

Case No.: \_\_\_\_\_ - \_\_\_\_\_

Debtor(s): \_\_\_\_\_

Attorney: \_\_\_\_\_

**(ALMOST) EVERYTHING YOU NEED TO KNOW ABOUT YOUR CHAPTER 13 CASE**

Trustee's office address: Office of the Chapter 13 Bankruptcy Trustee  
Herbert L. Beskin, Trustee  
123 East Main Street, Suite 310 (P.O. Box 2103)  
Charlottesville, Virginia 22902

Trustee's Website address: [cvillech13.net](http://cvillech13.net)

Where to send plan payments: All payments must include your full name and your full case number and be mailed to:  
Herbert L. Beskin, Trustee  
Chapter 13 Trustee's Office, P.O. Box 1961  
Memphis TN 38101-1961

Make payments payable to: HERBERT L. BESKIN, TRUSTEE

Correspondence with the Trustee: All correspondence must include your full name and your full case number and be mailed to:  
Chapter 13 Trustee's Office  
P. O. Box 2103  
Charlottesville, Virginia 22902

Trustee contact information: Trustee's Office CONTACT NUMBERS:  
Telephone Number : (434) 817-9913  
Fax Number: (434) 817-9916  
Staff E-mail Address: [ch13staff@cvillech13.net](mailto:ch13staff@cvillech13.net)

Trustee office hours: The Chapter 13 Trustee's Office is open five days a week from 9:00 a.m. to 5:00 p.m. and we accept phone calls Monday through Friday between the hours of 9:00 am and 4:30 pm.

The information contained in this booklet is designed to explain the Chapter 13 process and to answer those questions which are most often asked by Chapter 13 debtors. Please read the information in full now and refer to it later as necessary. If you have any questions, or if you do not understand any portion of this booklet, please contact your attorney.

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1. **SOME IMPORTANT WORDS & PHRASES IN CHAPTER 13:**

A. The automatic stay is a rule that takes effect immediately the moment your Chapter 13 case is filed with the Bankruptcy Court. It means that creditors must stop contacting you or taking action against you to collect the debt they are owed. Any contact must be through your attorney, and any action must first come through the Bankruptcy Court. If any creditor violates this rule, contact your attorney right away.

B. A Debtor is a person who has filed a Chapter 13 case. If a Husband and Wife file a case together, they are joint Debtors.

C. A Creditor is a person, company, or governmental entity that is owed money by the Debtor in a Chapter 13 case. There are three basic kinds of creditors:

(1) A priority creditor is a creditor that is owed a priority claim. The most common examples of priority claims are recent taxes of all kinds; child and spousal support; recently earned wages; and security deposits. Examples of priority creditors would be the IRS; the Virginia Dept. of Taxation; a spouse to whom a Debtor owes child or spousal support; and an employee who is owed wages by a Debtor.

(2) A secured creditor is a creditor that is owed a secured claim. Secured claims are those where the creditor has obtained a lien or a security interest on property to ensure that it is paid the debt owed to it; the property that has the lien is called collateral. Examples of secured creditors would be a mortgage company that holds a deed of trust (a mortgage) on a house; a bank that holds a lien on a car; a furniture company that has retained a lien on furniture which has been purchased; or a creditor which has obtained a judgment against a Debtor and recorded its judgment lien against the Debtor's home in the state Circuit Court land records.

(3) An unsecured creditor is a creditor that is owed an unsecured claim. An unsecured claim is any kind of debt owed by a Debtor that is NOT a priority claim or a secured claim. The most common examples would be credit cards; medical bills; loans that do not have collateral; personal loans from friends or family members; a balance due after collateral on a loan (house, car, furniture) has been repossessed and sold; or money due under a lease.

(4) In order for a creditor to be paid in Chapter 13, it must file a written proof of claim with the Bankruptcy Court. If you list a creditor in your schedules but it fails to timely file a written proof of claim, it will not be paid anything by the Trustee. A general unsecured creditor must file its proof of claim within 90 days of the date initially set for the meeting of creditors; governmental entities must file theirs within 180 days of when the case is filed. You or your attorney may file a proof of claim for a creditor if it fails to file one for itself, but it must be done within 30 days of the above deadlines.

D. A Chapter 13 Plan is the repayment Plan which a Debtor proposes to the Court in a Chapter 13 case. It can last from 36 to 60 months, and requires the Debtor to make payments each month during that period. The first payment is due 30 days after the Chapter 13 case is filed, and then a full monthly payment each month after that. The Plan must be confirmed (approved) by the Bankruptcy Court; until that time, it is not binding on the creditors.

E. A creditors' meeting (also called a 341 meeting) is a hearing scheduled 3-7 weeks after a Chapter 13 case is filed. Creditors and the Trustee are allowed to ask the Debtors questions about their schedules and their case, and the Debtors must answer these questions under oath. The Debtors' answers are made under oath, tape recorded, and retained by the United States Trustee.

F. The United States Trustee's Office is a branch of the US Department of Justice. It is responsible for monitoring all bankruptcy cases and Trustees, helping to ensure the integrity of the bankruptcy process, and investigating improper, fraudulent, or abusive conduct in bankruptcy cases. The Assistant

US Trustee for the Western District of Virginia (Margaret Garber) has her office in Roanoke.

