

Rule 6004-1. ~~Sale of Estate Property~~ ABROGATED

~~(a) CHAPTER 7 CASES—GENERAL NOTICE. Except as otherwise provided in this rule, in a chapter 7 asset case the trustee shall give not less than 21 days notice to all entities listed in the matrix referred to in Local Rule 1007-2 of any proposed sale or other disposition of estate property by the trustee under Federal Rule of Bankruptcy Procedure 2002(a)(2) or (3). The notice shall conform substantially to Local Form 6004-1(a).~~

~~(b) CHAPTER 7 CASES—LIMITED NOTICE.~~

~~—(1) Generally; Form. If approved by the United States Trustee under subparagraph (3) of this paragraph, a trustee may sell property where the value to the estate is less than \$5000, after giving notice of the proposed disposition only to the United States Trustee, each entity that has filed a request for notice or notice of appearance under Federal Rule of Bankruptcy Procedure 2002(l) or 9010(b), and each member of any creditors' committee. The notice shall conform substantially to Local Form 6004-1(a).~~

~~—(2) Notice. Notice shall be given not later than fourteen days before the date set for the proposed disposition. Along with the original notice, the trustee shall also transmit to the United States Trustee 1) a proposed certificate approving use of limited notice and the proposed disposition and 2) proof of transmittal of the notice.~~

~~—(3) Approval. If the United States Trustee approves limited notice and the proposed disposition, the United States Trustee shall file the notice, the certificate and the proof of transmittal.~~

~~—(4) Disapproval. If the United States Trustee disapproves the limited notice or the proposed disposition, the trustee shall comply with paragraph (a) of this rule.~~

~~(c) CHAPTER 7 CASES—OBJECTIONS TO DISPOSITION. An objection to a proposed disposition under this rule shall be transmitted to the trustee and the United States Trustee and filed not later than 12:00 o'clock noon the day before the date set for the proposed disposition. If the trustee receives an offer in writing to purchase property being sold at private sale before the time to file an objection to the sale has expired, the trustee shall file the offer and the offer shall be deemed an objection timely served and filed. If the trustee accepts the offer or another offer and the court approves the sale, the objection shall be deemed sustained.~~

~~(d) CHAPTER 7 CASES—CERTIFICATE. Upon request of the trustee, the clerk shall issue a certificate conforming substantially to Local Form 6004-1(d) if no objection has been timely filed or all filed objections have been resolved. Copies of the notice and the certificate of approval if any shall be attached to the certificate. If the court has entered any order with respect to the proposed disposition, the clerk shall issue the certificate with a copy of the order attached.~~

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~~(e) CASES UNDER CHAPTERS 11, 12 AND 13. In a chapter 11, 12, or 13 case, a request for approval of any proposed sale, or other disposition of property of the estate shall be made by motion. Local Rules 2002-1 and 2002-4(a) govern notice to creditors.~~

~~(f) INSTRUMENTS TRANSFERRING REAL PROPERTY. An instrument of transfer of real property located in Minnesota by the trustee or debtor in possession shall conform substantially to Local Form 6004-1(f).~~

~~Fed. R. Bankr. P. Reference 6007, 9019.~~

[Effective April 15, 1997. Amended effective January 1, 2002; January 9, 2006; December 1, 2009; December 1, 2015; October 1, 2019. Abrogated effective XX, 2024.]

2024 Advisory Committee Notes

Local Rule 6004-1 was abrogated, along with Local Forms 6004-1(a), 6004-1(d), and 6004-1(f). Subsections (a) and (c) were removed to ensure consistency with 11 U.S.C. § 363(b)(1) and Fed. R. Bankr. P. 2002(a)(2) and (c)(1) and 6004(a), (b), (d), and (e). Section 363(b)(1) generally allows the trustee, after notice and a hearing, to use, sell, or lease property of the estate outside the ordinary course of business. See 11 U.S.C. § 102(1)(A) (defining “after notice and a hearing”). Rule 6004(a), (b), (d), and (e) describe the procedures for doing so. For example, Fed. R. Bankr. P. 6004(a) requires that notice of a proposed use, sale, or lease of property, other than cash collateral, outside the ordinary course of business be given under Fed. R. Bankr. P. 2002(a)(2), which requires 21-days’ notice of such use, sale, or lease to all creditors. Rule 2002(c)(1) governs the content of the notice. Rule 6004(b) requires any objection to “be filed and served not less than seven days before the date set for the proposed action or within the time fixed by the court.” The objection is governed by Fed. R. Bankr. P. 9014. Under Fed. R. Bankr. P. 6004(d), if the nonexempt property of the estate has an aggregate gross value less than \$2,500.00, the trustee can give a general notice of intent to sell such property other than in the ordinary course of business. Any objection to such sale must be filed and served within 14 days of the mailing of the notice. Again, the objection is governed by Fed. R. Bankr. P. 9014. Notably, Fed. R. Bankr. P. 9014(a) states “relief shall be requested by motion.”

