

with respect to a trustee selected as provided in paragraph (4)(A) of this rule the time periods prescribed by Rule 607 shall begin to run from the entry of such order.

PART II. OFFICERS FOR ADMINISTERING THE ESTATE;  
NOTICES TO CREDITORS; CREDITORS' MEETINGS;  
EXAMINATIONS; ELECTIONS; ATTORNEYS  
AND ACCOUNTANTS

*Rule 201. Appointment and duties of receivers.*

(a) *Purposes and term of receivership.*—Subject to the provisions of this rule, the court may appoint a receiver when necessary in the best interest of the estate (1) to take charge of the property of a bankrupt; (2) to conduct the business of the bankrupt; or (3) to afford representation to the estate in an action, adversary proceeding, or contested matter when no trustee has qualified or the interest of the trustee may be adverse to that of the estate. Such appointment shall be terminated when the trustee qualifies or there is no further need for a receiver, and the authorization to conduct the business of the bankrupt after adjudication shall continue only for such time as may be in the best interest of the estate and consistent with orderly liquidation.

(b) *Application for appointment.*—An application for appointment of a receiver shall state the specific facts showing the necessity for the appointment.

(c) *Appointment before adjudication.*—Before adjudication, appointment of a receiver may be made only on application. The application may be granted only after hearing on notice to the alleged bankrupt and such other parties in interest as the court may designate, except that a receiver may be appointed without notice if irreparable loss to the estate may otherwise result. An application for appointment of a receiver without notice and any order of appointment made without notice

shall state what loss may result and why it would be irreparable.

(d) *Bond of applicant.*—Before adjudication, no receiver may be appointed unless the applicant furnishes a bond in such amount and with such surety as the court shall approve, conditioned to indemnify the bankrupt for the costs, counsel fees, expenses, and damages occasioned by the appointment and action of the receiver in the event the petition is dismissed or withdrawn. The property of the bankrupt shall be released, however, if he files a counter-bond in such amount and with such surety as the court shall approve, conditioned that the bankrupt account for and turn over such property or pay to the trustee the value thereof in money at the time of release, in the event the adjudication is made.

(e) *Appointment after adjudication.*—After adjudication the court may appoint a receiver on application or on its own initiative. Such appointment shall be made only after notice to such persons as the court may designate, unless it clearly appears that notice is impracticable or unnecessary.

(f) *Eligibility.*—Only a person who is eligible to be a trustee under Rule 209 (d) may be appointed a receiver.

(g) *Order of appointment.*—An order appointing a receiver shall state why the appointment is necessary. A receiver is a mere custodian unless, upon proper cause shown, his duties are enlarged or otherwise specified by order of court. A copy of every order appointing a receiver shall forthwith be delivered to the bankrupt, or mailed to him at his last known address, and to such other persons as the court may designate.

(h) *Notice of appointment; qualification.*—The court shall immediately notify the receiver of his appointment, inform him as to how he may qualify, and require him forthwith to notify the court of his acceptance or rejection of the office. A receiver shall qualify as provided in Rule 212.

(i) *Duties.*—A receiver shall perform the duties prescribed in Rule 218 to the extent it is appropriate, except as the court may otherwise direct. Forthwith after qualification of the trustee, the receiver shall, unless otherwise ordered, turn over to the trustee all the records and property of the estate in his possession or subject to his control as receiver. The receiver shall file his final report and account within 30 days after qualification of the trustee unless the court otherwise directs.

*Rule 202. Appointment of marshal in lieu of receiver; his duties.*

The court may appoint a marshal in lieu of a receiver and, in such event, the provisions of Rule 201 except subdivisions (f) and (h) shall apply.

*Rule 203. Notices to creditors and the United States.*

(a) *Ten-day notices to all creditors.*—Except as provided hereinafter, the court shall give all creditors at least 10 days' notice by mail of (1) a meeting of creditors; (2) any proposed sale of property, including the time and place of any public sale, unless the court for cause shown shortens the time or orders a sale without notice; (3) the hearing on the approval of a compromise or settlement of a controversy, unless the court for cause shown directs that notice not be sent; (4) the date fixed for the filing of claims against a surplus in an estate as provided in Rule 302(e)(5); (5) the hearing on the dismissal of a case when notice is required by Rule 120 (a); and (6) the hearing on approval of a trustee's or a receiver's account and on an application for compensation or reimbursement of expenses filed by a receiver, marshal, trustee, attorney, or accountant, except when no final meeting of creditors is required to be ordered pursuant to Rule 204 (c). The notice of a proposed sale of property, including real estate, is sufficient if it generally describes the property to be sold. The notice of a hearing on an application for compensation or reimbursement of ex-

penses shall specify the applicant and the amount requested.

(b) *Notice of no dividend.*—If it appears from the schedules that there are no assets from which a dividend can be paid, the court may include in the notice of the first meeting a statement to that effect, that it is unnecessary to file claims, and that if sufficient assets become available for the payment of a dividend, the court will give further notice of the opportunity to file claims and the time allowed therefor.

(c) *Other notices to all creditors.*—The court shall give notice by mail to all creditors of (1) the dismissal of the case for failure to pay filing fees pursuant to Rule 120 (b); (2) the entry of an order directing that a chapter case continue as a bankruptcy case as provided in Rule 122 (c); (3) the time allowed for filing claims pursuant to Rule 302 (e)(4) after issuance of a notice of no dividend; (4) the time fixed for filing a complaint objecting to the bankrupt's discharge pursuant to Rule 404 (b); (5) the order of discharge as provided in Rule 404 (h); (6) the waiver, denial, or revocation of a discharge as provided in Rule 408; and (7) the time allowed for filing a complaint to determine the dischargeability of a debt pursuant to § 17c (2) of the Act as provided in Rule 409 (a)(2).

