Support Obligation is:

My most recent address is:

The name and address of my most recent employer(s) is/are:

IV. Application of 11 U.S.C. § 522(q). I certify [*check A or B*]:

A. Section 522(q)(1) of Title 11 does not apply because I have not claimed a homestead or other exemption specified in 11 U.S.C. § 522(p)(1) in an amount greater than the allowance provided in 11 U.S.C. § 522(p) on the date I filed my bankruptcy petition.

OR **B.** Although I have claimed a homestead or other exemption specified in 11 U.S.C. § 522(p)(1) in an amount greater than the allowance under 11 U.S.C. § 522(p) on the date I filed my bankruptcy petition,

(1) Section § 522(q)(1)(A) of Title 11 does not apply because I have not been convicted of a felony, as defined by 18 U.S.C. § 3156, that under the circumstances demonstrates the filing of the case was an abuse of the provisions of Title 11 of the United States Code, and 11 U.S.C. § 522(q)(1)(B) does not apply because I do not owe a debt arising from:

(A) any violation of the federal securities laws, as defined in § 3(a)(47) of the Securities Exchange Act of 1934, any state securities laws, or any regulation or order issued under federal securities laws or state securities laws;

(B) fraud, deceit or manipulation in a fiduciary capacity or in connection with the purchase or sale of any security registered under § 12 or § 15(d) of the Securities Exchange Act of 1934 or under § 6 of the Securities Act of 1933;

(C) any civil remedy under 18 U.S.C. § 1964; or

(D) any criminal act, intentional tort or willful or reckless misconduct that caused serious physical injury or death to another individual in the preceding five years; and

(2) There is not currently pending any proceeding in which I may be found guilty of a felony of the kind described in 11 U.S.C. § 522(q)(1)(A) or liable for a debt of the kind described in 11 U.S.C. § 522(q)(1)(B).

I certify under penalty of perjury that the information provided in this certification is true and correct to the best of my knowledge and belief.

Dated: March 10, 2025.

/s/
Wade Joel Earner
Debtor

SEE COMMITTEE NOTES ON THE FOLLOWING PAGE

Committee Notes

This local form should be used in lieu of any Official Form.

The document shall be completed in full and filed with the Court to begin the discharge process. A chapter 12 debtor may exclude subpart I(b) and part II. Be sure to reflect the correct chapter in the caption.

Each debtor in a joint case shall complete a separate document.

~~When this document is filed, it is not viewable on the public docket because of the personal identifier information that may be included. The case trustee will be able to view it so the trustee can complete his or her case administration duties.~~

REFERENCES: [Bankr. D.S.D. Rs. 3022-1](#), [3072-1A](#), and [3072-1B](#).

Rule 9072-1. Proposed Orders.

(a) Format.

- (1) A proposed order shall conform to Bankr. D.S.D. R. 9004-1(a) and (c) and shall not be signed by the proponent or the proponent's attorney or, absent advance authorization from the Court, include any attachment;
- (2) Each page of a multi-page proposed order ~~other than the first~~ shall be numbered at the bottom center; and
- (3) An agreed proposed order submitted by two or more parties shall conform to [Appendix 9F](#).

(b) Submission of proposed orders.

- (1) All proposed orders shall be submitted to the Court electronically, in Word or WordPerfect format, to proposed_orders@sdb.uscourts.gov.
- (2) A proposed order granting a motion for relief from stay, a motion to avoid a lien on or other transfer of exempt property, a motion to compel abandonment, or an application for compensation for services or reimbursement of expenses (excluding fees sought as part of the administrative expenses in a chapter 7 trustee's final report and proposed distribution) shall be submitted to the Court when the motion or application is filed. A proposed order granting any motion, application, objection to claimed exemptions, or objection to a proof of claim regarding which the Court has granted a motion for reduced notice shall be submitted before the deadline to object passes. A proposed order granting any other motion, application, objection to claimed exemptions, or objection to a proof of claim that is *not* contested, other than those listed on [Appendix 9I](#), shall be submitted to the Court as soon as the deadline for objections or other responses has passed. A proposed agreed order resolving a contested matter without a hearing shall conform to [Appendix 9F](#) and shall be submitted as early as possible before any scheduled hearing or trial. A proposed order granting or denying any motion, application, objection to claimed exemptions, or objection to a proof of claim that *is* contested shall be submitted, if so directed by the Court, as soon after the hearing or trial as is reasonable, unless a specific submission deadline is set by the Court at the hearing or trial.

(c) Review of proposed document by party in interest.

- (1) At the conclusion of a hearing or a trial, a party in interest may request an opportunity to review a proposed order, a proposed Plan as Confirmed, or other proposed document before it is formally docketed. If the request is granted or if the Court orders the same *sua sponte*, the party preparing the proposed document shall serve it and a copy of any document referred to or incorporated therein on the parties as directed by the Court, shall file a certificate of service that conforms to [Appendix 9J](#) specifically stating service was made pursuant to this rule, and shall attach to the certificate of service a copy of the subject proposed document.
- (2) Any objection to a proposed order, proposed Plan as Confirmed, or other proposed document shall state why the proposed document should not be

entered, shall include as an attachment an alternate proposed document, and shall be filed within seven days after service of the proposed document.

