

## **MARY K. VIEGELAHN HAMLIN, CHAPTER 13 TRUSTEE**

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### **NOTICE TO DEBTORS BAR**

My office has received numerous phone calls regarding what I will require under the new code. The following is a list of documents I will require and information that I need to monitor the cases appropriately. This is not an all inclusive list. Additional information may be required on a case by case basis or as more issues develop as to the Bankruptcy Abuse Prevention and Consumer Protection Act.

1. A Means Test is required in each Chapter 13 proceeding. My office will be reviewing the Means Test to make sure that the applicable commitment period is correct based on the median income. If debtors are above the median income make sure that the entire Means Test is completed correctly. The Plan should match the applicable commitment period. If you select a 60 month commitment period then make sure your Plan is set up to match this. The accuracy of this Means Test will also be verified.
2. A copy of the CMI calculation (how you came to calculate the income stated on the means test). Pursuant to §707(b)(2)(C) the debtor shall include a statement of CMI and the calculations. I would like a breakdown for each month of the 6 month required period. Identify each source for the income (i.e. wages, lottery, gambling, tax refunds, inheritance, unemployment etc.)
3. Two years of tax returns must be provided to the Trustee within 7 days prior to the 341 hearing. One day prior to the 341 hearing any tax returns that were unfiled at the time of the petition must be filed and provided to the Trustee.
4. The Certificate of Credit Counseling must be provided from an approved agency and if a budget plan was prepared it must be attached.
5. 60 days of pay advices shall be submitted to the Trustee when the case is filed per local Court Order. In addition pursuant to §521(a)(1)(B)(V) a statement of the amount of monthly net income itemized as to how it was calculated must be provided.

6. If the Debtor pays child support, alimony etc., must provide the Trustee with the name, address and phone number of both the recipient of the support and the State Agency.
7. If the Debtor pays child support the Trustee must receive proof that the post petition child support is current, prior to confirmation.
8. Retirement loans are an allowed deduction but the Trustee must be provided the following information:
  - a. When the Debtor took out the loan?
  - b. The purpose of the loan?
  - c. When the loan will be paid off?This may require a step payment.
9. If the Debtor has personal property secured by a creditor the Debtor must file a Motion for Pre Confirmation Adequate Protection Payments or obtain a Stipulation from the Creditor, or the Debtor may make payments directly to the creditor but must provide the Trustee with proof of payment prior to confirmation. This doesn't apply to mortgages or liens secured by Real Estate. I will not make pre confirmation adequate protection payments to a secured creditor without:
  - a. An Order for Pre Confirmation Adequate Protection payments
  - b. Proof of security documents to verify validity of a lien, and
  - c. A claim filed by the creditor or sufficient information (including documents) contained in Stipulation or Motion to allow an informal proof of claim.
10. Attorney fees – per local Court Order effective January 1, 2006 the new fee structure for Chapter 13 proceedings is:
  - a. \$2,400.00
  - b. \$2,600.00 for experts (continuing education – seminars etc.)
  - c. \$2,900.00 for ABI Certification
  - d. This is not an absolute fee and fees should be adjusted down if necessary based on specifics of each case.
  - e. Any Attorney working on a case must be ABI Certified to obtain the highest fee and may not simply be allowed because one member of a firm is certified.
  - f. If you request fees of either \$2,600.00 or \$2,900.00 be prepared to provide the Trustee with proof of eligibility. You may provide the Trustee with a such proof that will be retained in a permanent file so you will not need to provide it in each case.

11. Pursuant to §521(f)(4) on the date either 90 days after the end of the tax year or 1 year after petition date, whichever is later if not confirmed, and if confirmed each year not later than 45 days from the anniversary date of confirmation must provide an amended Schedule I and J for the most recent tax year concluded.
12. Pursuant to §521(f)(1) debtor must provide a copy of the federal tax return or transcript for each due while the case is pending. This is regardless of the fact that a Plan may be 100%. In addition the Debtors must provide state and city returns and all refunds in cases less than 100%.