(d) *Notices to creditors whose claims are filed.*—After 6 months following the first date set for the first meeting of creditors, the court may direct that all notices required by subdivision (a) of this rule, except clause (4) thereof, be mailed only to creditors whose claims have been filed and creditors, if any, who are still permitted to file claims by reason of an extension granted under Rule 302 (e).

(e) *Addresses of notices.*—All notices to which a creditor is entitled under these rules shall be addressed to the creditor as he or his duly authorized agent may direct in a request filed with the court; otherwise, to the creditor at the address shown in the schedules or, if a different

address is stated in a proof of claim duly filed, then at the address so stated.

(f) *Notices to creditors' committee.*—Notwithstanding the foregoing subdivisions, if a creditors' committee has been elected, the court may order that notices required by clauses (2), (3), and (6) of subdivision (a) be mailed only to the committee or to its authorized agent and to creditors who file with the court a request that all notices under these clauses be mailed to them.

(g) *Notices to the United States.*—Copies of notices required to be mailed to all creditors under these rules shall be mailed (1) to the district director of internal revenue for the district in which the case is pending and (2) whenever the schedules, the list of creditors, or any other paper filed in the case discloses a debt to the United States other than one for taxes, to the United States attorney for the district in which the case is pending and, if disclosed by the filed papers, to the department, agency, or instrumentality of the United States through which the bankrupt became so indebted.

(h) *Notice by publication.*—If the court finds that it is impracticable to give notice to creditors by mail as provided in this rule or that it is desirable to supplement such notice, the court may order publication thereof.

(i) *Caption.*—The caption of every notice given under this rule shall comply with Rule 106 and shall also include all names used by the bankrupt within 6 years before the filing of the petition, as disclosed on the statement of affairs filed pursuant to Rule 108.

*Rule 204. Meetings of creditors.*

(a) *First meeting.*

(1) *Date and place.*—The first meeting of creditors shall be held not less than 10 nor more than 30 days after the adjudication, but if there is an appeal from or a motion to vacate the adjudication, or if there is a motion to dismiss the case, the court may delay fixing a date for such meeting. The meeting may be held at a regular

place for holding court or at any other place within the district more convenient for the parties in interest.

(2) *Agenda.*—The bankruptcy judge shall preside over the transaction of all business at the first meeting of creditors, including the examination of the bankrupt. He shall, when necessary, determine which claims are entitled to vote at the meeting and shall conduct the election of a trustee and, if one is held, the election of a creditors' committee.

(b) *Special meetings.*—The court may call a special meeting of creditors on application or on its own initiative.

(c) *Final meeting.*—The court shall order a final meeting of creditors in every case in which the net proceeds realized exceed \$250 and shall mail a summary of the trustee's final account to the creditors with the notice of the meeting, together with a statement of the amount of the claims allowed. The trustee shall attend the final meeting and shall, if requested, report on the administration of the estate.

*Rule 205. Examination.*

(a) *Examination on application.*—Upon application of any party in interest, the court may order the examination of any person. The application shall be in writing unless made during a hearing or examination or unless a local rule otherwise provides.

(b) *Examination of bankrupt at first meeting.*—At the first meeting of creditors, the court shall publicly examine the bankrupt or cause him to be examined and may permit any party in interest to examine the bankrupt.

(c) *Bankruptcy judge to preside.*—The bankruptcy judge shall preside at any examination under subdivision (b) of this rule.

(d) *Scope of examination.*—The examination under subdivisions (a) and (b) of this rule may relate only to the acts, conduct, or property of the bankrupt, or to

any matter which may affect the administration of the bankrupt's estate, or to his right to discharge.

(e) *Compelling attendance for examination and production of documentary evidence.*—The attendance of any person for examination and the production of documentary evidence may be compelled in accordance with the provisions of Rule 916 by the use of a subpoena for a hearing or trial.

(f) *Place of examination of bankrupt.*—Without issuing a subpoena, the court may for cause shown and on such terms as it may impose order the bankrupt to be examined under subdivision (a) of this rule at any place it designates, whether within or without the district wherein the case is pending.

(g) *Mileage.*—A person other than a bankrupt shall not be required to attend as a witness before a bankruptcy judge unless his lawful mileage and fee for one day's attendance shall be first tendered to him. If the bankrupt resides over 100 miles from the place of examination when he is required to appear for an examination under subdivision (a) of this rule, he shall be tendered mileage allowed by law to a witness for any distance over 100 miles from his residence at the date of bankruptcy or his residence at the time he is required to appear for such examination, whichever is the lesser.

*Rule 206. Apprehension and removal of bankrupt to compel attendance for examination.*

(a) *Order to compel attendance for examination.*—Upon a verified application of any party in interest alleging (1) that the examination of the bankrupt is necessary for the proper administration of the estate and that there is reasonable cause to believe that the bankrupt is about to leave his residence or his principal place of business to avoid examination, or (2) that he has evaded service of a subpoena or of an order to attend for examination, or (3) that he has willfully

disobeyed a subpoena or order to attend for examination, duly served upon him, the court may issue to the marshal, or some other officer authorized by law, an order directing him to bring the bankrupt forthwith before the court. If after hearing the court finds the allegations to be true, the court shall thereupon examine the bankrupt or cause him to be examined as soon as possible, but, in any event, the examination shall be commenced within 10 days after he was taken into custody. If it is necessary, the court shall fix conditions for further examination and for the bankrupt's obedience to all orders made in reference thereto.