(3) If the parties cannot promptly resolve an objection to the proposed order, proposed Plan as Confirmed, or other proposed document, the Court may either accept one party's proposed document, enter its own, or set the matter for hearing.

REFERENCE: Fed.R.Bankr.P. 9006.

Practice Pointer: [Appendix 9I](#) lists those orders that are entered by the Court as an electronic docket text only or are otherwise prepared by the Court. The bankruptcy bar will receive notice through the Clerk's Bankruptcy Update whenever a certain type of order is added to or removed from this list.

Appendix 9I.

Orders Prepared by the Court.

Parties do not need to submit the following proposed orders unless specifically directed to do so by the Court:

Order Allowing Administrative Expenses Following Chapter 7 Trustee's Final Report and Application for Compensation.*

Order Authorizing Debtor to Pay Filing Fee in Installments.

Order Authorizing Employment of Estate Professional (including an attorney for a trustee or a chapter 11 or a chapter 12 debtor).*

Order Confirming Plan (chapter 12 or chapter 13).*

Order Converting Case (from and to any chapter).

Order Deferring Discharge.*

Order Dismissing Chapter 13 Case (when no objections have been filed or all filed objections have been withdrawn).*

Order Extending Deadline to File Plan, Schedules, or Statements.*

Order Limiting Notice.

Order Reducing (shortening) Notice.

Order Refunding Certain Fees.*

Order Rescheduling Hearing or Trial.*

Order Reopening Case or Adversary Proceeding.*

Order Scheduling Conference.

Order Scheduling Telephonic Hearing, Evidentiary Hearing, or Trial.

Order Striking Certain Document.*

Order Substituting Redacted Document (including a redacted proof of claim).*

Order Waiving Filing Fee or Other Fees for Indigent Debtor.

Order Waiving Notice of Need to File a Proof of Claim.*

Those orders marked above with an asterisk will often be entered only as a docket text order; *i.e.*, the entire order is set forth in a docket entry.

REFERENCE: [Bankr. D.S.D. R. 9072-1](#).

Rule 2016-2. Fees for Estate Professionals-Standard Application.

(a) Fee application: required content and service. An application by a professional employed by the estate for payment of fees (compensation for services, applicable sales tax, and reimbursement of expenses, including any Clerk's fees) from the estate shall contain the information required by Fed.R.Bankr.P. 2016(a), shall identify the applicable sales tax rate, and shall conform to [Appendix 20](#). An attorney for a trustee or a debtor in possession may electronically file a fee application on behalf of an estate professional, other than another attorney, but the application shall be signed and dated by the estate professional. The application shall be served on parties in interest not electronically served. If the application seeks compensation for services and reimbursement of expenses, excluding sales tax, of more than \$1,000.00, a notice of the application shall be served on all creditors and other parties in interest not electronically served. The notice shall conform to Bankr. D.S.D. R. 2002-1(e) and [Appendix 2G](#) and shall set forth a last date (month, day, year) for filing an objection or other response that is 21 days after service of the application and the notice of the application.

(b) Fee application: time for filing in a chapter 12 or a chapter 13 case. An attorney for the debtor or any accountant, appraiser, agent, or other professional employed by the estate shall, within 30 days after the plan is confirmed, file an application for fees incurred through the date of confirmation.

(c) Proposed order awarding fees. The applicant shall submit, to proposed_orders@sdb.uscourts.gov, a proposed order awarding fees from the estate that conforms to Bankr. D.S.D. R. 9072-1(a) and (b)(1) and the sample at [Appendix 2P-1](#).

REFERENCES: 11 U.S.C. §§ 328, 329, and 330; Fed.R.Bankr.P. 2016(a).

Practice Pointer: If any party is served by mail or under the provisions of Fed.R.Civ.P. 5(b)(2)(D) [leave with clerk] or (F) [other means consented to], the notice period stated above shall be increased three days pursuant to Fed.R.Bankr.P. 9006(f).

Rule 2016-3. Total Legal Fees, Costs, and Expenses for Debtor's Attorneys in Chapter 13 Cases-Simplified Application.

(a) Legal fees, costs, and expenses included in the presumptively reasonable fee-simplified application. An attorney who represents a debtor in a chapter 13 case is excused from the application requirements of Fed.R.Bankr.P. 2016(a) and Bankr. D.S.D. R. 2016-2 and from noticing the application under Fed.R.Bankr.P. 2002(a)(6) if the attorney's total claim for legal fees, costs, and expenses does not exceed a presumptively reasonable amount of \$5,000.00. This total claim is presumed to compensate a debtor's attorney for all services, at a minimum, listed in paragraphs (1) through (3) below. The attorney may request an order awarding compensation by this simplified application that conforms to Appendix 20-2, and the Court may issue the requested order without a hearing, if the sum of the requested total claim does not exceed \$5,000.00. The application shall be served on all creditors and other parties in interest not electronically served. The presumptively reasonable amount must include, but is not limited to, the following:

(1) Prepetition services including, but not limited to, analyzing the debtor's financial situation and rendering advice to the debtor to determine whether to file a petition in bankruptcy and, if so, under what chapter; preparing and filing the debtor's petition, schedules, and statements; performing due diligence tasks; consulting and communicating with the debtor to gather information; and advising the debtor of his or her requirements and responsibilities.