Subsection (b) was removed to ensure consistency with Fed. R. Bankr. P. 2002(a)(2). Rule 2002(a)(2) allows the court, not the United States trustee, to shorten the time for giving notice of a proposed use, sale, or lease or direct that notice not be sent. See also Fed. R. Bankr. P. 2002(h) and (i) (other notice limiting provisions).

Subsection (d) was removed as unnecessary, and with that, Local Form 6004-1(d) was abrogated. If the trustee seeks proof of authority to sell property, the trustee may file a motion and seek an order from the court.

Subsection (e) was removed for many of the same reasons as subsections (a) and (c) described above. Section 363(b)(1) and Fed. R. Bankr. P. 6004(a), (b), (d), and (e) do not require that the trustee’s proposed use, sale, or lease of property of the estate outside the ordinary course of business be approved by the court. See also Fed. R. Bankr. P. 9013 (generally requiring that a request for an order be made by written motion).

Subsection (f) was removed as unnecessary, and with that, Local Form 6004-1(f) was abrogated. There is no need for a standard conveyance form. The language of each conveyance may differ depending on the circumstances.

Rule 6007-1. ~~Abandonment~~ Abandoning or Disposing of Property Upon Chapter 7 Case Closing

6000 Series Proposed Amendments – REDLINE VERSION

~~Local Rule 6004-1 applies generally to abandonments, except that the trustee in a chapter 7 case may use the limited notice of Local Rule 6004-1(b)(1) regardless of the value of the asset abandoned.~~ In a chapter 7 case, a request by the trustee under 11 U.S.C. § 554(c) for an order that an asset is not abandoned to the debtor upon case closing must be made by motion. The motion must briefly describe the asset and state that any responses are due within 21 days. The filing requirements for motions under Local Rule 9013-1 do not apply. If no response to the motion is filed, the court may enter an order without a hearing. If a response to the motion is filed, the trustee must contact the judge’s courtroom deputy for a hearing date and give notice of such hearing to the objecting party.

[Effective April 15, 1997. Amended effective October 1, 2019; XX, 2024.]

2024 Advisory Committee Notes

Local Rule 6007-1 was amended to remove any reference to former Local Rule 6004-1. Refer to Fed. R. Bankr. P. 6007(a) for procedures for giving notice of a proposed abandonment. Local Rule 6007-1 was further amended to add language from former Local Rule 5009-1. Though instead of an application, a motion is required. See generally Fed. R. Bankr. P. 9013 (requiring that a request for an order be made by motion).

Rule 6007-2. Abandon~~ment~~ or Disposing of Property Containing ~~–~~ Hazardous Substances

Notice of a proposed abandonment or disposition of property which may contain a hazardous substance must be given to the Environmental Protection Agency, any applicable state or federal regulatory agency, and the state Attorney General where the property is located. ~~If the trustee or debtor in possession proposes to abandon commercial or industrial property, whether real or personal, which the trustee or debtor in possession believes may contain a hazardous substance as defined in Minn. Stat. §115B.02, subd. 8 or other applicable law, or on which the trustee or debtor in possession believes environmental contamination or a release or threatened release of a hazardous substance may exist, the trustee or debtor in possession shall give notice of the proposed abandonment to the Environmental Protection Agency and the Attorney General for the state where the property is located.~~

[Effective April 15, 1997. Amended effective XX, 2024.]

2024 Advisory Committee Notes

Local Rule 6007-2 was amended and restyled to remove the “commercial or industrial” description of the property. Property that is not commercial or industrial can still contain hazardous substances. The rule was further amended to remove the reference to Minn. Stat. § 115B.02, subd. 8 or other applicable law. A hazardous substance does not necessarily have to meet a legal definition for notice to be required. Finally, the rule now has an additional requirement that any applicable state or federal regulatory agency be noticed. This is to account for situations where the Environmental Protection Agency is not the only governing agency. See, e.g., *In re Paoletta*, 79 B.R. 607 (Bankr. E.D. Pa. 1987) (Party opposing abandonment of property can show that abandonment is not appropriate because it would contravene state statute or regulation that is reasonably designed to protect public health or safety from identified hazards.).

Rule 6072-1. ~~Turnover Proceedings—Motion~~ [ABROGATED]

~~If upon demand an entity has refused to deliver to the trustee tangible property of a kind specified in §542(a) of the Code, the value of the property is less than \$10,000 and the property is located within the District of Minnesota, the trustee may seek an order for turnover by way of motion. At any time, on motion and for cause, the court may convert the proceeding to an adversary proceeding.~~

[Effective April 15, 1997. Abrogated effective XX, 2024.]

2024 Advisory Committee Notes

Local Rule 6072-1 was abrogated to ensure consistency with 11 U.S.C. § 542 and Fed. R. Bankr. P. 7001(1). Rule 7001(1) generally requires an adversary proceeding for recovery of money or property. A motion is only permitted in a proceeding to compel the debtor to deliver property to the trustee or if records are at issue under 11 U.S.C. § 542(e).