G. The Chapter 13 Trustee is the person appointed by the United States Trustee to review the Debtor's schedules; conduct the creditors' meeting; make recommendations to the Court

regarding

creditors

does

Plan.

confirmation of the Debtor's Plan; receive the Debtor's Plan payments and distribute them to each month; monitor the Debtor's compliance with the terms of the Plan; take action if the Debtor does not comply with the Plan; and assist the Debtor in understanding and successfully completing the Plan.

The Trustee for your case is Herbert L. Beskin.

- H. The bankruptcy petition is the two page document that a Debtor files with the Bankruptcy Court which allows a Chapter 13 case to begin. The schedules are the thirty or so pages that are filed with the petition. They list all the Debtor's assets and debts, and contain important information about the Debtor's recent financial history. Both those documents must be signed under oath by the Debtor and

are public documents. This means that anyone can go to the Bankruptcy Court Clerk's Office and review or copy these documents, except that the Debtor's Social Security number will be removed.

If at any time you as a Debtor realize that information you have provided in these documents is incomplete or inaccurate, you have an ongoing obligation throughout your case to contact your attorney right away and correct the information that has been filed with the Court.

- I. A co-signer or co-obligor is someone who signed a contract with you; each of you is fully liable for the entire amount of the debt, and the creditor can choose which of you to sue first. This is true even if only one of you obtained the money or property. A guarantor is someone who has given his or her written guarantee that if you fail to pay a certain debt, he or she will pay the debt in full.

- J. A motion to lift stay (or motion for relief) is a motion filed by a secured creditor because you have

either failed to (i) pay directly to the creditor all the monthly payments on this debt that you should have made since the case was filed, or (ii) maintain proper insurance on the property. This motion means that the creditor is seeking Court permission to foreclose on the house or repossess the car or furniture. If you receive such a motion, call your attorney immediately. You must respond to this motion promptly or the creditor will be granted its request.

K. The discharge is the Order granted by the Bankruptcy Court at the end of your case. It tells the world that you have made all payments required by your Chapter 13 Plan, taken the required debtor education course, complied with all the Court's orders, and have no further legal obligation to pay the balance owed on any of your dischargeable *unsecured* debts.

L. Some debts may be non-dischargeable, which means that whatever portion of the debt is not paid in your Chapter 13 case will still be owed by you when the case is over. Some examples are student loans; child or spousal support; trust fund taxes such as sales tax or employee withholding taxes; money obtained by fraud; your mortgage loan if you are curing an arrearage in the plan; and injury caused while driving under the influence of drugs or alcohol.

1A. SOME PRELIMINARY MATTERS:

A. Advising your attorney promptly of any problems: Chapter 13 is a flexible process designed to help people in financial trouble. If unexpected things go wrong (loss of job, reduction of hours, sickness,

injury, separation from your spouse, etc.) *after* your case has been filed, the Court can, in

appropriate circumstances, temporarily suspend your plan payments or even reduce your plan payments for the rest of the case. But no such relief can happen unless and until you tell your attorney that something has happened to affect your ability to make your payments. *It is your responsibility, and yours alone, to notify your attorney as soon as you are aware of a problem.*

The sooner you call the attorney, the sooner you can find out what your options are to solve the problem. If you do nothing or postpone calling your attorney, things will only get worse.

- B. **Pre-confirmation affidavit.** You will be required by your attorney to sign a pre-confirmation affidavit. This is a sworn statement that says that *since your case was filed*, you have made all the house payments, car payments, tax payments, and child support payments you were supposed to make. It also says that *as of the date your case comes up for confirmation before the Bankruptcy Court Judge*—which can be 3, 4 or even 6 months down the road--you will still be current on those payments.

The Trustee will rely upon this affidavit in recommending to the Court if your case is ready for confirmation, so it is an important document.

*If you fall behind on any of these payments before your case has been confirmed, you must immediately contact your attorney and advise him/her of your default.* If you fail to so inform your attorney, and if the Trustee recommends confirmation of your plan based upon an affidavit which was no longer accurate, the Trustee will report this to the Judge, and it can affect your plan and the success of your case. So be sure to contact your attorney right away if you fall behind on any of these payments.

- C. **Initial documents needed by the Trustee:** Your attorney will give you a list of documents that must be provided so that he/she can send them to the Trustee's office. These will include paystubs, your most recent federal income tax return, your most recent real estate and personal property tax bills, and the Trustee's questionnaire; you may also have to provide copies of deeds, charitable contributions, prior Homestead Deeds, and documents to prove the amount of certain living expenses. *You need to provide these documents to your attorney promptly or your case can be dismissed.*

- D. **Property acquired after case filed:** *If at any time while your Chapter 13 case is pending you acquire property by way of inheritance, divorce or separation, insurance proceeds, or gift, you need to promptly advise your attorney, the Trustee, and the Court* of this development. It may

affect your case, and your attorney needs to be aware of this change in your financial situation.

2. **THE ROLE OF 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 ever have a question concerning your case, a creditor, your rights, or your options, you should always ask your attorney first. Be sure that you and your attorney have discussed fully whether additional legal services during your Plan will cost you more money or whether the initial fee will cover all legal services. **All legal fees charged by your attorney must be reviewed and approved by the Bankruptcy Judge** even if you agree to pay more. If you ever want to change attorneys, an Order must be entered by the Court appointing a new attorney and allowing your prior attorney to withdraw from the case.