(2) Postpetition and preconfirmation services including, but not limited to, advising and representing the debtor at the meeting of creditors; representing the debtor at the confirmation hearings, if necessary; timely preparing, filing, and serving a plan and any modifications, along with any necessary documents or amended schedules and statements; reviewing proofs of claim; timely responding to pleadings filed in the debtor's case to obtain plan confirmation; and advising the debtor.

(3) Postconfirmation services including, but not limited to, reviewing claims and filing appropriate objections; preparing and filing a fee application after confirmation; upon completion of plan payments, preparing and filing the documents necessary for the debtor to obtain a discharge; and preparing and filing a final fee application.

(b) Legal fees, costs, and expenses-postconfirmation services not included in the presumptively reasonable fee. In a chapter 13 case an attorney who represents a debtor after confirmation in any of the following matters may request an order awarding compensation by simplified application, and the Court may issue the requested order without a hearing, if the sum of the requested compensation does not exceed \$1,000.00 per application:

(1) resolving motion(s) for relief from stay;

(2) resolving motion(s) to dismiss;

(3) filing motion(s) for the sale of real estate;

(4) assisting the debtor in responding to requests for information made in connection with an audit conducted pursuant to 28 U.S.C. § 586(f); and

(5) filing motion(s) for hardship discharge.

An attorney who represents a debtor in modifying a plan postconfirmation may also request an order awarding compensation and/or reimbursement of costs and expenses by simplified application if the total amount of requested legal fees, costs, and expenses does not exceed \$1,500.00 per application. The simplified application need not comply with Fed.R.Bankr.P. 2016(a), but must substantially conform to Bankr. D.S.D. R. 2016-3. An attorney who complies with this paragraph need not provide notice of his or her simplified application. The application shall be served on parties in interest not electronically served. The Court may enter an order granting the simplified application without a hearing.

(c) Objections to total claim. The simplified process set forth in paragraphs (a) and (b) above does not limit the case trustee, the United States Trustee, creditors, or any interested party from questioning the reasonableness of the total claim requested in the simplified application. In addition, the Court is not limited in reviewing the amount of fees paid to or agreed to be paid to a debtor's attorney or to enter any orders allowing, disallowing, or reducing the attorney's total claim. If an objection is filed, the attorney may be required to submit an application for compensation and an itemization of costs and expenses that satisfy the requirements of 11 U.S.C. § 330, Fed.R.Bankr.P. 2016(a), and Bankr. D.S.D. R. 2016-2(a).

(d) Total claim-standard application. The simplified application process described herein is optional. An attorney may elect to file a standard application described in Bankr. D.S.D. R. 2016-2(a) instead of the simplified process for any amount.

(e) Legal costs and expenses. The costs and expenses included in the total claim for either the simplified application or the standard application must be actual and necessary.

(f) Fee application-time for filing in a chapter 13 case. An attorney for the debtor shall, within 30 days after the plan is confirmed, file an application for fees incurred through the date of confirmation.

(g) Proposed order awarding fees. The applicant shall submit, to proposed_orders@sdb.uscourts.gov, a proposed order awarding fees from the estate that conforms to Bankr. D.S.D. R. 9072-1(a) and (b)(1) and the sample at Appendix 2P-2.

REFERENCES: 11 U.S.C. §§ 328, 329, and 330; Fed.R.Bankr.P. 2016(a).

Practice Pointer: The debtor's attorney should keep an itemization of the fees, costs, and expenses incurred during the case in anticipation of any questioning by a party or review by the Court that may occur under this rule.

Rule 2016-4. Administrative Expense other than for Estate Professional.

(a) Application and notice. An application for allowance of an administrative expense under 11 U.S.C. § 503 (other than one on behalf of a professional employed by the estate or a fully secured creditor seeking fees, costs, or charges under 11 U.S.C. § 506(b)) shall be filed with the Court within a reasonable time after the expense is incurred and in no event later than any deadline set by the Code, the Federal Rules of Bankruptcy Procedure, these local rules, or an order, and shall identify the entity to be paid, state the statutory basis for the claim, and itemize the expense. The itemization shall be signed and dated by the entity to be paid. The application shall be served on parties in interest not electronically served, and a notice of the application shall be served on all creditors and other parties in interest not electronically served. The notice shall conform to Bankr. D.S.D. R. 2002-1(e) and [Appendix 2G](#) and shall set forth a last date (month, day, year) for filing an objection or other response that is 21 days after service of the application and the notice of the application.

