

FREQUENTLY ASKED QUESTIONS BY **ATTORNEYS**

Below are 7 of the most common questions posed by attorneys to the Trustee. The answers below represent the most common response by the Trustee.

1. WHAT ABOUT MY ATTORNEY FEES?

The Eastern District of California has a general order (currently General Order #05-03) that describes how attorney fees are paid if you choose to follow the expedited procedures detailed in that order. If you do not choose to follow the expedited procedures, you should consult the Bankruptcy Code. (Expect a need to file a motion with notice of hearing served on all parties.)

2. WHAT ABOUT THE CHAPTER 13 PLAN?

The Eastern District of California has a general order (currently General Order #05-03) that requires a form plan to be used, although you can alter the terms of the plan in the additional provision section of the plan. You will draw an objection to confirmation from the Trustee if the current form plan is not used. The form plan can be obtained on the Court's website at www.caeb.uscourts.gov

3. WHAT ABOUT A LIQUIDATION PLAN?

You can propose a plan that relies heavily on the sale of property, but the debtor's monthly payments must be sufficient to pay the ongoing interest due on secured claims. Failure to do so will result in an objection from the Trustee.

4. WHAT DEBTS CAN BE PAID DIRECTLY BY THE DEBTOR?

This is determined by what the plan calls for. Ongoing mortgage payments and long-term secured debt are normally the only debts (other than normal living expenses) that the debtor can pay directly. (Please review Local Bankruptcy Rule 3015-1 and General Order 05-03.)

5. WHAT ABOUT PLAN CONFIRMATION HEARINGS?

A confirmation hearing is not normally scheduled for a plan unless a party objects. Should a party object to the confirmation of a plan, the objection must be set for hearing no later than 7 days after the conclusion of the meeting of creditors.

6. WHAT MATTERS CAN I SET ON NOTICE AND OPPORTUNITY FOR HEARING?

When in doubt notice the matter for a hearing. The Court has a self-set calendar where the Court has provided a list of dates from which you can choose to set your motion for. This list can be located on the Court's website at www.caeb.uscourts.gov. You may not obtain an order unless you have set the matter for hearing.

7. WHAT IS THE CURRENT CHAPTER 13 TRUSTEE'S PERCENTAGE FEE?

As ordered by the Executive Office for the United States Trustees, the percentage fee collected by Lawrence J. Loheit, Chapter 13 Trustee is fixed at 10.0% of the sum received in each case for payment to creditors which payment is to be made in accordance with title 11 U.S.C. 1326.