

The Anatomy of a Voluntary Petition



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A petition for relief is the first document filed in every chapter 11 case. When filed by the debtor company on their own behalf, the petition is "voluntary" and when filed on behalf of a minimum of three creditors to the company and "involuntary" petition. The purpose of a petition is to initiate a chapter 11 bankruptcy case and seek court authorized supervision of the debtor company. The voluntary petition contains information about the debtor company, authorization and reasons for filing, creditors, and affiliated debtors or companies which have simultaneously filed for chapter 11 protection. This article provides an overview of the contents and purposes of the subsections to a voluntary petition for non-bankruptcy professionals.

Three Page Petition

The voluntary petition is a federal form which provides certain general and specific information about a chapter 11 debtor company (view at: http://www.uscourts.gov/rules/BK_Forms_08_Official/B_001_0108f.pdf). General petition information includes name, address, and legal counsel of the company. Specific operation information relates to other operating names used, number of creditors, assets, debts, environmental disclosure, single asset real estate, and nature and type of business. The petition provide background on who the debtor company is and the general reasons for filing chapter 11 bankruptcy.

Affiliated Debtors

The three page petition asks for a list of affiliate debtor bankruptcy cases which are pending at the same time as the current bankruptcy case. The purpose of the affiliated debtors list is to provide creditors to a single bankruptcy case a list of all affiliated pending debtor cases in the event they may have a claim against more than one affiliated debtor. The affiliated debtors list typically contains the full legal name of each affiliated debtor and its case number for creditor reference.

Exhibit A

Exhibit A is included only in voluntary petitions for debtors that have issued public securities as defined and governed by the Securities and Exchange Commission (view at: http://www.uscourts.gov/rules/BK_Forms_1207/B_001A_0997f.pdf). The purpose of Exhibit A is to provide information to creditors about the company's securities as of the time of filing for chapter 11 bankruptcy protection. Exhibit A asks for information regarding: financial data related to assets, debts, and securities; a description of the debtors businesses; and a list of equity security holders who own or control 5% or more of the voting securities of the company.

Resolutions Authorizing the Filing

Prior to filing for chapter 11 bankruptcy protection, the company's governing board of directors or managing members will have reviewed the books and records of the company and consulted with bankruptcy professionals regarding the financial status and future direction of operations. The corporate resolutions are a legal document, signed by authorized individuals, which outline the decision to file for chapter 11 bankruptcy, the employment of certain chapter 11 professionals, and the authorization to take certain actions such as enter into debtor-in-possession financing or asset sales.

Top 20/30/40/50 Unsecured Creditors List

The list of top unsecured creditors contains the name, address and contact information of creditors who are owed the largest amounts of unsecured debt as obtained from the company's books and records just prior to the filing of the chapter 11 petition. For each of the named creditors, information related to the type of debt (i.e. trade or bank debt), the status of the debt (contingent, unliquidated, disputed), and the amount of the debt is requested. The top unsecured creditors list will serve as the list the U.S. Trustee for the Department of Justice uses to solicit members for an unsecured creditors committee, which represents the interests of all unsecured creditors to the debtor company.

Certification of Master Mailing Matrix

At the time of filing a voluntary petition, a debtor company must file a comprehensive list of all creditors, known as the "master mailing matrix". The list contains basic name, address, and contact information for each creditor to the company. Certain chapter 11 legal notices will be sent to all creditors on the list. Legal notices related to notice of commencement of case, notice of claims bar date, notice of disclosure statement and solicitation, notice of plan confirmation, and notice of effective date and administrative claims bar date to each of the creditors on the master are some examples.

Certification of Equity Security Holders List

At the time of filing, a debtor company will need to disclose a list of all creditors who hold equity securities or ownership rights in the company. The purpose is to put creditors on legal notice of the chapter 11 filing and give the U.S. Trustee, the courts, and a prospective creditors committee information about pre-bankruptcy ownership of the debtor company.

Summary

The voluntary petition contains additional information which is helpful to specific types of creditors such as governmental agencies and parties to pending litigation against the debtor company. Understanding contents of the voluntary petition will help you better understand the purpose and parties involved in a chapter 11 bankruptcy.

For more information on voluntary petitions contact
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