(b) Treatment of administrative expense filed as a claim. If an entity files a proof of claim or similar document in the claims registry that indicates the claimant is requesting an administrative expense other than an expense allowable under 11 U.S.C. § 506(b), the Clerk shall docket a copy of the proof of claim or similar document as an application for administrative expense and direct the claimant to give notice pursuant to paragraph (a) above.

(c) Claims under 11 U.S.C. § 506(b). A fully secured creditor making a claim under 11 U.S.C. § 506(b) for an allowable fee, cost, or charge may make such claim by specifically itemizing the fee, cost, or charge in its proof of claim or by filing an application under paragraph (a) above.

REFERENCES: 11 U.S.C. §§ 503 and 506(b).

Practice Pointer: If any party is served by mail or under the provisions of Fed.R.Civ.P. 5(b)(2)(D) [leave with clerk] or (F) [other means consented to], the notice period stated above shall be increased three days pursuant to Fed.R.Bankr.P. 9006(f).

Appendix 20-1. Application for Fees by Estate Professional-Standard Application.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH DAKOTA

In re:) Bankr. No. 18-90000
) Chapter 7
JANE ANNE ANONYMOUS)
fdba Jane's Flower Shop) ATTORNEY CARSON'S
SSN/ITIN xxx-xx-0000) APPLICATION FOR FEES
)
Debtor.)

I, Joseph J. Carson, attorney for Trustee Samuel S. Smith, hereby make application for the payment of certain fees as a chapter 7 administrative expense pursuant to 11 U.S.C. §§ 330(a) and 503(b)(2). In support of this application, I state:

1. My employment under 11 U.S.C. § 327(a) was approved by order entered January 11, 2018 (doc. 52) following an application filed on January 2, 2018 (doc. 48). Under the terms of the employment order, I was to be paid \$200.00 per hour, plus actual expenses, to represent Trustee Smith in a preferential transfer action against Bud's Bar, Adversary No. 18-9001.
2. My services were rendered, and the expenses were incurred, between January 2, 2018 and May 29, 2018. The attendant adversary proceeding has been closed. All services have been rendered and all expenses have been incurred.
3. As more specifically set forth on the itemization attached to this application, I seek \$4,200.00 in compensation for services rendered, \$252.00 for sales tax based on an applicable rate of 6.0%, and \$221.23 for reimbursement of expenses.
4. As authorized by the Court, Trustee Smith paid me a retainer of \$500.00 on January 2, 2018. No other payments have been received.
5. I have no agreement or understanding with anyone to share the fees requested.

Wherefore, I, Joseph J. Carson, respectfully request, as a chapter 7 administrative expense, a fee award from the bankruptcy estate of \$4,200.00 in compensation for services, \$252.00 for sales tax, and \$221.23 for reimbursement of expenses, for a total fee award of \$4,673.23; that I be authorized to draw down

and apply my retainer of \$500.00; and that the balance of \$4,173.23 be paid by Trustee Smith from the bankruptcy estate.

Dated: May 30, 2018.

/s/

Joseph J. Carson, Esq.
101 E. Legal Lane
Justice, SD 57000-0000
tele: (605)555-5555
e-mail: jjclaw@legalline.net

Appendix 20-2. Application for Total Legal Fees, Costs, and Expenses for Debtor's Attorneys in Chapter 13 Cases-Simplified Application.

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH DAKOTA**

<u>In re:</u>	)	<u>Bankr. No. 18-90000</u>
	)	<u>Chapter 7</u>
<u>JANE ANNE ANONYMOUS</u>)	
<u>fdba Jane's Flower Shop</u>	)	<u>ATTORNEY CARSON'S SIMPLIFIED</u>
<u>SSN/ITIN xxx-xx-0000</u>	)	<u>APPLICATION FOR COMPENSATION</u>
	)	<u>AND REIMBURSEMENT</u>
<u>Debtor.</u>)	

I, Joseph J. Carson, pursuant to Bankr. D.S.D. R. 2016-3, hereby make application for the payment of certain fees, costs, and expenses, and in support of this application, I state:

1. The applicant is the attorney for Debtor(s). My employment was approved by order entered January 11, 2018 (doc. 52) following an application filed on January 2, 2018 (doc. 48). Under the terms of the employment order, I was to be paid \$200.00 per hour, plus actual expenses, to represent Debtor(s).

2. My services were rendered, and the expenses were incurred, between January 2, 2018, and May 29, 2018. All services have been rendered and all expenses have been incurred.

3. The status of the case is as follows:

- A plan was confirmed on _____ ; or
 No plan has been confirmed and the case is pending.