(b) *Removal.*—Whenever any order to bring the bankrupt before the court is issued under this rule and he is found in a district other than that of the court issuing the order, he may be taken into custody under such order and removed in accordance with the following rules:

(1) If taken at a place less than 100 miles from the place of issue of the order, the bankrupt shall be brought forthwith before the court that issued the order.

(2) If taken at a place 100 miles or more from the place of issue of the order, the bankrupt shall be brought without unnecessary delay before the nearest magistrate, referee in bankruptcy, or district judge. If, after hearing, the magistrate, referee, or district judge finds that an order has issued under this rule and that the person in custody is the bankrupt, or if the person in custody waives a hearing, the magistrate, referee, or district judge shall issue an order of removal and the person in custody shall be released on conditions assuring his prompt appearance before the court which issued the order to compel his attendance.

(c) *Conditions of release.*—In determining what conditions will reasonably assure attendance or obedience under subdivision (a) of this rule or appearance under subdivision (b) of this rule, the court shall be governed

by the provisions and policies of Title 18, U. S. C., § 3146 (a) and (b).

*Rule 207. Voting at creditors' meetings.*

(a) *Right to vote; temporary allowance for voting purposes.*—Except as hereinafter provided, a creditor is entitled to vote at a meeting if he has filed a proof of claim at or before the meeting, unless objection is made or unless the proof of claim is insufficient on its face. Notwithstanding objection to the amount or allowability of a claim for the purpose of voting, the court may temporarily allow it for that purpose in such amount as to the court seems proper.

(b) *Majority vote; creditors with claims of \$100 or less.*—The trustee and the creditors' committee, if any, shall be elected by a majority vote in number and amount of claims of all creditors who are present and voting in person or by proxy. A claim of \$100 or less shall be included in computing the amount, but the holder of such a claim shall not be counted in computing the number of creditors voting.

(c) *Creditors with secured or priority claims.*—A creditor holding a claim which is secured or has priority shall be entitled to vote such claim only to the extent the claim exceeds the value of his security or the amount of his priority.

(d) *Creditors excluded from voting.*—The following creditors shall not be entitled to vote: a relative or affiliate of the bankrupt; a director or trustee or a stockholder, member, or officer of the bankrupt corporation; a general partner, limited partner, or person in control of the bankrupt partnership; or a person having an interest materially adverse to the estate.

*Rule 208. Solicitation and voting of proxies.*

(a) *Definitions.*

(1) *Proxy.*—A proxy includes a power of attorney, proof of claim, or other writing authorizing any person

who does not then own a claim to vote the claim or otherwise act as the owner's attorney in fact in connection with the administration of an estate in bankruptcy.

(2) *Solicitation of proxy.*—The solicitation of a proxy is any communication, other than one from an attorney to a regular client who owns a claim or from an attorney to the owner of a claim who has requested the attorney to represent him, by which a creditor is asked, directly or indirectly, to give a proxy after or in contemplation of the filing of a petition by or against the bankrupt.

(b) *Authorized solicitation.*

(1) A proxy may be solicited only by (A) a creditor owning a provable claim against the estate on the date of the filing of the petition; (B) a committee elected under Rule 214; (C) a committee of creditors selected by a majority in number and amount of claims of creditors whose claims are not contingent or unliquidated, who are not disqualified from voting under Rule 207 (c) or (d), and who were present or represented at a meeting of which all creditors having claims of over \$500, or the 100 creditors having the largest claims, had at least 5 days' notice in writing and of which meeting written minutes were kept and are available reporting the names of the creditors present or represented and voting and the amounts of their claims; or (D) a bona fide trade or credit association, but such association may solicit only creditors who were its members or subscribers in good standing and had provable claims on the date of the filing of the petition.

(2) A proxy may be solicited only in writing.

(c) *Solicitation not authorized.*—This rule shall not be construed to permit solicitation (1) in any interest other than that of general creditors; (2) by or on behalf of any person who has taken charge of property of the bankrupt as a receiver or trustee or an assignee for the benefit of creditors; (3) by or on behalf of any person disqualified from voting under Rule 207 (c) or (d);

(4) by or on behalf of an attorney at law; or (5) by or on behalf of a transferee of a claim for collection only.

(d) *Data required from holders of multiple proxies.*—At any time before the voting commences at any meeting of creditors held under Rule 204, or at such other time as the court may direct, a holder of 2 or more proxies must file with the court a verified list of the proxies to be voted and a verified statement of the pertinent facts and circumstances in connection with the execution and delivery of the proxies, including with respect to each of the proxies that was solicited, whether by the proxyholder or by any other person, the following:

(1) a copy of the solicitation;

(2) identification of the solicitor, the forwarder, if he is neither the solicitor nor the owner of the claim, and the proxyholder, including their connections with the bankrupt and with each other, and if the solicitor, forwarder, or proxyholder is an association, a statement that the creditors whose claims have been solicited and the creditors whose claims are to be voted were members or subscribers in good standing and had provable claims on the date of the filing of the petition, or if the solicitor, forwarder, or proxyholder is a committee of creditors, the date and place the committee was organized, a statement that the committee was organized in accordance with clause (B) or (C) of paragraph (b)(1) of this rule, the members of the committee, the amounts of their claims, when the claims were acquired, the amounts paid therefor, and the extent to which the claims of the committee members are secured or entitled to priority;