Some examples of your attorney's responsibilities are:

1. Explain the Chapter 13 process to you and help you to understand your obligations as a Chapter 13 Debtor
2. Ensure that all secured debts are valid
3. Handle disputes with your creditors
4. Attend the meeting of creditors
5. Appear at any other Court hearing involving your case
6. Review proofs of claim filed by your creditors and object to any improper claims
7. Assist you in overcoming any obstacles that may arise during the course of your case by filing any necessary documents (examples would be motions to incur debt, to suspend payments, and to buy

or

sell real estate)

3. **CHANGE IN ADDRESS, JOB, OR CIRCUMSTANCES:** In addition to making your payments, it is your responsibility to *promptly* advise your attorney and the Trustee's office of any change in your address, phone number, place of employment, marital status, or any other matter affecting your ability to perform your responsibilities under Chapter 13. If the Court or the Trustee's office is unable to get in touch with you, your case may be dismissed even though you are complying with all aspects of your Plan.



4. **PAYMENTS AND YOUR CHAPTER 13 CASE NUMBER:** Your Chapter 13 case number (for example, “15-61777”) is very important. You will want to keep it readily available. You will need this number when you make payments, or when you call or write the Trustee’s office about your case. If you make your payments directly to the Trustee’s office, **make your check or money order payable to “Herbert L. Beskin, Trustee,” and remember that your full case number and your full name must appear on your check or money order** to ensure that it will be properly credited to your account. You may refer to the label on the front of this booklet for your full case number and the address to which

payments should be sent.

Your first full payment is due **30 days after your case is filed.** If you are paying by automatic payroll deduction, it is your responsibility to make the first few payments yourself and continue making payments until you see your payment being deducted from your paycheck. Whether you are making your payments directly to the Trustee or through a payroll deduction, **keep a copy of all payments made** (check, money order, paystub) in case there is a problem regarding your payments. If you are sending in an extra payment or more than required for that month, please contact us at our Charlottesville office to give us a head’s up so that we can properly credit the additional funds.

5. **TRUSTEE’S COMMISSION:** The United States Bankruptcy Code states that the Chapter 13 Trustee is to charge an amount for expenses and compensation for each case administered by his or her office. In other words, whenever the Trustee receives Plan payments from you to pay a creditor pursuant to a Chapter 13 Plan, he will charge a commission of no more than ten cents on the dollar in order to pay for the costs of running his or her office. The maximum amount is equal to 10% of funds received for distribution and may change from time to time. Over the past ten years the percentage for Mr. Beskin’s office has ranged from 4% to 9.5% and is usually between 6 and 7%. This commission is collected by the Trustee at the time he receives a payment from the Debtor. (Many people assume that the Trustee’s office is paid for by tax dollars, but that is

not correct; none of your taxes are used to fund the Trustee's office.)

6. **TELEPHONE CALLS TO TRUSTEE'S OFFICE:** The Chapter 13 Trustee's office telephone number is (434) 817-9913. The office is open five days a week from 9:00 a.m. to 5:00 p.m. and we accept calls Monday through Friday between the hours of 9:00 am and 4:30 pm.

Each case has been assigned to a Case Administrator based on the last two digits of your case number. If you have a question about your case, have your case number ready when you call, and you will usually be connected to the Case Administrator assigned to your case. If you are unable to speak to someone, you will be able to leave a message, and we will return all messages that we receive. Do not feel that you have to speak directly with the Trustee; staff members are familiar with the policies and guidelines under Chapter 13, and are qualified to provide you with certain factual information about your case. If the staff is unable to give you an answer to your questions or resolve your problems during your initial call, your concerns will be relayed to a senior staff member or to the Trustee. **The Trustee and his staff cannot give any legal advice; nor can this office prepare or file pleadings or other documents on your behalf. We encourage you to direct all questions requiring legal advice to your attorney.**

7. **PLAN PAYMENTS:** There are three ways to make your Chapter 13 plan payments. The best and most successful option is to set up an **automatic payroll deduction** through the Debtor's place of employment (see the next paragraph). Studies show that cases using this method of payment are much more likely to be successful. Under an automatic payroll deduction, the Bankruptcy Court will issue an Order to your employer ordering it to withhold from your paycheck a certain amount of money each payday. You will make the first plan payment or two to the Trustee yourself by check or money order until you see the deduction showing up on your paystub. Then all you have to do is review your paystub each payday to ensure that the correct amount is coming out and being sent to the Trustee. Please remember that it is **your responsibility** to make your payments, and you must make sure that your employer is complying with the wage deduction order. If your employer fails to deduct a Plan payment from a paycheck, **you** must make the payment yourself. Any changes in employment must be reported to the Trustee at once.

If you are employed but do not want to use an automatic payroll deduction, you must use the second option to make your plan payments: you will set up a **TFS account**. (There is a

two page explanation of TFS at the back of this booklet.) TFS is a private company that will set up an automatic electronic withdrawal from your bank account on whatever day or days each month you choose. TFS will forward the amount withdrawn each time to the Trustee. There is a small fee for using TFS, and to use it you must have a bank account and either a smart phone or an internet connection at home. Your attorney will explain TFS to you and help you set up an account. TFS has a toll free phone number to assist you if you have problems or questions.

Under certain circumstances (self-employment; disability; retirement; other unusual circumstances) payments may be paid using the third option: directly by the Debtor to the Trustee's office using a check or money order. If you pay by personal check and one is returned to us for non-sufficient funds, we will no longer accept a personal check from you, and you will have to send certified funds. You can of course use the TFS account option if you fall into this situation, and the Trustee recommends that you do so.

Regardless of how you make your Plan payments, keep copies of all checks, money orders, paystubs, etc., until your Plan is completed so that you can prove payments if any problems arise.