4. The applicant seeks allowance of legal fees and reimbursement of costs and expenses as follows:

Legal fees:

<u>Pre-petition and pre-confirmation services</u>		<u>\$</u>
<u>Plus sales tax based on an applicable rate of</u>	<u>%</u>	<u>\$</u>

<u>Post-confirmation services under Rule 2016-3(a)</u>		
<u>included in the presumptively reasonable fee</u>		<u>\$</u>
<u>Plus sales tax based on an applicable rate of</u>	<u>%</u>	<u>\$</u>

<u>Post-confirmation services under Rule 2016-3(b)</u>		
<u>not included in the presumptively reasonable fee</u>		<u>\$</u>
<u>Plus sales tax based on an applicable rate of</u>	<u>%</u>	<u>\$</u>

Costs and expenses:

Filing fee					\$
Copies	(#)	@	\$	=	\$
Postage	(#)	@	\$	=	\$
Other (itemize)					\$
Total costs and expenses					\$
Total legal fees, costs, and expenses					\$

5. The requested legal fees, costs, and expenses constitute reasonable compensation for actual, necessary services rendered by the applicant and actual, necessary costs and expenses incurred on behalf of Debtor(s). The services provided consist of the following:

- Pre-petition and pre-confirmation services
- Post-confirmation services under Bankr. D.S.D. R. 2016-3(a)
- Post-confirmation services under Bankr. D.S.D. R. 2016-3(b) consisting of the following:
 - resolving motion(s) for relief from stay;
 - resolving motion(s) to dismiss;
 - filing motion(s) for the sale of real estate;
 - assisting Debtor(s) in responding to requests for information made in connection with an audit conducted pursuant to 28 U.S.C. § 586(f); and
 - filing motion(s) for hardship discharge.

6. As authorized by the Court, Debtor(s) paid the applicant a retainer of \$500.00 on January 2, 2018. Debtor(s) also paid the applicant the sum of \$ _____ as of _____ [insert date]. No other payments have been received. Debtor(s) owe(s) the applicant the sum of \$ _____ for the unpaid balance.

7. I have no agreement or understanding with anyone to share the fees requested.

Wherefore, I, Joseph J. Carson, respectfully request, as a chapter 13 administrative expense, a fee award from the bankruptcy estate for \$2,200.00 in compensation for services, \$132.00 for sales tax, and \$321.22 for expenses incurred, for a total fee award of \$2,653.22; that I be authorized to draw down and

apply my retainer of \$1,000.00; and that the balance of \$1,653.22 be paid by
Trustee Smith pursuant to the terms of Debtor's confirmed plan.

Dated: May 30, 2018.

/s/

Joseph J. Carson, Esq.

101 E. Legal Lane

Justice, SD 57000-0000

tele: (605)555-5555

e-mail: jjclaw@legalline.net

SEE COMMITTEE NOTES ON FOLLOWING PAGE

Committee Notes

In the first paragraph, summarize the basis for the employment, the employment terms, and when the employment was authorized, if court approval for it was required.

In the second paragraph, summarize the work done.

In the third paragraph, set forth whether a plan has been confirmed and, if so, when.

In the fourth paragraph, set forth the fees sought. Separately set forth the amounts sought for compensation for services, applicable sales tax and the sales tax rate, and expenses to be reimbursed. Include any filing fee in the expenses. Do not deduct any retainer or other payments here.

In the fifth paragraph, specifically identify what services are included in the application.

In the sixth paragraph, list any retainer or other payments received, who paid each, and the date each was received. The information in this paragraph should match the information contained in the attorney's Disclosure of Compensation and any Supplemental Disclosure of Compensation.

In the seventh paragraph, set forth the terms of any fee sharing agreement.

Set forth any retainers or other payments received and the date received. If the professional is waiving any fees, state how much is waived and why. For example, "I waive \$642.35 in compensation based on my agreement with Debtor that total fees would not exceed \$2,650.00." Be sure the sales tax figure is based on the *actual* compensation to be paid.

The applicant must date and sign the application. The application must be mailed to all creditors and other parties in interest not electronically served using a current case mailing list.

REFERENCE: Bankr. D.S.D. R. 2016-3.

Appendix 2P-1. Order Awarding Fees-Standard Application.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH DAKOTA

In re:	)	Bankr. No. 18-90000
	)	Chapter 13
JANE ANNE ANONYMOUS)	
fdba Jane's Flower Shop	)	ORDER AWARDING FEES
SSN/ITIN xxx-xx-0000	)	TO ATTORNEY CARSON
)	
Debtor.)	

Upon consideration of Attorney Joseph J. Carson's Application for Fees (doc. 42) and the record before the Court; and it appearing no objection to the application was timely filed after appropriate notice; and for cause shown; now, therefore,

IT IS HEREBY ORDERED Attorney Carson's application is granted, and he is awarded as a chapter 13 administrative expense \$2,000.00 for compensation for services, \$120.00 for applicable sales tax, and \$380.00 for reimbursement of expenses, for a total award of \$2,500.00. Attorney Carson shall draw down and apply his \$1,000.00 retainer. Trustee Smith shall pay Attorney Carson the remaining \$1,500.00 pursuant to the terms of Debtor's confirmed plan.

So ordered:

REFERENCE: [Bankr. D.S.D. R. 2016-2](#).