(3) a statement that no consideration has been paid or promised by the proxyholder for the proxy;

(4) a statement as to whether there is any agreement, and, if so, the particulars thereof, between the proxyholder and any other person for the payment of any consideration in connection with voting the proxy, or for the sharing of compensation with any person, other than

a member or regular associate of his law firm, which may be allowed the trustee or any person for services rendered in the case, or for the employment of any person as attorney, accountant, appraiser, auctioneer, or other employee for the estate;

(5) if the proxy was solicited by a person other than the proxyholder, a statement signed and verified by the solicitor that no consideration has been paid or promised by him for the proxy, and a statement signed and verified by him as to whether there is any agreement, and, if so, the particulars thereof, between the solicitor and any other person for the payment of any consideration in connection with voting the proxy, or for the sharing of compensation with any person, other than a member or regular associate of his law firm which may be allowed the trustee or any person for services rendered in the case, or for the employment of any person as attorney, accountant, appraiser, auctioneer, or other employee for the estate;

(6) if the proxy was forwarded to the holder by a person who is neither a solicitor of the proxy nor the owner of the claim, a statement signed and verified by the forwarder that no consideration has been paid or promised by him for the proxy, and a statement signed and verified by him as to whether there is any agreement between the forwarder and any other person for the payment of any consideration in connection with the voting of the proxy, or for the sharing of compensation with any person, other than a member or regular associate of his law firm, which may be allowed the trustee or any person for services rendered in the case, or for the employment of any person as attorney, accountant, appraiser, auctioneer, or other employee for the estate; and

(7) if the solicitor, forwarder, or proxyholder is a committee, a statement signed and verified by each member as to the amount and source of any consideration paid or to be paid to such member in connection with the case other than by way of dividend on his claim.

(e) *Enforcement of restrictions on solicitation.*—The court on its own initiative or on application or motion of any party in interest may determine whether there has been a failure to comply with the provisions of this rule or any other impropriety in connection with the solicitation or voting of a proxy. After such hearing as may be appropriate, the court may reject any proxy for cause, vacate any order entered in consequence of the voting of any proxy which should have been rejected, or take any other or further appropriate action.

*Rule 209. Selection of trustee.*

(a) *Election at first meeting.*—The creditors of a bankrupt entitled to vote under Rules 207 and 208 shall elect a trustee at the first meeting, subject to approval by the court and to the provisions of this rule.

(b) *Appointment by the court.*—Except as provided in Rule 211, the court shall appoint a trustee if (1) the creditors do not elect a trustee; (2) the trustee elected fails to qualify; (3) a vacancy occurs in the office of trustee; or (4) a trustee is needed in a reopened case. If an elected trustee is disapproved by the court for ineligibility or other good cause, the court may appoint a trustee.

(c) *Notice to trustee of his election or appointment; qualification.*—The court shall immediately notify the trustee of his election or appointment. The court shall also inform him as to how he may qualify, including the penal sum of his bond if required, and of the time fixed for the filing of a complaint objecting to the bankrupt's discharge, and shall require him forthwith to notify the court of his acceptance or rejection of the office. A trustee shall qualify as provided in Rule 212.

(d) *Eligibility.*—A trustee shall have no interest adverse to the estate and shall be competent to perform the duties of his office. If an individual, he shall have a residence or office in the state in which the case is

pending or in any adjacent state, and, if a corporation, it shall be authorized by its charter or by law to act as trustee and have an office in the state in which the case is pending.

*Rule 210. Trustees for estates when joint administration ordered.*

(a) *Election of single trustee for estates being jointly administered.*—If the court orders a joint administration of 2 or more estates pursuant to Rule 117 (b), it may approve election of a single trustee by the creditors of one or more of the bankrupts for the estates being jointly administered.

(b) *Right of creditors to elect separate trustee.*—Notwithstanding entry of an order for joint administration pursuant to Rule 117 (b) the creditors of any bankrupt may elect a separate trustee for his estate as provided in Rule 209 (a).

(c) *Appointment of trustees for estates being jointly administered.*—If the creditors do not elect a trustee under subdivision (a) or (b) of this rule, the court may appoint one or more trustees for the estates being jointly administered.

(d) *Potential conflicts of interest.*—Before approving the election or appointment of one trustee for estates being jointly administered as provided in subdivision (a) or (c) of this rule, the court must be satisfied that the creditors of the different estates will not be prejudiced by conflicts of interest of the trustee.

(e) *Trustee for partnership and partners' individual estates.*—Notwithstanding the foregoing provisions of this rule, the trustee of a bankrupt partnership shall also be the trustee of the individual estate of any general partner ordered pursuant to Rule 117 (b) to be administered jointly, unless the court, for cause shown, either (1) permits the creditors of a general partner to elect a sep-

arate trustee or (2) appoints a separate trustee for the individual estate.

(f) *Separate accounts.*—The trustee or trustees of estates being jointly administered shall nevertheless keep separate accounts of the property and distribution of each estate.

