Bankruptcy Local Rule 4004-1

REQUESTING ENTRY OF A DISCHARGE FOR AN INDIVIDUAL CHAPTER 11 DEBTOR IN NON-SUBCHAPTER V CASES

(a) Except in a subchapter V case, a request for entry of a discharge for an individual chapter 11 debtor shall be made by motion. The motion shall include a description of the total amount of payments made to each creditor under the plan.

(1) If a hearing is set by the debtor, at least twenty-one (21) days prior to the hearing on the motion, the notice of hearing and the deadline to object and the motion shall be served on creditors, parties in interest, and the United States Trustee. The Notice shall provide that objections shall be filed not later than seven (7) days prior to the hearing.

(2) If the debtor uses the negative notice provisions of LBR 2002-2, at least fourteen (14) days' notice shall be provided of the opportunity to object.

(b) Except in a subchapter V case, no later than 60 days after completion of all payments under the confirmed plan, or if applicable, upon the filing of a motion seeking entry of a discharge prior to completion of payments under the plan under 11 U.S.C. § 1141(d)(5), the debtor shall file a statement under the penalty of perjury certifying: (i) whether or not 11 U.S.C. § 522(q)(1) is applicable to the debtor; and (ii) whether there is any proceeding in which the debtor may be found guilty of a felony of the kind described in 11 U.S.C. § 522(q)(1)(A) or liable for a debt of the kind described in 11 U.S.C. § 522(q)(1)(B). Within 14 days of the filing of the certified statement required under this section, any interested party may file and serve a written objection to the statement. Any party who fails to file and serve a written objection in accordance with this section shall be deemed to have consented to entry of the certifying debtor's discharge.

RELATED AUTHORITY

11 U.S.C. § 522(q)(1), § 1141(d)(5)
Fed. R. Bankr. P. 1007(b)(7), (b)(8), 4004(c)(3), (c)(4)

Advisory Committee Notes:

11 U.S.C. § 1141(d)(5) provides that, in non-subchapter V cases where the debtor is an individual, the court may grant a discharge pursuant to a confirmed chapter 11 plan after notice and a hearing. This rule is intended to ensure that parties who may be affected by entry of the discharge receive notice and an opportunity to be heard with adequate time to respond prior to entry of the discharge. The motion needs to include adequate information to allow creditors, parties in interest, the United States Trustee and the court to ascertain whether the debtor has satisfied the requirements for entry of a discharge.

The Court website includes a suggested form certification to be used for part (b) of this Rule.