Appendix 2P-2. Order Awarding Fees, Costs, Expenses-Simplified Application.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH DAKOTA

In re:	)	Bankr. No. 18-90000
	)	Chapter 13
JANE ANNE ANONYMOUS)	
fdba Jane's Flower Shop	)	ORDER AWARDING FEES
SSN/ITIN xxx-xx-0000	)	TO ATTORNEY CARSON
)	
Debtor.)	

Upon consideration of Attorney Joseph J. Carson's Simplified Application for Compensation and Reimbursement (doc. 42) and the record before the Court; and it appearing the application complies with Bankr. D.S.D. R. 2016-3(a); and for cause shown; now, therefore,

IT IS HEREBY ORDERED Attorney Carson's application is granted, and he is awarded as a chapter 13 administrative expense \$2,000.00 for compensation for services, \$120.00 for applicable sales tax, and \$380.00 for reimbursement of expenses, for a total award of \$2,500.00. Attorney Carson shall draw down and apply his \$1,000.00 retainer. Trustee Smith shall pay Attorney Carson the remaining \$1,500.00 pursuant to the terms of Debtor's confirmed plan.

So ordered:

REFERENCE: Bankr. D.S.D. R. 2016-3.

Rule 3072-1A. Chapter 12 Discharge and Closing Case.

(a) Debtor's request for discharge upon completion of plan payments.

~~(1) Service of the debtor's final report and final account form~~Notice of Completion of Plan Payments by the trustee. Within 30 days after the date on which all plan payments, other than payments to holders of allowed claims provided for under 11 U.S.C. § 1222(b)(5) or § 1222(b)(9), have been completed by the debtor, the trustee shall file a Notice of Completion of Plan Payments and the Clerk shall serve it on parties in interest not electronically served.~~on the debtor the final report and final account form and file a certificate of service. The Notice of Completion of Plan Payments shall advise the debtor that:~~

~~(2) Filings by the debtor. Within 45 days after service of the final report and final account form, a debtor eligible for a discharge under 11 U.S.C. § 1228(a) shall:~~

~~(A) the debtor must timely comply with Bankr. D.S.D. R. 3072-1A(a)(2); and file and serve on the chapter 12 trustee a completed final report and final account; and~~

~~(B) if the debtor does not timely comply with Bankr. D.S.D. R. 3072-1A(a)(2), the Clerk may administratively close the case without entry of a discharge.~~

~~(2) Certification and Request for Discharge by the debtor. Within 30 days after the trustee's filing of a Notice of Completion of Plan Payments, a debtor eligible for a discharge under 11 U.S.C. § 1228(a) shall:~~

~~(A*i*) if an individual, file a Certification and Request for Discharge that conforms to Appendix 3F, excluding part I(b) and part II. Joint debtors shall prepare and file separate Certifications and Requests for Discharge; or~~

~~(B*ii*) if a nonindividual (business), file a Certification and Request for Discharge that conforms to Appendix 3G.~~

(3) Notice of Certification and Request for Discharge by the Clerk. Upon a debtor's timely compliance with subparagraph (2) ~~(B)(i) or (2)(B)(ii)~~ above, the Clerk shall serve a Notice of Certification and Request for Discharge on all creditors and other parties in interest not electronically served. The Clerk's notice shall state any party wishing to object to the debtor's discharge shall file an objection or other response to the debtor's Certification and Request for Discharge on or before a stated date not less than 24 days after the date the Clerk's notice was generated.

(b) Debtor's request for discharge before completion of all plan payments (a "hardship" discharge). A debtor seeking a discharge prior to completion of all plan payments shall:

~~(1) obtain a final report and final account form from the chapter 12 trustee or the United States Trustee;~~

~~(2) file and serve on the chapter 12 trustee a completed final report and final account;~~

~~(13)~~ file and serve on all creditors and other parties in interest not electronically served a motion for hardship discharge that:

~~(A) states the debtor has filed and served on the chapter 12 trustee a final report and final account;~~

~~(AB)~~ describes the circumstances for which the debtor should not justly be held accountable that render the debtor unable to complete payments under the plan;

~~(BG)~~ explains why modification of the confirmed plan is not practicable; and

~~(CD)~~ includes, as an attachment, a liquidation analysis showing the value, as of the effective date of the plan, of property actually distributed under the plan on account of each allowed unsecured claim is not less than the amount that would have been paid on such claim if the bankruptcy estate had been liquidated under chapter 7 on such date;

~~(24)~~ file and serve on all creditors and other parties in interest not electronically served a notice of the motion for hardship discharge that conforms to Bankr. D.S.D. R. 2002-1(a) and [Appendix 2A](#) and sets forth a last date (month, day, year) for filing an objection or other response that is 14 days after service of the motion and the notice of motion; and

~~(35)~~ (A) if an individual, file a Certification and Request for Discharge that conforms to [Appendix 3F](#) but is modified to state all plan payments have not been completed. Joint debtors shall prepare and file separate Certifications and Requests for Discharge; or

(B) if a nonindividual (business), file a Certification and Request for Discharge that conforms to [Appendix 3G](#) but is modified to state all plan payments have not been completed.