*Rule 211. Trustee not appointed in certain cases.*

If, after examination of the bankrupt, the court determines that there is no property in the estate other than that which can be claimed as exempt and that no other circumstances indicate the need for a trustee, and if the creditors do not elect a trustee, the court may order that no trustee be appointed. At any time thereafter, for cause shown, a trustee may be appointed by the court.

*Rule 212. Qualification by trustee and receiver.*

(a) *Qualifying bond or security.*—Except as provided hereinafter, every trustee and every receiver shall, before entering upon the performance of his official duties and within 5 days after his election or appointment, qualify by filing a bond in favor of the United States conditioned on the faithful performance of his official duties or by giving such other security as may be approved by the court.

(b) *Blanket bond.*—The court may authorize a blanket bond in favor of the United States conditioned on the faithful performance of official duties by a trustee or receiver in more than one case or by more than one trustee or receiver.

(c) *Bond excused in certain cases.*—The court may excuse the filing of a bond or the giving of other security (1) by a trustee or receiver when there appears to be an insufficient amount of property in the estate to justify the requirement of a bond or security, or (2) by a receiver when he will not be a custodian of any property.

(d) *Qualification by filing acceptance.*—A trustee or

receiver for whom a blanket bond has been filed pursuant to subdivision (b) of this rule or who is excused from filing a bond or giving security pursuant to subdivision (c) hereof shall qualify by filing his acceptance of his election or appointment in lieu of the bond.

(e) *Amount of bond and sufficiency of surety.*—The court shall determine the amount of the bond and the sufficiency of the surety for each bond filed under this rule.

(f) *Filing of bond; proceeding on bond.*—Unless otherwise provided by local rule, a bond given under this rule shall be filed with the referee. A proceeding on the bond of a trustee or receiver may be brought by any party in interest in the name of the United States for the use of the person injured by the breach of the condition. No proceeding shall be brought on a trustee's or receiver's bond more than 2 years after his discharge.

(g) *Evidence of qualification.*—A certified copy of the order approving the bond or other security given by a trustee or receiver under subdivision (a) or of his acceptance filed under subdivision (d) of this rule shall constitute conclusive evidence of his qualification.

*Rule 213. Limitation on appointment of receivers and trustees.*

No standing receiver or trustee may be appointed. Appointments of receivers and trustees by the court shall be apportioned so that the aggregate compensation of any one appointee shall not be excessive.

*Rule 214. Creditors' committee.*

The creditors entitled to vote for a trustee may, at the first meeting of creditors or at any special meeting called for that purpose, elect a committee of 3 or more creditors. The committee may consult with the trustee in connection with the administration of the estate, make recommendations to the trustee respecting the per-

formance of his duties, and submit to the court any question affecting the administration of the estate.

*Rule 215. Employment of attorneys and accountants.*

(a) *Conditions of employment of attorneys and accountants.*—No attorney or accountant for the trustee or receiver shall be employed except upon order of the court. The order shall be made only upon application of the trustee or receiver, stating the specific facts showing the necessity for such employment, the name of the attorney or accountant, the reasons for his selection, the professional services he is to render, and to the best of the applicant's knowledge all of the attorney's or accountant's connections with the bankrupt, the creditors, or any other party in interest, and their respective attorneys and accountants. If the attorney or accountant represents or holds no interest adverse to the estate in the matters upon which he is to be engaged, and his employment is in the best interest of the estate, the court may authorize his employment. Notwithstanding the foregoing sentence, the court may authorize the employment of an attorney or accountant who has been employed by the bankrupt when such employment is in the best interest of the estate. The employment of any attorney or accountant shall be only for the purposes specified in the order, but the court may authorize a general retainer of an attorney when necessity therefor is shown.

(b) *Employment of attorney or accountant with adverse interest.*—If without disclosure any attorney or accountant employed by the trustee or receiver shall represent or hold, or shall have represented or held, any interest adverse to the estate in any matter upon which he is so employed, the court may deny the allowance of any compensation to such attorney or accountant, or the reimbursement of his expenses, or both, and may also deny any allowance to the trustee or receiver if it shall

appear that he failed to make diligent inquiry into the connections of such attorney or accountant.

(c) *Employment by a general creditor.*—An attorney or accountant shall not be disqualified to act as attorney or accountant for the trustee or the receiver merely because of his employment by a general creditor in the case.

(d) *Employment of attorney or accountant on salary.*—A trustee or receiver authorized to operate the business and manage the property of the bankrupt may, without specific authorization under subdivision (a) of this rule, continue or engage any attorney or accountant as a salaried employee if such employment is necessary in the operation of the business and management of the property of the bankrupt.

(e) *Employment of trustee or receiver as attorney or accountant.*—The court may authorize the trustee or receiver to act as an attorney or accountant for the estate if such authorization is in the best interest of the estate.

(f) *Services rendered by member or associate of firm of attorneys or accountants.*—If, under this rule, a law partnership or corporation is employed as an attorney, or an accounting partnership or corporation is employed as an accountant, or if a named attorney or accountant is employed on behalf of a professional partnership or corporation, any member or regular associate of the firm may act for the attorney or accountant so employed, without further order of the court, and his services may be compensated as services of the attorney or accountant in accordance with Rule 219.

*Rule 216. Authorization of trustee to conduct business of bankrupt.*

The court may authorize the trustee to conduct the business and manage the property of the bankrupt for such time and on such conditions as may be in the best interest of the estate and consistent with orderly liquidation thereof.

