

**MEMORANDUM CONCERNING DEBTOR(S)' DESIRE TO INCUR
DEBT DURING THE PENDENCY OF THEIR BANKRUPTCY**

At some time, the debtor(s) may need to seek permission from the Trustee or the Bankruptcy Court to incur debt during the course of their bankruptcy. Through this Memorandum, the Trustee intends to outline the procedures and criteria the Trustee will use to evaluate such requests in the event the debtor(s) decide to direct such a request to him. **Neither the Trustee nor his staff can provide legal advice to the debtor(s) on how to proceed in the prosecution of their case. Debtor(s) should always consult their attorney before incurring or seeking permission to incur debt.**

The Debtor(s)' proposed Chapter 13 Plan is not yet Confirmed: It is the Trustee's opinion that the debtor(s) must direct any requests to incur debt to the Bankruptcy Court if the request is being made **prior** to the confirmation of the debtor(s)' Chapter 13 plan.

The Debtor(s)' proposed Chapter 13 Plan is Confirmed: It is the Trustee's opinion that may direct any requests to incur debt to either the Trustee and the Bankruptcy Court if the request is made **after** the confirmation of the debtor(s)' proposed Chapter 13 plan.

Request to Incur Debt: In the event that the debtor(s) decide to request permission from the Trustee to incur debt, the debtor(s) must complete, sign, and return to the Trustee a Request to Incur Debt that is appropriate for the type of debt that the debtor(s) seek to incur (purchase vehicle, purchase home, refinance home, or other). Upon receipt of this Request to Incur Debt, the Trustee will review the Request pursuant to the procedures and criteria as set forth therein. **The debtor(s) should allow for no less than 10 business days for the Request to be reviewed by the Trustee's office.** Contacting the Trustee's office in advance of the expiration of that time will only delay the review process.

The Trustee does not guarantee that he will grant his permission to the debtor(s) to incur debt. The Trustee will evaluate each request on its own merit and will make his own determination accordingly. The debtor(s) always have the option to proceed with making their request directly to the Bankruptcy Court.

Even if the debtor(s) receive permission from the Trustee to incur debt, the Trustee cannot guarantee that the debtor(s) will receive the loan. That decision is in the sole discretion of the lending institution.

New Budget: In addition to the Request to Incur Debt, the debtor(s) must also complete, sign, and return to the Trustee the attached budget to evidence that the debtor(s) will be able to afford to make normal household expenses, make the new monthly payment for the requested debt, and make their ongoing plan payments to the Trustee. **Unlike prior procedures utilized in this office, the Trustee is not requesting that this budget be filed with the Court.**

Reasons the Trustee may deny a Request to Incur Debt:

- (1) Debtor(s) are **not current on their on-going Chapter 13 plan payments or any other payments being made by the Debtor(s)** as disbursing agents under the terms of the confirmed Chapter 13 plan;
- (2) Debtor(s) have requested (or intend to request) a modification of the terms of their confirmed Chapter 13 plan in order to **reduce the dividend to the unsecured creditors** in order to allow them to afford the new monthly payments of the new loan;
- (3) Debtor(s) have **failed to provide all of the information requested above** or such other information that the Trustee may thereafter request during his evaluation of the Request to Incur Debt;
- (4) Debtor(s) request to incur debt **falls outside the Trustee's general criteria** as set forth in the applicable Request to Incur Debt;
- (5) Debtor(s) have **failed to articulate adequate reasons** to the satisfaction of the Trustee for the need to incur the debt;
- (6) If a joint case, the Request to Incur Debt must be signed by both debtors. **Failure to obtain signature of both debtors** on the Request to Incur Debt will result in the Trustee's denial of the Request.
- (6) Debtor(s)' proposed Chapter 13 **plan has not yet been confirmed** by the Bankruptcy Court; and/or
- (7) for **whatever other reason(s)** that the Trustee may have that comes up during the Trustee's review of the Request to Incur Debt.

The Trustee will not approve a Request to Incur Debt for the purchase of any items that are not, in the opinion of the Trustee, reasonably necessary for the effective reorganization of the Debtor(s), including but not limited to luxury cars, boats, 4-wheelers, etc.