(c) Entry of discharge. The Court may enter an order of discharge if the debtor has complied with either paragraph (a) or (b) above and:

(1) no party in interest timely files an objection or other response to the debtor's Certification and Request for Discharge;

(2) any timely filed objection or other response to the debtor's Certification and Request for Discharge has been withdrawn or overruled;

(3) the debtor has timely cured any arrearage in plan payments, as ordered by the Court, following a hearing on an objection to the debtor's Certification and Request for Discharge; or

(4) an order granting a hardship discharge has been entered.

(d) Closing the case. A chapter 12 case may be closed by the Clerk after the trustee files a final report and final account and:

(1) an order of discharge is final; or

(2) the debtor has failed, or in a joint case both debtors have failed, to timely comply with subparagraph (a)(2) above.

REFERENCES: 11 U.S.C. §§ 350 and 1228; Fed.Rs.Bankr.P. 4007 and 5009.

Practice Pointers: Each debtor in a joint case must file a Certification Regarding Domestic Support Obligations and Section 522(q) (Director's Form 2830). ~~It will not be available for viewing on the public docket.~~

Regarding the notice of a motion for "hardship" discharge in subparagraph (b)(~~2~~4), if any party is served by mail or under the provisions of Fed.R.Civ.P. 5(b)(2)(D) [leave with clerk] or (F) [other means consented to], the notice period stated for such a motion shall be increased three days pursuant to Fed.R.Bankr.P. 9006(f).

CHAPTER 12 INDIVIDUAL (VOLUNTARY)

Due on First Day of Filing:

- Voluntary Petition for Individuals Filing for Bankruptcy.** Official Form 101.
- Initial Statement About an Eviction Judgment Against You.** Filed only if the debtor rents a residence and the landlord has obtained a judgment for possession or an eviction judgment against the debtor. Official Form 101A.
- Statement About Your Social Security Numbers.** Filed only by a debtor not represented by an attorney. Official Form 121.
- Certificate of Credit Counseling and copy of any debt repayment plan.** The certificate and, if one was prepared, a copy of a debt repayment plan will be provided to the debtor by the approved nonprofit budget and credit counseling agency giving the pre-petition credit counseling course. A separate certificate shall be filed for each joint debtor. 11 U.S.C. §§ 109(h)(1) and 521(b) and Fed.R.Bankr.P. 1007(b)(3).
- Bankruptcy Petition Preparer's Notice, Declaration, and Signature.** Filed only if the debtor hired a nonattorney to assist the debtor in typing the petition and other required documents. Official Form 119.
- Disclosure of Compensation of Bankruptcy Petition Preparer.** Filed only if the debtor hired a nonattorney to assist the debtor in typing the petition and other required documents. Director's Form 2800.
- Mailing list of creditors.** When a debtor is represented by an attorney, the attorney shall electronically upload a mailing list of creditors when the petition is filed. A debtor not represented by an attorney shall submit a mailing list of creditors with the petition conforming to the local form at [Bankr. D.S.D. R. 1007-2](#) and [Appendix 1F](#). See also 11 U.S.C. § 521(a)(1)(A) and Fed.R.Bankr.P. 1007(a)(1).
- Filing fee of \$278.00 paid in full OR an Application for Individuals to Pay the Filing Fee in Installments.** An attorney for a debtor shall pay the fee by credit card. See Internet Payment Guide on the Court's website at www.sdb.uscourts.gov. A debtor not represented by an attorney shall pay the fee to the Clerk by cashier's check, money order, or—only if hand delivered—cash. The payment shall be in the exact amount. See Official Form 103A for the Application for Individuals to Pay the Filing Fee in Installments.

Due Not More than 14 Days after Petition is Filed:

- Summary of Your Assets and Liabilities and Certain Statistical Information.** Official Form 106Sum.

- Schedules A/B through J.** Official Forms 106A/B, 106C, 106D, 106E/F, 106G, 106H, 106I, 106J, and, if necessary, 106J-2.
- Declaration About an Individual Debtor's Schedules.** Official Form 106Dec.
- Statement of Financial Affairs for Individuals Filing for Bankruptcy.** Official Form 107.
- Statement of Interest in an Education Individual Retirement Account, Qualified ABLE Program, or under a Qualified State Tuition Program Pursuant to 11 U.S.C. § 521(c).** If a debtor has an account as defined by 11 U.S.C. § 521(c), the debtor shall file the statement using the local form and attach to it a record of each such account. Redact from the account records all but the last four digits of the debtor's Social Security number or other personal identification numbers. See local form at [Bankr. D.S.D. R. 1007-1\(h\)](#) and [Appendix 1E](#). See also Fed.R.Bankr.P. 1007(b)(1)(F).
- Disclosure of Compensation.** Filed only by an attorney for the debtor. See local form at [Bankr. D.S.D. R. 2016-1\(a\)](#) and [Appendix 2M](#). See also 11 U.S.C. § 329(a) and Fed.R.Bankr.P. 2016(b). Though Director's Form 2030 exists for this disclosure, attorneys are strongly encouraged to use the local form instead.
- Application(s) to Employ.** Filed by the debtor or the debtor's attorney if the debtor wants to employ the attorney, an accountant, or other professional, if any. The application should be filed before any post-petition services are rendered by that particular professional. See 11 U.S.C. § 327, Fed.R.Bankr.P. 2014(a), and [Bankr. D.S.D. R. 2014-1\(a\)](#).