8. **PAYROLL DEDUCTION ORDERS:** If you are using the automatic payroll deduction option to make your Chapter 13 plan payments, after your case has been filed the Bankruptcy Court will issue a

wage deduction order directing your employer to deduct your Plan payment from your paycheck and send it to the Chapter 13 Trustee. It is important that both you and your employer understand that this order is *not* a garnishment, because it is being done voluntarily by you and covers all your creditors, not just one. So your employer is not required to limit the amount being sent to the Trustee to 25% of your take-home pay as it would if this were a garnishment. If your employer has any questions about this process, he or she is welcome to call the Trustee's office. If your employer is supposed to deduct your payments from your wages and does not, it is your responsibility to make your Plan payments directly and call your attorney to help resolve the problem.

9. PROBLEMS WITH AN EMPLOYER BECAUSE OF CHAPTER 13: Occasionally an employer will suggest that a debtor's job is in jeopardy because the debtor has filed Chapter 13 or a wage deduction order has been issued. If this happens, please contact your attorney immediately. Your employer may not discriminate against you just because you have filed a Chapter 13 case.

10. DISMISSAL OF YOUR CASE FOR FAILURE TO MAKE PAYMENTS: If you fail to make the payments to the Trustee that are required by your Plan, the Trustee is required to file a motion with the Court asking it to dismiss your case. You will receive a copy of that motion, and it will say that there is a hearing scheduled on the motion two months in the future. The hearing is set two months ahead to give you time to contact your attorney and propose a way to catch up your payments; most of these plan payment defaults can be fixed if you contact your attorney right away. If your case is dismissed, it will be expensive and more difficult to file another case. So it is very important to contact your attorney and the Trustee's office *ahead of time* if you ever expect to miss a payment due to loss of employment, a medical disability, or a change in jobs.

If problems arise during the time you are in Chapter 13 that make it difficult or impossible for you to make your Plan payments and meet your other obligations, you should contact your attorney immediately. Your attorney may be able to help you suspend payments for a time, reduce your payments for the duration of your plan, or otherwise adjust your Plan. Your attorney is the best resource to aid you in solving this or any other problems related to your case. Please do not wait until you fall so far behind in your payments that it will be impossible for you to solve the problem within the time limit permitted by the Bankruptcy Code; the sooner you contact your attorney, the better he or she can assist you.

11. CONTACT BY CREDITORS: All creditors you listed on your Chapter 13 schedules are by law and by Court order prohibited from harassing you in any way. If you are continuing to make regular monthly payments to a secured creditor as part of your plan (for example, a house or car payment), the creditor may continue to send you regular monthly statements. But if you get notices or demands for payment in the mail from unsecured creditors that are being paid through

the plan, let your attorney know right away. He or she will contact the creditor. If you have direct contact from a creditor, such as a telephone call, a summons, or a personal visit, inform the creditor of your Chapter 13 case. Make sure you get the name and address or telephone number of the person contacting you. Contact your attorney immediately, and give your attorney the name and address or telephone number of the party who contacted you.

12. **PAYMENTS TO CREDITORS:** You must list in your schedules **ALL** the creditors to whom you owe money, including friends, employers, and even family members. You cannot pick and choose which ones you will list. All your creditors must be provided for in the Chapter 13 Plan, and you may not deal with or pay your creditors except as provided in the Plan. While some creditors may be paid directly, you may do so only if your confirmed Chapter 13 Plan provides for a direct payment. A semi-annual report will be sent to you by the Trustee (every March and September); it will set forth all funds received from you and all payments made by him to your creditors. Also, the Trustee will provide you with instructions at the creditors' meeting that will allow you to access the **National Data Center website** ([www.13datacenter.com](http://www.13datacenter.com)) at any time--and at no cost--to review all your payments and all the Trustee's disbursements on your behalf. You may also request a status report of your case at any time during the life of your Plan. If you have any questions regarding the report, please do not hesitate to contact the Trustee's office or your attorney.

13. **CLAIMS OF CREDITORS:** Non-governmental creditors have 90 days from the date of the first meeting of creditors to file a written proof of their claims; governmental creditors (local, state, or federal) have 180 days from the date your case was filed to file a claim. Any claim not filed within that time frame will be considered late. The Trustee routinely objects to late claims. If the Court grants the Trustee's objection, the claim will not be paid under the Plan. We may pay only those claims which are filed and "allowed," and are prohibited from paying funds to creditors who have not filed claims. This prohibition includes any priority creditor or any secured creditor for whom your Plan has provided payment by the Trustee. So **if you see from the National Data Center website that a**

creditor that you need to pay has not filed a claim and is not being paid, contact our attorney immediately. At the time of your discharge, you will be discharged from the balance owed on any dischargeable claims which were filed and from those dischargeable debts to creditors who did not file claims. If you desire to object to a claim, contact your attorney immediately. Keep in mind that some claims are not dischargeable even in Chapter 13.

14. **CLAIMS FILED BY THE DEBTOR:** If a creditor fails to file a claim, you have the opportunity to file a claim on behalf of any creditor who did not file. You may want to do this because you need the Plan to take care of this debt (a car you want to keep or mortgage arrears, for example), or because you want to make sure a particular creditor shares in the Plan disbursements. If you want to file a claim for a non-governmental creditor, you must do so between 90 and 120 days after your creditors' meeting; for a governmental creditor, you must do so between 180 and 210 days after your case was filed. Your attorney should be able to tell you which creditors filed on time and which did not.