*Rule 217. Ancillary proceedings.*

(a) *Ancillary receivership abolished.*—No ancillary receiver may be appointed in a bankruptcy case. Unless it is inconsistent with the order appointing him, a receiver appointed in a bankruptcy case has capacity to represent the bankrupt estate in any court.

(b) *Reference of ancillary proceeding.*—Any complaint, motion, or application for ancillary relief in a court of bankruptcy shall be referred by the clerk of the court in which it is filed to a referee of that court.

*Rule 218. Duty of trustee to keep records, make reports, and furnish information.*

A trustee shall: (1) within a reasonable time after entering upon his duties file a complete inventory of the property of the bankrupt unless such an inventory has already been filed or unless the court otherwise directs; (2) keep a record of receipts and the disposition of money and property received; (3) furnish information concerning the estate and its administration when reasonably requested by a party in interest, except as otherwise directed by the court; (4) make a written report to the court of the financial condition of the estate and the progress of its administration within a month after his qualification and every 3 months thereafter, unless the court by local rule or order otherwise directs; and (5) file a final report and account containing a detailed statement of receipts and disbursements. If a final meeting of creditors is ordered, the final report and account of the trustee shall be filed at least 15 days before the meeting.

*Rule 219. Compensation for services rendered and reimbursement of expenses incurred in a bankruptcy case.*

(a) *Application for compensation or reimbursement.*—A person seeking compensation for services, or reimbursement of necessary expenses, from the estate shall file with

the court an application setting forth a detailed statement of (1) the services rendered and expenses incurred, and (2) the amounts requested. An application for compensation shall include a statement by the applicant as to what payments have theretofore been made or promised to him for services rendered or to be rendered in any capacity whatsoever in connection with the case, the source of the compensation so paid or promised, whether any compensation he has previously received has been shared and whether an agreement or understanding exists between the applicant and any other person for the sharing of compensation received or to be received for services rendered in or in connection with the case, and the particulars of any such sharing of compensation or agreement or understanding therefor, except that the details of any agreement by the applicant for the sharing of his compensation as a member or regular associate of a firm of lawyers or accountants shall not be required. The requirements of this subdivision shall apply to an application for compensation for services rendered by an attorney or accountant even though the application is filed by a creditor or other person on his behalf.

(b) *Disclosure of compensation paid or promised to attorney for bankrupt.*—Every attorney for a bankrupt, whether or not he applies for compensation, shall file with the court on or before the first date set for the first meeting of creditors, or at such other time as the court may direct, a statement setting forth the compensation paid or promised him for the services rendered or to be rendered in connection with the case, the source of the compensation so paid or promised, and whether the attorney has shared or agreed to share such compensation with any other person. The statement shall include the particulars of any such sharing or agreement to share by the attorney, but the details of any agreement for the sharing of his compensation with a member or regular associate of his law firm shall not be required.

*(c) Factors in allowing compensation.*

(1) *General.*—The compensation allowable by the court to a trustee, receiver, marshal, attorney, accountant, or other person entitled to compensation for services rendered in the administration of a bankrupt estate shall be reasonable, and in making allowances the court shall give due consideration to the nature, extent, and value of the services rendered as well as to the conservation of the estate and the interests of creditors.

(2) *Trustee, receiver, or marshal.*—The compensation allowed by the Act to a trustee, receiver, or marshal shall be in full compensation for the services performed by him as required by the Act and by these rules, but shall not be deemed to cover expenses necessarily incurred in the performance of his duties and allowed upon the settlement of his accounts. Additional compensation may be allowed for legal or other services not required of him by the Act or by these rules, but only if such services were authorized by order of the court before they were rendered.

(3) *Attorney or accountant.*—Compensation may be allowed an attorney or an accountant only for professional services.

(d) *Restriction on sharing of compensation.*—Except as herein provided, a person rendering services in a bankruptcy case or in connection with such a case shall not in any form or guise share or agree to share the compensation paid or allowed him from the estate for such services with any other person, nor shall he share or agree to share in the compensation of any other person rendering services in a case under the Act or in connection with such a case. This rule does not prohibit an attorney or accountant from sharing his compensation as trustee, receiver, attorney, or accountant with a member or regular associate of his firm, or from sharing in the compensation received by his firm or by any other

member or regular associate thereof, and does not prohibit an attorney for a bankrupt or for a petitioning creditor from sharing his compensation for services rendered with any other attorney contributing thereto. If a person violates this subdivision, the court may deny him compensation, may hold invalid any transaction subject to examination under Rule 220 to which he is a party, or may enter such other order as may be appropriate.

*Rule 220. Examination of bankrupt's transactions with his attorney.*

(a) *Payment or transfer to attorney in contemplation of bankruptcy.*—On motion by any party in interest or on the court's own initiative, the court may examine any payment of money or any transfer of property by the bankrupt, made directly or indirectly and in contemplation of the filing of a petition by or against him, to an attorney for services rendered or to be rendered.

(b) *Payment or transfer to attorney, or agreement therefor, after bankruptcy.*—On motion by the bankrupt or on the court's own initiative, the court may examine any payment of money or any transfer of property, or any agreement therefor, by the bankrupt to an attorney after bankruptcy, whether the payment or transfer is made or is to be made directly or indirectly, if the payment, transfer, or agreement therefor is for services in any way related to the bankruptcy.