Due Not More than 90 Days after Petition is Filed:

- Plan.** See local form at [Bankr. D.S.D. R. 3015-2\(1\)](#) and [Appendix 3A](#). See also 11 U.S.C. §§ 1221, 1222, and 1225, Fed.R.Bankr.P. 3015(a), and [Bankr. D.S.D. Rs. 3015-1A, 3015-2, and 3015-3](#).

Due 30 Days after Trustee's Notice of~~upon~~ Completion of Plan Payments OR upon the Filing of a Motion for Hardship Discharge under 11 U.S.C. § 1228(b):

- ~~**Final Report and Final Account.** The form is prescribed by the United States Trustee and will be provided to the debtor by the case trustee upon completion of plan payments or upon the debtor's request if the debtor intends to file a motion for hardship discharge. Fed.R.Bankr.P. 5009(a) and Bankr. D.S.D. R. 3072-1A(a)(2)(A).~~
- Certification and Request for Discharge.** See local form at [Bankr. D.S.D. R. 3072-1A\(a\)\(2\)\(A\)\(B\)\(i\)](#) and [Appendix 3F](#).

CHAPTER 12 NON-INDIVIDUAL (AKA A BUSINESS) (VOLUNTARY)

Due on First Day of Filing:

- Voluntary Petition for Non-Individuals Filing for Bankruptcy.** Official Form 201. A corporation, partnership, or other formal legal entity may file a petition only with the assistance of an attorney.
- Statement of Corporate Ownership.** Filed using the local form only if the debtor is a corporation as defined by 11 U.S.C. § 101(9)(A), which includes limited liability companies, business trusts, and other similar legal entities. See local form at [Bankr. D.S.D. R. 1007-1\(f\)](#) and [Appendix 1C](#). See also Fed.Rs.Bankr.P. 1007(a)(1) and 7007.1.
- Mailing list of creditors.** The debtor's attorney shall electronically upload a mailing list of creditors when the petition is filed. See 11 U.S.C. § 521(a)(1)(A) and Fed.R.Bankr.P. 1007(a)(1).
- Filing fee of \$278.00 paid in full.** The attorney for the debtor shall pay the fee by credit card. See Internet Payment Guide on the Court's website at www.sdb.uscourts.gov.

Due Not More than 14 Days after Petition is Filed:

- Summary of Assets and Liabilities for Non-Individuals.** Official Form 206Sum.
- Schedules A/B and D through H.** Official Forms 206A/B, 206D, 206E/F, 206G, and 206H.
- Statement of Financial Affairs for Non-Individuals Filing for Bankruptcy.** Official Form 207.
- Declaration Under Penalty of Perjury for Non-Individual Debtors.** Official Form 202.
- Disclosure of Compensation.** Filed only by an attorney for the debtor. See local form at [Bankr. D.S.D. R. 2016-1\(a\)](#) and [Appendix 2M](#). See also 11 U.S.C. § 329(a) and Fed.R.Bankr.P. 2016(b). Though Director's Form 2030 exists for this disclosure, attorneys are strongly encouraged to use the local form instead.
- Application(s) to Employ.** Filed by the debtor or the debtor's attorney if the debtor wants to employ the attorney, an accountant, or other professional, if any. The application should be filed before any post-petition services are rendered by that particular professional. See 11 U.S.C. § 327, Fed.R.Bankr.P. 2014(a), and [Bankr. D.S.D. R. 2014-1\(a\)](#).

Due Not More than 90 Days after Petition is Filed:

- Plan.** See local form at [Bankr. D.S.D. R. 3015-2\(1\)](#) and [Appendix 3A](#). See also 11 U.S.C. §§ 1221, 1222, and 1225, Fed.R.Bankr.P. 3015, and [Bankr. D.S.D. Rs. 3015-1A, 3015-2, and 3015-3](#).

Due **30 Days after Trustee's Notice of ~~upon~~ Completion of Plan Payments OR the Filing of a Motion for Hardship Discharge** under 11 U.S.C. § 1228(b):

- ~~**Final Report and Final Account.** The form is prescribed by the United States Trustee and will be provided to the debtor by the case trustee upon completion of plan payments or upon the debtor's request if the debtor intends to file a motion for hardship discharge. Fed.R.Bankr.P. 5009(a) and Bankr. D.S.D. R. 3072-1A(a)(2)(A).~~

- Certification and Request for Discharge.** See local form at [Bankr. D.S.D. R. 3072-1A\(a\)\(2\)\(B\)\(B\)\(ii\)](#) and [Appendix 3G](#).