

UNITED STATES BANKRUPTCY COURT

OFFICE OF THE CLERK
CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD, ILLINOIS 62701

KHADIJIA V. THOMAS
CLERK

226 U.S. COURTHOUSE
600 EAST MONROE STREET
217.492.4559

April 23, 2012

Dear Chapter 7 Case Trustees:

Re: Notice of Intent to Sell - Change in Procedures Effective May 7, 2012, for Springfield Division Only

As of May 7, 2012, Chapter 7 Trustees in the Springfield Division will be responsible for serving their own Notices of Intent to Sell. Trustees should continue to use the same style of form for the Notice of Intent as is currently in use, but will be responsible for completing the objection date information on the form and for mailing the Notice.

The objection date inserted on the Notice of Intent to Sell must be not less than 21 days from the date the Notice of Intent is mailed. *See* Fed. R. Bankr. P. 2002(a)(2). If a Trustee wants to request a shortened notice period, a motion seeking such relief must be filed, and the Notice of Intent to Sell with the shortened date for objections may only be mailed after an order has been entered shortening the period. Motions to shorten the notice period have generally not been favored by the Court.

The Notice of Intent to Sell generally must be served on all parties on the case mailing matrix. However, when the claims bar date has run, unsecured creditors who have not filed claims need not be served. A certificate of service evidencing proper service must be filed with the completed Notice of Intent to Sell. The certificate of service must specifically identify the persons or entities served electronically and must specifically identify by name and address the persons or entities served by mail.

Please note that the Clerk's Office previously had issues with some Trustees and other parties assuming that electronic service is being made by the Clerk on a variety of parties who are not, in fact, receiving electronic service. To determine which parties in a case are receiving electronic service:

[Utilities >Miscellaneous >Mailings >Mailing Information For a Case > provide the case number > Submit](#). The Header will display Mailing Information for Case with an associated message listing the parties who are currently on the list to receive email notice/service in this particular case.

The completed Notice of Intent to Sell with the certificate of service should be uploaded as follows:

[Bankruptcy >Trustee/US Trustee >Notice of Intent to Sell \(Springfield Ch7 Trustees only\) > Browse to upload the Notice of Intent to Sell in pdf format > Select Next, verify the Objections Date calculated in ECF > continue to select Next to complete e-filing the Notice.](#)

It is very important to ensure the objection date that is automatically calculated in ECF is the actual date provided in the Notice of Intent to Sell. The objection date in ECF will automatically calculate to a date that is not less than 21 days from the date the Notice is to be mailed. The Notice should be uploaded and mailed simultaneously. The user will be prompted to verify and accept the date or change it.

The Clerk's office staff will not review the certificates of service to determine whether Trustees have correctly identified the parties being served electronically or have otherwise complied with the requirements of the Rules for proper service. Accordingly, Trustees are urged to review Rules 2002, 6004, 7004, and 9014 to make sure that they and their staff are fully acquainted with the requirements for proper service.

Costs for copying and mailing the Notice of Intent to Sell may be claimed as a reimbursable expense on Chapter 7 Trustee fee applications. The application should specifically itemize the costs claimed and identify the specific Notice of Intent to Sell for which the reimbursement is sought.

Per Judge Gorman, the following are requirements for Notices of Intent to Sell filed in the Springfield Division:

1. Notices of Intent to Sell are provided for by Rule 6004. *See* Fed. R. Bankr. P. 6004. Rule 6004(b) provides that the objection date in the Notice of Intent to Sell should be not less than seven days before the sale. In the past, Trustees have not always allowed enough time between the date they uploaded the Notice of Intent to Sell and their sale date to facilitate compliance with this Rule. The earlier that a Notice of Intent to Sell is filed, the more likely it is that any objections to it can be resolved without having to cancel or postpone the sale.
2. The description of the property on the Notice of Intent to Sell should be clear and precise. In the past, some Notices have been rejected because the description of what was to be sold was vague or unclear. Real estate should be described by reference to the type of structure to be sold, e.g., single-family residence, 12-unit apartment building, warehouse, or the like, and by common address. Legal descriptions are not required but may be helpful when unimproved land such as farm acreage is being sold. Sales of assets such as equipment should include a listing of the specific items to be sold. Because Trustees will be completing and mailing their Notices of Intent to Sell before filing them, Clerk's office staff will no longer review the Notices to determine the adequacy of property descriptions.
3. When property is to be sold at public sale, the Notice of Intent to Sell must, at a minimum, contain the date, time, and place of the sale. For a private sale, the Notice of Intent to Sell must contain the terms and conditions of the sale including, at a minimum, the name of the buyer and the price to be paid. Generally, it is helpful if more information about the proposed sale is included and, frequently, when objections are filed, it is because creditors have questions about the sale rather than any actual objection to the sale taking place. Because scheduling objections for hearing can cause delay in closing a transaction or cause postponement of a scheduled public sale, including more information about the sale in the Notice may be beneficial.

4. Requests to sell an asset free and clear of liens must be made by separate motion. *See* 11 U.S.C. § 363(f). The motion must state the name of the creditor holding the lien, describe the type of lien involved, state the claimed amount of the lien, and identify the specific subparagraph of § 363(f) which allows the free and clear sale. The requested relief of a sale free and clear as set forth in a separately-filed motion may be included in the Notice of Intent to Sell provided that all of the required information from the motion is included on the Notice. *See* Fed. R. Bankr. P. 6004(c).

Please contact the Clerk's Office if there are questions.

Sincerely,

Khadjia V. Thomas

U.S. Bankruptcy Clerk

cc: Judges, United States Bankruptcy Court, Central District of Illinois
Nancy Gargula, U.S. Trustee, Office of the U.S. Trustees
Timothy Ruppel, Assistant U.S. Trustee, Office of the U.S. Trustees
Case Trustees