(c) *Invalidation of unreasonable payment, transfer, or obligation.*—Any payment, transfer, or obligation examined under subdivision (a) or (b) of this rule shall be held valid only to the extent of a reasonable amount as determined by the court. The amount of any excess found to have been paid or transferred under subdivision (a) or (b) may be recovered for the benefit of the estate or the bankrupt, as their interests may appear, and any obligation found to be excessive may be cancelled to the extent of the excess.

*Rule 221. Removal of trustee or receiver; substitution of successor.*

(a) *Removal for cause.*—On application of any party in interest or on the court's own initiative and after hearing on notice, the court may remove a trustee or receiver for cause and appoint a successor.

(b) *Substitution of successor.*—When a trustee or receiver dies, resigns, is removed, or otherwise ceases to hold office during the pendency of a bankruptcy case, his successor is automatically substituted as a party in any pending action, proceeding, or matter without abatement.

### PART III. CLAIMS AND DISTRIBUTION TO CREDITORS

*Rule 301. Proof of claim.*

(a) *Form and content; who may execute.*—A proof of claim shall consist of a statement in writing setting forth a creditor's claim and, except as provided in Rules 303 and 304, shall be executed by the creditor or by his authorized agent. A proof of claim for wages, salary, or commissions shall conform substantially to Official Form No. 16 or No. 16A; any other proof of claim shall conform substantially to Official Form No. 15.

(b) *Evidentiary effect.*—A proof of claim executed and filed in accordance with these rules shall constitute *prima facie* evidence of the validity and amount of the claim.

*Rule 302. Filing proof of claim.*

(a) *Manner of filing.*—In order for his claim to be allowed, every creditor, including the United States, any state, or any subdivision thereof, must file a proof of claim in accordance with this rule, except as provided in Rules 303 and 304.

(b) *Place of filing.*—A proof of claim shall be filed in the place prescribed by Rule 509.

(c) *Claim founded on a writing.*—When a claim, or an interest in property of the bankrupt securing the claim,

is founded on a writing, the original or a duplicate shall be filed with the proof of claim unless the writing has been lost or destroyed. If lost or destroyed, a statement of the circumstances of the loss or destruction shall be filed with the claim. If a security interest in property of the bankrupt is claimed, the proof of claim shall be accompanied by satisfactory evidence that the security interest has been perfected.

(d) *Transferred claim.*

(1) *Unconditional transfer before proof filed.*—If a claim has been unconditionally transferred before proof of the claim has been filed, the proof of such claim may be filed only by the transferee. If such claim has been transferred after the filing of the petition, it shall be supported by (A) a statement of the transferor acknowledging the transfer and stating the consideration therefor or (B) a statement of the transferee why it is impossible to obtain such a statement from the transferor.

(2) *Unconditional transfer after proof filed.*—If a claim has been unconditionally transferred after proof thereof has been filed, proof of the terms of the transfer shall be filed, and the court shall immediately notify the original claimant by mail of the filing of such proof of transfer and that objection thereto, if any, must be made within 10 days of the mailing of the notice or within such further time as the court may allow. If the court finds, after hearing if necessary, that the claim has been unconditionally transferred, it shall make an order substituting the transferee for the original claimant. If it does not so find, the court shall make such order as may be appropriate.

(3) *Transfer of claim for security before proof filed.*—If a claim has been transferred for security before proof of the claim has been filed, the transferor or transferee or both may file a proof of claim for the full amount. The proof shall be supported by a statement setting forth the terms of the transfer and, if the claim was so transferred after the filing of the petition, by (A) a statement

of the transferor acknowledging the transfer and stating the consideration therefor, or (B) a statement of the transferee why it is impossible to obtain such a statement from the transferor. If either the transferor or the transferee files a proof of claim, the court shall immediately notify the other by mail that he may join in the claim so filed. If both transferor and transferee file proofs of the same claim, the proofs shall be consolidated. After hearing if necessary, the court shall make such orders respecting allowance and voting of the claim, payment of dividends thereon, and participation in the administration of the estate as may be appropriate.

(4) *Transfer of claim for security after proof filed.*—If a claim has been transferred for security after proof thereof has been filed, proof of the terms of the transfer shall be filed, and the court shall immediately notify the original claimant by mail of the filing of such proof of transfer and that objection thereto, if any, must be made within 10 days of the mailing of the notice or within such further time as the court may allow. After hearing if necessary, the court shall make such orders respecting allowance and voting of the claim, payment of dividends thereon, and participation in the administration of the estate as may be appropriate.

(e) *Time for filing.*—A claim must be filed within 6 months after the first date set for the first meeting of creditors, except as follows:

(1) On application before the expiration of such period and for cause shown, the court may grant a reasonable, fixed extension of time for the filing of a claim by the United States, a state, or a subdivision thereof.

(2) In the interest of justice the court may grant an infant or incompetent person without a guardian up to an additional 6 months for filing a claim.

(3) A claim which arises in favor of a person or becomes allowable because of a judgment for the recovery of money or property from such person or because of a

judgment denying or avoiding a person's interest in property may be filed within 30 days after such judgment becomes final, but if the judgment imposes a liability which is not satisfied, or a duty which is not performed, within such period or such further time as the court may permit, the claim shall not be allowed.

(4) If notice of no dividend was given to creditors pursuant to Rule 203 (b), and subsequently the payment of a dividend appears possible, the court shall notify the creditors of that fact and shall grant them a reasonable, fixed time for filing their claims of not less than 60 days after the mailing of the notice or 6 months after the first date set for the first meeting of creditors, whichever is the later.