15. **CREDITORS NOT LISTED BY DEBTOR:** Creditors not listed on your schedules when you filed your case pose a problem. As soon as you discover that you have failed to list a creditor to whom you owed money as of the date your case was filed, notify your attorney immediately. It may not be too late to include that creditor in your Plan. If you fail altogether to list a particular creditor, it will be allowed to proceed against you after your case is over. **So it is very important to make sure you have listed every person or company to whom you owe money, or to whom you might owe money, even if the debt is disputed or uncertain.**

16. **POST-PETITION DEBTS.** Your Chapter 13 Plan does not usually cover any debts which are incurred by you after your case is filed; these are called "post-petition debts". You must pay such debts directly, by yourself, outside of your Plan. However, sometimes necessary and unavoidable post-petition debts arise, and you may need to add such debts to your Plan. Examples would be taxes that that have come due since filing, or medical bills that were unforeseen. A post-petition debt will not be paid under your Plan unless the Court approves an amendment of your plan, and the creditor agrees to participate in the plan and files a proof of its claim. **Contact your attorney right away if such a claim arises to see if it can be added to your**

Plan. See also paragraph #19 for the kinds of post-petition debts that may require Court permission before you can incur them.

17. HOW CREDITORS ARE PAID: As explained in the first section, there are three kinds of creditor claims in Chapter 13: (1) priority; (2) secured; and (3) unsecured. Basically, priority claims (child and spousal support; recent taxes; your attorney's fees) are paid first; secured claims (mortgage arrears, car or truck debts, furniture debts, judgment liens) are paid second; and unsecured claims (credit cards, medical bills, personal loans without collateral, and everything else) are paid last. Under the Bankruptcy Code amendments which took effect in October, 2005, there are some exceptions to this rule. For example, if you are paying in your Plan a loan which is secured by a purchase-money lien on a vehicle or other personal property, that creditor must get a payment each month until its claim is paid in full. Except for payments on the loans secured by personal property, these payments cannot begin until your Plan has been confirmed by the Court. Also, remember that the Trustee will be taking his commission (not more than ten cents on the dollar) on all payments he receives from you. Depending on your Plan, unsecured creditors may not begin receiving distributions for some time (sometimes *years*) after your Plan has been confirmed. Occasionally, a Debtor's Plan may alter the order of payment to creditors in a fashion which does not follow the order listed above. Please refer to your Plan and your attorney for clarification.

18. CO-SIGNERS, CO-OBLIGORS, AND GUARANTORS: A co-signer, co-obligor, or guarantor on any of your consumer debts is automatically protected from contact by the creditor while you are in Chapter 13 unless the Court allows such contact; this protection does not extend to *business related* debts. This protection is only for the amount of the debt your Plan proposes to pay. If your Plan does not provide for full payment of a debt, that creditor may obtain Court permission to proceed to collect from the co-signer, co-obligor, or guarantor the balance of the debt which will not be paid by your Plan. A hearing must be held and an order of Court must be entered before the creditor may proceed to collect such a debt from a co-signer, co-obligor, or guarantor.

19. CREDIT CARDS AND POST-PETITION DEBT: You cannot "*voluntarily incur additional*

*indebtedness exceeding the cumulative total of \$15,000.00 principal and interest during the term of this Plan*” without first obtaining Court permission. In other words, the cumulative amount of new debts you incur after your case is filed should not be greater than \$15,000.00, and that figure includes both principal and the total interest you will pay on the debt. You will need to file a motion with the Court if you need to incur new debt which will make the total of your post-petition debt greater than that amount, and that may take a number of weeks. If you have an emergency (for example, a medical

procedure or a replacement car), contact your attorney right away. If the Trustee finds out that you have incurred new debt in excess of \$15,000.00 without obtaining Court approval, he will probably file a motion to bring this matter to the Court’s attention, and your case may be dismissed for failing to abide by this requirement.

The Trustee strongly recommends that all Debtors avoid credit cards, payday loans, and all other kinds of loans and debt while in Chapter 13, and that you consult with your attorney before incurring *any* new debt. (Note: After your case is filed you cannot use any credit card that is listed in your Bankruptcy schedules as being owed prior to your case being filed.)

**20. SELLING PROPERTY, REFINANCING YOUR HOME, OR OBTAINING A LOAN MODIFICATION ON YOUR HOME WHILE IN CHAPTER 13:** *You may not do any of these things without first obtaining Court approval.* The only exception is that if you are seeking to dispose of property worth no more than \$500.00, the Trustee can give you permission to do so without your having to file anything with the Court. If you want to sell your property, trade in a car, sell your home or any other property of value, be sure to first discuss it with your attorney. If you sell any of your property for a profit, some of the profit may have to be applied to your Chapter 13 Plan. If you dispose of your property without the Court’s permission, the transaction may be set aside, and the Trustee may ask the Court to dismiss your case with prejudice against filing another bankruptcy for a period of time set by the Court.



21. **KEEPING YOUR DIRECT PAYMENTS CURRENT:** Any secured debts which you are required by your Plan to pay directly to the creditor (for example, house mortgage, car payment, or furniture payment) must be kept current throughout your plan. You must make the payment every month and in a timely manner. **Failure to make all such payments is a failure to comply with your plan, and may be grounds for the Court to deny your discharge at the end of your case.** If you miss payments or you are consistently late making the payments, it is very likely that the secured creditor will ask that the stay be lifted so that it can commence with repossession or foreclosure of the collateral. If you are having a problem making your direct payments or have fallen behind in these payments, contact your attorney immediately to discuss options that may be available to try to save your real estate or other collateral. These problems are much easier to solve if they are dealt with early rather than late.

