6-29/118.00 Conversion

The trustee, United States trustee, or a party in interest may attempt to convert or dismiss a bankruptcy case when the debtor fails to comply with filing requirements or pay filing fees. The court has *sua sponte* powers to convert and may issue an order to show cause why the case should not be converted or dismissed for lack of compliance with the law. A case cannot be converted to another Chapter unless the debtor is eligible to be a debtor under that Chapter. Debtors under Chapter 7 and 13 have an absolute right to convert under certain circumstances. (11 USC 706(a), (d), 1112(f), 1208(a), (e), 1307(a), (f)) The court should not accept a new petition under the Chapter to which conversion is sought because a petition is not required to effect a conversion.

Conversion constitutes a new order for relief under the Chapter to which the case is converted requiring the setting of a date for a new 341 meeting of creditors. (11 USC 341(a)) Conversion also creates a new period for filing a: proof of claim; complaint objecting to discharge; complaint to determine the dischargeability of a debt; and, a motion by the United States trustee for dismissal of a Chapter 7 for substantial abuse. The original filing date of the case does not change. Conversion terminates the service of any trustee or examiner. (11 USC 348(e))

Upon conversion from one bankruptcy Chapter to another, an automatic stay is not reimposed so as to make one who obtained relief apply again. (Cowans, Bankruptcy Law and Practice, 11.3(f) "… an order lifting the automatic stay remains effective notwithstanding subsequent conversion of the bankruptcy case, e.g., from Chapter 13 to Chapter 7"; In re Ramirez, 188 BR 413; In re State Airlines, Inc., 873 F 2d 264) Thus, manipulative debtors are prevented from filing a Notice of Conversion simply to avoid the terms of an earlier stay order. (In re Campos, 128 BR 790)

• 6-29/118.10 Chapter 7 Conversion

The debtor has a one-time, absolute right to convert a Chapter 7 to a Chapter 11, 12 or 13 if the case has not been previously converted. (11 USC 706(a)) Following a noticed motion, a Chapter 7 case may also be converted to a Chapter 11 at the request of a party in interest. (11 USC 706(b); FRBP 9014, 1017(d))

The court may not convert a Chapter 7 case to a Chapter 13 unless requested by the debtor. (11 USC 706(c)) If a Chapter 7 is converted to Chapter 13, the property of the estate is turned over to the debtor rather than the Chapter 13 trustee because the debtor remains in possession of all property of the estate in a Chapter 13. (11 USC 1306(b))

• 6-29/118.20 Chapter 11 Conversion

A Chapter 11 debtor has a one-time absolute right to convert to Chapter 7 unless: the debtor is not a debtor in possession; the case originally was commenced as an involuntary Chapter 11; or the case was converted to a Chapter 11 at the request of a party other than the debtor. (11 USC 1112(a))

The debtor must file and serve a motion for conversion. (FRBP 1017(d); 9013) No hearing is required unless

ordered by the court. (FRBP 1017) The court may convert a Chapter 11 to a Chapter 7 when it is in the best interest of creditors and the estate at the request of a party in interest or the United States trustee after a noticed hearing for cause. (11 USC 1112(b)) Additionally, the court may convert the case *sua sponte* by issuing an order to show cause against the debtor.

At the request of the U.S. trustee, a conversion or dismissal may occur upon failure of the debtor in a voluntary case to timely file a list containing the names, addresses and claim amounts of the holders of the 20 largest unsecured claims. (11 USC 1112(e))

The court may not convert a Chapter 11 to a Chapter 7 if the debtor is a corporation that is not a moneyed business or commercial corporation, unless requested by the debtor. (11 USC 1112(c)) The court may convert a Chapter 11 to Chapter 13 if requested by the debtor and the debtor has not been discharged. (11 USC 1112(d))

• 6-29/118.30 Chapter 13 Conversion

The debtor has an absolute right to convert from a Chapter 13 to a Chapter 7 at any time without prior notice, hearing or court order by filing a notice of conversion. (FRBP 1017(d)) Any party in interest, including the debtor and the United States trustee, may file a motion to convert to a Chapter 11 or 12 any time before confirmation of a plan and following a noticed hearing. (11 USC 1307(d)) The court may convert a Chapter 13 case to a Chapter 7 or dismiss the case, in the best interests of the creditors and the estate, upon the request of a party in interest or the United States trustee after a noticed hearing and for cause. The court may also *sua sponte* issue an order to show cause why the case should not be converted. (11 USC 1307(c))

• 6-29/118.40 Involuntary Bankruptcy Conversion

An involuntary Chapter 7 debtor may convert to a Chapter 11 or 13. If an involuntary Chapter 7 case is converted to Chapter 11, the converted Chapter 11 debtor can convert back to Chapter 7 without notice or hearing, provided that the debtor remained in possession of the property. An involuntary Chapter 11 debtor does not have an absolute right of conversion. (11 USC 1112(a)(2))