(5) If all claims allowed have been paid in full, the court may grant a reasonable, fixed extension of time for the filing of claims not filed within the time hereinabove prescribed against any remaining surplus.

*Rule 303. Filing of tax and wage claims by bankrupt.*

If a creditor having a provable claim for taxes or wages fails to file his claim on or before the first date set for the first meeting of creditors, the bankrupt may execute and file a proof of such claim in the name of the creditor. Such claim shall be treated as a filed claim only for purposes of allowance and distribution. The court shall forthwith mail notice of such filing to the creditor and to the trustee. The creditor may nonetheless file a proof of claim pursuant to Rule 302 which proof when filed shall supersede the proof filed by the bankrupt.

*Rule 304. Claim by codebtor.*

A person who is or may be liable with the bankrupt, or who has secured a creditor of the bankrupt, may, if the creditor fails to file his claim on or before the first date set for the first meeting of creditors, file a proof of claim pursuant to Rule 302 in the name of the creditor,

if known, or, if unknown, in his own name. No distribution shall be made on the claim except on satisfactory proof that the original debt will be diminished by the amount of the distribution. The creditor may nonetheless file a proof of claim pursuant to Rule 302, and such proof of claim shall supersede the proof of claim filed pursuant to the first sentence of this rule.

*Rule 305. Withdrawal of claim.*

A creditor may withdraw a claim as of right by filing a notice of withdrawal, except as provided in this rule. If, after a creditor has filed a claim, an objection is filed thereto or a complaint is filed against him in an adversary proceeding or the creditor participates significantly in the case or receives a dividend, he may not withdraw the claim save on application or motion, with notice to the trustee or receiver, and on order of the court containing such terms and conditions as the court deems proper.

*Rule 306. Objections to and allowance of claims for purpose of distribution; valuation of security.*

(a) *Trustee's duty to examine and object to claims.*—The trustee shall examine proofs of claim and object to the allowance of improper claims, unless no purpose would be served thereby.

(b) *Allowance when no objection made.*—Subject to the provisions of subdivision (d) of this rule, a claim filed in accordance with Rule 302, 303, or 304 shall be deemed allowed for the purpose of distribution unless objection is made by a party in interest.

(c) *Objection to allowance.*—An objection to the allowance of a claim for the purpose of distribution shall be in writing. A copy of the objection and notice of a hearing thereon shall be mailed or delivered to the claimant. If an objection to a claim is joined with a demand for relief of the kind specified in Rule 701, the proceeding thereby becomes an adversary proceeding.

(d) *Secured claims.*—If a secured creditor files a proof of claim, the value of the security interest held by him as collateral for his claim shall be determined by the court, and the claim shall be allowed only to the extent it is enforceable for any excess of the claim over such value.

*Rule 307. Reconsideration of claims.*

A party in interest may move for reconsideration of an order allowing or disallowing a claim against the estate. If the motion is granted, the court may after hearing on notice make such further order as may be appropriate.

*Rule 308. Declaration and payment of dividends.*

Dividends to creditors shall be paid as promptly as practicable in such amounts and at such times as the court may order. Dividend checks shall be made payable and mailed to each creditor whose claim has been allowed, unless a power of attorney authorizing another person to receive dividends has been executed and filed in accordance with Rule 910. In that event, unless a local rule or court order provides otherwise, dividend checks shall be made payable to the creditor and to such other person and shall be mailed to such other person.

*Rule 309. Small dividends.*

The court may by local rule or order direct that no dividend for less than \$1 shall be distributed by the trustee to any creditor. Any such dividend shall be treated in the same manner as unclaimed funds as provided in Rule 310.

*Rule 310. Unclaimed funds.*

Sixty days after the distribution of the final dividend, the trustee shall stop payment of all checks then unpaid and file with the clerk of the district court a list of the names and addresses, so far as known, of the persons entitled to such payments and the amounts thereof. The unclaimed funds shall thereupon be deposited in the

registry of the United States district court and shall be withdrawn as provided in Title 28, U. S. C., § 2042.

#### PART. IV. THE BANKRUPT: DUTIES AND BENEFITS

*Rule 401. Petition as automatic stay of certain actions on unsecured debts.*

(a) *Stay of actions.*—The filing of a petition shall operate as a stay of the commencement or continuation of any action against the bankrupt, or the enforcement of any judgment against him, if the action or judgment is founded on an unsecured provable debt other than one not dischargeable under clause (1), (5), (6), or (7) of § 17a of the Act.

(b) *Duration of stay.*—Except as it may be deemed annulled under subdivision (c) or may be terminated, annulled, or modified by the bankruptcy court under subdivision (d) or (e) of this rule, the stay shall continue until the bankruptcy case is dismissed or the bankrupt is denied a discharge or waives or otherwise loses his right thereto.

(c) *Annulment of stay.*—At the expiration of 30 days after the first date set for the first meeting of creditors, the stay provided by this rule shall be deemed annulled as against any creditor whose debt has not been duly scheduled and who has not filed his claim by that time.

(d) *Relief from stay.*—On the filing of a complaint by a creditor seeking relief from a stay provided by this rule, the bankruptcy court shall set the trial for the earliest possible date, and it shall take precedence over all matters except older matters of the same character. The court may, for cause shown, terminate, annul, modify, or condition such stay.

(e) *Availability of other relief.*—Nothing in this rule precludes the issuance of, or relief from, any stay, restraining order, or injunction when otherwise authorized.