22. **TAXES:** All local, state and federal taxes accruing during the term of your Plan must be paid by you when they are due. Your budget should provide for amounts sufficient to pay all currently accruing taxes. It may be necessary to reduce the number of personal exemptions you take from your payroll so that enough taxes will be deducted from your wages and you will not be confronted with a tax liability when returns are filed. You may want to place funds into a separate bank account monthly in anticipation of payment of the taxes which will be due. For most Debtors there are four kinds of taxes that need to be paid: federal income taxes (due April 15<sup>th</sup>); Virginia state income taxes (due May 1<sup>st</sup>); county or city real estate taxes (usually due June 5<sup>th</sup> and December 5<sup>th</sup> in most localities); and personal property taxes (likewise usually due June 5<sup>th</sup> and December 5<sup>th</sup>). If you realize that you will not be able to pay any of these taxes on time, contact your attorney to see if they can be brought into your Plan.

23. **PAYING MORE THAN REQUIRED:** If you are ever in a position where you wish to pay more in any month to the Trustee than is required by your Plan, you are always welcome to do so. You are free to pay extra each month, or to make occasional additional payments of any amount at any time. Although paying more than is required per month reduces your time in the Plan, you are still required to make the minimum payments when due each month thereafter. Please advise the Trustee's office in Charlottesville if you are sending more than is required in a given month, as the increase may affect the payment to certain creditors proposed by the Plan. **If**

you pay off your plan early with a large payment, the Trustee reserves the right to inquire as to the source of the funds and, in some cases, to seek an increase in the total of payments you should pay to your creditors.

24. **REQUEST FOR DISMISSAL BY DEBTOR:** Unless your case was originally filed under another Bankruptcy chapter such as Chapter 7, federal bankruptcy law allows you to request, at any time, that your Chapter 13 case be dismissed. If you wish to dismiss your case, contact your attorney. The request for dismissal of your case must be in writing and filed with the Court, with a copy sent to the Trustee's office. You should understand that a dismissal will reactivate all unpaid or disputed debts, all interest and finance charges that may have been disallowed in the Chapter 13 case, and all debts to creditors who did not file claims.

25. **FINANCIAL EDUCATION COURSE:** In order for you to obtain your discharge (see next paragraph), you must complete a personal financial education course after your case is filed. This course must be taken by a provider that is approved by the Department of Justice to offer such

courses. Go to: <http://www.justice.gov/ust/list-approved-providers-personal-financial-management-instructional-courses-debtor-education> and follow the instructions at that site to find providers that are approved for the 'Western District of Virginia'. Courses are offered in-person, online or over the phone. The course length is typically 2-3 hours, and there will be a small fee charged. In any event, you need to take this course before you finish making your Chapter 13 Plan payments. The Trustee urges you to take it early in the case so that you can use the advice on budgeting and planning your finances to help you successfully complete you Chapter 13 case. Your attorney can answer your questions about this course, and recommend which ones to take.

26. **DISCHARGE UPON COMPLETION OF PLAN PAYMENTS:** As discussed in the first section, after you have successfully completed your Plan payments and all payments you were supposed to make directly to your creditors, you are eligible for a discharge of all of your dischargeable debts. A discharge of your debts means that you are no longer legally liable for any

balance remaining to any creditor listed on your schedules and provided for in your Plan, with the exception of long term debts (such as real estate), alimony and child support, student loans, and any other debts that may not be dischargeable. Once the Trustee has advised the Court and your attorney that you have completed your Plan payments, you will file with the Court and with all your creditors an "Affidavit Requesting Discharge." If no creditors file any objections, you will receive in about 30 days an Order from the Bankruptcy Court granting your discharge. Then within a few months you will receive a copy of the Trustee's Final Report, which will set forth all payments made by you and all payments made to your creditors by the Trustee. You should keep the Final Report and the Discharge Order with your valuable papers. Since not all debts are dischargeable, you may wish to consult your attorney about your particular situation.

It is very important to keep a copy of all of your bankruptcy papers. You will need these documents to re-establish your credit and make sure your credit report correctly reflects your financial situation after your Chapter 13 case has been completed. If you lose your Chapter 13 documents, you should contact your attorney or the Bankruptcy Court to obtain another copy.

**27. CREDIT RATING AND CREDIT REPORTS:** Your "credit rating" is determined differently by different lending institutions, but all of them rely upon the same basic information. There are three main credit reporting agencies in this country (Equifax, Experian, and Trans Union). See the page near the end of this booklet for information about how to contact these agencies. There are two very different reasons why you should contact them. The first is to use a recent copy of your credit report at the beginning of your case to make sure you have included *all* of your debts--new and old, disputed and undisputed, big and small--on your Chapter 13 schedules. If you forget a debt, the creditor can proceed against you after your Chapter 13 case is over. So get a copy of your credit report and share it with your attorney. A new federal law requires that each agency provide you with one free report each year, so there is no cost involved.

You should also obtain a copy of your credit report on a regular basis (at least once a year) to make sure that no one is impersonating you or using your name and Social Security number to fraudulently obtain credit under your name. Regularly checking your credit report is one of the few ways to find out if this is happening to you. The easiest way to obtain a copy of your credit report is to contact Annual Credit Report Request Service (tel: 1 877 322 8228; website: [www.annualcreditreport.com](http://www.annualcreditreport.com)), or one of the three major credit reporting agencies set forth later in the booklet.

A few months after your Chapter 13 case is filed, you should probably check your credit report to make

sure that it correctly states which of your debts are being paid in your case. About six months after your Chapter 13 case is over, you should check your credit report again to make sure that it correctly identifies all of the debts which have been taken care of in the case. Only if your credit report accurately reflects what happened in your Chapter 13 case will you receive the full benefit of your successfully completed Plan. If the credit report contains errors, you need to write to the agency with copies of your bankruptcy schedules to correct these mistakes, and follow up later to make sure the information is accurate. Finally, you are allowed by federal law to write a statement of up to 100 words, send it to the credit reporting agencies, and insist that this statement be made a part of your credit report and sent to anyone asking to see a copy of your report. Such a statement can explain, for example, why you had to file bankruptcy, or contain any other information which might help to explain your financial problems.

Be careful about companies who claim they can “wipe out” your past credit history. Federal law allows these credit reporting agencies to report information about you for seven to ten years before that information is taken off your report. While they do have an obligation to report the information accurately, they cannot be made to delete the information early. Remember that rebuilding your credit history is a gradual process, and will usually take a number of years. The important thing is not to repeat the mistakes that caused you to file Chapter 13.

If you have any questions about these matters, contact your attorney.

**28. CONTACT BY CREDITOR AFTER COMPLETION OF CHAPTER 13:** When a creditor has been paid its claim through the Chapter 13 Plan, whether partially or in full, that creditor has no right to make a future claim against you unless it is a debt which was non-dischargeable in the Chapter 13 case. If a creditor brings a collection action, the official records of the Court would establish that your Plan was completed and should be a good defense to any action of such creditor. Should you receive a request from a creditor for additional money after your Plan is completed, do not pay without first talking to your attorney.

**29. IF PROBLEMS ARISE DURING YOUR CASE:** Complying with a Chapter 13 Plan is not easy. You may have to make real sacrifices to meet the obligations required by your Plan and still live within your Chapter 13 budget. Unexpected events—injury, sickness, job changes, divorce, new mouths to feed, etc.—can throw even the

best laid Plans and best intentions into turmoil. One of the best aspects of the Chapter 13 process is its flexibility. If problems arise, the Court can suspend payments temporarily, reduce payments over the balance of the Plan, change the treatment of certain debts, and, in extreme situations, allow a “hardship discharge.” But in order to take advantage of these options, you must make your attorney aware of the problem at the earliest possible time. The sooner your attorney knows of a problem, the more “fixable” the problem is. The Trustee and your attorney will not be aware of problems unless you bring them to their attention; it is your responsibility, and yours alone, to do so. If you ignore such problems, they will only get worse.

30. **IF YOU HAVE PROBLEMS WITH YOUR ATTORNEY:** If you are having problems with your attorney—unreturned phone calls, miscommunications, questions about how you are being represented, failure to explain things to you or answer your questions, etc.—the first step is always to talk directly with your attorney about your concerns, preferably face to face. Most such problems are the result of a misunderstanding or miscommunication, and can be resolved by some direct contact and straight talk. If the problems persist or if you feel a need for a second opinion or another attorney, you of course have the right to seek other counsel. If you want the names of other attorneys, or wish to file a complaint, you may also call the Trustee.

31. **CHAPTER 13 TRUSTEE’S OFFICE WEBSITE:** The Trustee suggests that you visit our website at <http://cvillech13.net/office.html>. The site contains additional information on a variety of Chapter 13 topics: contacting our office; plan payments; the personal financial management course; Court hearings, including directions to the various Courthouses; Court policies and procedures; Trustee’s policies and procedures for debtor and creditor attorneys; and commonly used forms;

## 32. CREDIT REPORTING AGENCIES

### Equifax

P.O. Box 105851

Atlanta GA 30348-5496

Tel: 1 800 997 2493 or 1 800 685 1111

Internet: [www.equifax.com](http://www.equifax.com)

### Experian

P.O. Box 2104

Allen TX 75013-0036

Tel: 1 888 397 3742

Internet: [www.experian.com](http://www.experian.com)

### TransUnion

P.O. Box 2000

Chester PA 19022

Tel: 1 800 916 8800

Internet: [www.transunion.com](http://www.transunion.com)

A new federal law allows you to obtain a free credit report from each of these credit reporting companies once every 12 months. You can order your reports by phone (1-877-322-8228), internet ([www.annualcreditreport.com](http://www.annualcreditreport.com)), or mail (Annual Credit Report Request Service, P.O. Box 105281, Atlanta GA 30348-5281).

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**(PAGE 20 AND 21 ARE THE PDFS FOR THE TFS AUTOMATED & ONLINE SOLUTION  
FOR CHAPTER 13 BANKRUPTCY PAYMENTS)**





**(PAGES 22, 23, and 24 SHOULD BE THE PDF PAGES FOR “DEBTOR ELECTRONIC BANKRUPTCY NOTICING (DeBN)” AND THE NOTICING REQUEST FORM**





**(PAGE 25 SHOULD BE "33. STUDENT LOANS AND CHAPTER 13 BANKRUPTCY")**

**(PAGESS 26 AND 27 SHOULD BE THE 2 PDF PAGES FOR THE NATIONAL DATA CENTER FREQUENTLY ASKED QUESTIONS**



**(PAGE 28 SHOULD BE: )**

**REMEMBER THE TWO MOST IMPORTANT RULES  
FOR BEING SUCCESSFUL IN CHAPTER 13:**

- 1. MAKE SURE YOUR PLAN PAYMENTS TO THE TRUSTEE AND YOUR DIRECT PAYMENTS TO TAXES AND SECURED CREDITORS (HOUSE, CAR, AND FURNITURE) ARE MADE ON TIME AND IN THE RIGHT AMOUNT.**
- 2. IF A PROBLEM ARISES OR IF YOU HAVE QUESTIONS, CALL YOUR ATTORNEY RIGHT AWAY.**



(PAGE 29 SHOULD BE:)

33. **CHAPTER 13: THE RULES OF THE ROAD**

- 1) **COMMUNICATE WITH YOUR ATTORNEY.** Tell your attorney everything about your situation: the good, the bad, and the ugly. Your attorney can help you best if you are completely honest. Review the schedules and plan carefully. If you do not understand them, or if they are wrong, alert your attorney immediately. If something goes wrong during your case (job loss; sickness; divorce; failure to make payments, etc.), or if you don't understand what's going on, call your attorney's office *right away*.
- 2) **PROVIDE DOCUMENTS AND INFORMATION REQUESTED BY THE TRUSTEE PROMPTLY.**
  - a) If you don't, your case can be DISMISSED.
  - b) Send documents to the Charlottesville office, not to the Memphis address.
- 3) **REVIEW A COPY OF YOUR CREDIT REPORT WITH YOUR ATTORNEY.** Make sure that all of your debts are included in your schedules and Plan before you file the case. And review your credit report again after your case is over to make sure all debts are removed or shown as "discharged."
- 4) **CONTINUE MAKING YOUR DIRECT PAYMENTS AFTER YOUR CASE IS FILED.** Direct payments can be monthly payments like the house mortgage and the car payment (unless the payments are being paid inside your Plan), and yearly payments like state & federal income taxes, real estate taxes, and personal property taxes. For all such payments that come due after your case has been filed, you must make these payments and keep them current or the creditor may ask that the property be returned or your case be dismissed.
- 5) **DO NOT SIGN A FALSE PRE-CONFIRMATION AFFIDAVIT.** When you sign the pre-confirmation affidavit, you are swearing that your mortgage, car, tax and support payments are current since you filed the case. If this is not true, tell your attorney immediately, and do not sign the affidavit. Also, if you fall behind in your mortgage, car, support, or tax payments *after* you sign the affidavit but before the confirmation of your Plan, alert your attorney immediately and ask him or her to remove the affidavit until it is accurate.
- 6) **MAKE YOUR PLAN PAYMENTS ON TIME AND IN THE RIGHT AMOUNT.**
  - a) Your first payment is due 30 days after your case is filed, and every month thereafter.
  - b) All Plan payments should be sent to: Herbert L. Beskin, Chapter 13 Trustee, P.O. Box 1961, Memphis, TN 38101-1961

- c) Checks should be made payable to 'Herbert L. Beskin, Trustee' and have your full name & full case number on the check (for example, "15-60142, Thomas J. Smith").
  - d) Look at your paystubs every payday if you are paying by wage deduction to insure that the correct amount is being deducted. If you change jobs, let your attorney know right away so he can submit a new wage order. If there will be any missed payments in the meantime, you must make direct payments to the Trustee yourself in the interim until the new wage deduction begins.
  - e) If you are paying through our TFS system ([www.TFSBillPay.com](http://www.TFSBillPay.com)), please set it up immediately to recur automatically each period and insure that the first payment will be made before the first confirmation hearing. The payment does not reach us for about 4 business days after it is pulled from your account, so set it up early enough to reach us timely.
  - f) The Trustee's office can answer questions about your Plan payments, or you can go to the National Data Center website 24/7. It is your responsibility alone to make sure your Plan payments are current.
- 7) **YOU MUST TAKE A FINANCIAL EDUCATION COURSE TO RECEIVE YOUR DISCHARGE.** If you do not take this second class, the Court will close your case without entering the discharge, which means that you will still owe the unpaid portions of all of your debts. Please take the course as soon as possible to avoid this problem.
- 8) **IF YOU MOVE OR CHANGE JOBS TELL US.** Please make sure to immediately send your attorney and the Trustee written notice of your new address and/or new employer during the entire duration of your case. This is very important so that we can reach you if there is an unexpected problem with your case.
- 9) **YOU CANNOT DO ANY OF THE FOLLOWING THINGS WITHOUT FIRST OBTAINING COURT PERMISSION:**
- a) Sell, trade, or give away any property, or put a lien upon real estate that you own.
  - b) Incur additional debt of more than the cumulative total of \$15,000 in principal & interest during the term of your Plan
  - c) You should not use credit cards, sell or give away your property, borrow money from anyone (BANKS, LOAN COMPANIES, CASH ADVANCES, PAYDAY LOANS, FAMILY, OR FRIENDS), or refinance an existing loan (house, car, etc.) without talking first with your attorney, because you may have to first obtain Court permission.
- 10) **IF YOU HAVE QUESTIONS, IF YOU DON'T UNDERSTAND A DOCUMENT YOU'VE RECEIVED FROM THE COURT OR THE TRUSTEE, OR IF SOMETHING GOES WRONG THAT WILL PREVENT YOU FROM MAKING ALL THE PAYMENTS YOU'RE SUPPOSED TO MAKE:** Call your attorney's office right away, let them know about the problem, and find out what your options are to fix it.

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