

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MONTANA**

In re

PROCEDURE TO AMEND DEBTOR'S
SOCIAL SECURITY NUMBER

GENERAL ORDER NO. 2004-02

ORDER

At Butte in said District this 2nd day of September, 2004.

This Order establishes the procedure for a debtor to amend an incorrect social security number and is effective September 2, 2004.

Effective December 1, 2003, F.R.B.P. 1005 was amended to provide that only the last four digits of a debtor's social security number would be included on the caption of the debtor's petition. *See* F.R.B.P. 1005. As only the last four digits are disclosed on the petition, F.R.B.P. 1007(f) was promulgated to require that an individual debtor submit a verified statement identifying the debtor's social security number or stating the debtor does not have a social security number. *See* F.R.B.P. 1007(f). To fulfill the requirements of F.R.B.P. 1007(f), Official Form 21 was adopted so a debtor could submit, **not file**, his/her verified social security number to the Court for inclusion in Official Form 9 (Notice of Commencement of Case Under the Bankruptcy Code, Meeting of Creditors, and Deadlines), or more commonly known as the § 341 notice. As Form 21 is submitted and not filed, Form 21, and consequently the debtor's social security number, never become a part of the court file available for inspection by the general

public pursuant to 11 U.S.C. § 107. Form 21 is not presently electronically submitted, but is submitted by mail or personal delivery, whether debtor electronically files or uses some other filing means, i.e., mail or personal delivery. Pursuant to F.R.B.P. 2002(a)(1), the clerk of court, or other person as directed by the Court, shall give the debtor, trustee, all creditors and indenture trustees at least 20 days' notice of the § 341 or § 1104(b) meeting of creditors, "which notice . . . shall include the debtor's . . . social security number, . . ." See 2002(a)(1). Further, F.R.B.P. 1009(a) specifically provides that "[a] voluntary petition, list, schedule, or statement may be amended by the debtor as a matter of course at any time before the case is closed. The debtor shall give notice of the amendment to the trustee and to any entity affected thereby." Although F.R.B.P. 1009(a) existed prior to the adoption of F.R.B.P. 1007(f) relating to the social security number, the language of F.R.B.P. 1009 (a) provides the general right to amend a petition, list, schedule or *statement* and does not limit the general right to amend to any specific statement, but is inclusive of all statements, except the "statement of intention," which is discussed in F.R.B.P. 1009(b). The 9th Circuit Court in considering F.R.B.P. 1009(a) concluded, "No court approval is required for an amendment, which is liberally allowed.." *Martinson v. Michael (In re Michael)*, 163 F.3d 526, 529 (9th Cir. 1998). Consequently, only a notice of amendment is necessary under F.R.B.P. 1009(a) when a debtor wishes to amend a petition, list, schedule or statement. A motion to amend and approval of the Court is not necessary when a debtor amends. A motion, with notice, would be required when an interested person, other than a debtor, moves to amend a petition, list, schedule or statement. Given the foregoing rule changes, and statutory interpretation, the Court next considers the procedure.

When a debtor submits an incorrect social security number on Form 21, and then

discovers that a correction of any number of digits is necessary through an amended Form 21 to adequately inform the U.S. Trustee, the standing or panel trustee, all creditors and any indenture trustees receiving the § 341 Notice of the correct number, debtor must amend his/her social security number. The procedure is as follows:

1. The debtor files a “Notice of Amendment to Statement of Social Security Number.” In the Notice of Amendment the debtor shall: (a) only set forth the correct last four digits of debtor’s social security number in the following format: xxx-xx- __ __ __); (b) include a certificate of service disclosing that the debtor has mailed, personally delivered or electronically served the entire correct social security number on the U.S. Trustee, the panel or standing trustee, and all creditors and indenture trustees receiving the § 341 Notice; and (c) state that debtor has attached to the Notice of Amendment served as required in (b) above an amended Form 21, or other attachment containing debtor’s social security number, which shall not be attached to the Notice of Amendment that is filed with the Court. No Notice of Amendment concerning the debtor’s social security number that is filed with and docketed by the clerk of court shall attach or include debtor’s entire social security number.
2. The debtor, in addition to the Notice of Amendment, shall submit by mail or personal delivery, an amended Form 21 that contains debtor’s full social security number, which will not be part of the public docket.
3. As no court approval is required for the amendment to the social security number, no order will be entered by the Court allowing the amendment.
4. No 10-day notice pursuant to Mont. LBR 9013-1 is required on the Notice of

Amendment.

5. No amended petition containing a correction to the last four digits of debtor's social security number shall be filed.
6. Debtor may use the attached, approved form.

IT IS ORDERED that the procedure to amend debtor's social security number is set forth above; and the attached form is approved for use in this District; and that the clerk of court is directed to include this general order on the Court's website.

BY THE COURT



HON. RALPH B. KIRSCHER
U.S. Bankruptcy Judge
United States Bankruptcy Court
District of Montana

In re

(Debtor's name),

Debtor.

Case No. **xx-xxxxx-x**

***NOTICE OF AMENDMENT
TO STATEMENT OF SOCIAL SECURITY NUMBER***

Debtor filed this bankruptcy case on _____. The last four digits of Debtor's correct social security number is xxx-xx-____. Debtor is amending the social security number previously submitted to the Court on the Statement of Social Security Number (Form 21) through this Notice and by submitting an amended Form 21 to the Clerk of Court. Debtor has served the amended Form 21 containing Debtor's correct social security number on the U.S. Trustee, the trustee appointed to this case, all creditors and indenture trustees, who received the Notice of Commencement of Case, Meeting of Creditors and Deadlines (§ 341 Notice) as verified by the attached certificate of service. Amended Form 21 is not attached to this Notice of Amendment when it is electronically filed, mailed or personally delivered to the Court, but may be included with the Notice of Amendment when it is served on the U.S. Trustee, the trustee appointed to this case, all creditors and indenture trustees, who received the Notice of Commencement of Case,

Meeting of Creditors and Deadlines (§ 341 Notice).

DATED this ____ day of _____, 200_.

(Appropriate Signature)

Certificate of Service

I certify, under penalty of perjury, that a copy of the Notice of Amendment to Statement of Social Security Number and Amended Statement of Social Security Number were duly served by mail, electronically by email, facsimile, or personal delivery upon:

Name, address and form of service

(Appropriate Signature)

In re

(Debtor's name),

Debtor.

Case No. **xx-xxxxx-x**

AMENDED STATEMENT OF SOCIAL SECURITY NUMBER

Debtor has a social security number and the correct number is: ___-__-____.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this ____ day of _____, 200_.

(Appropriate Signature of Debtor)

NOTE: THIS AMENDED STATEMENT OF SOCIAL SECURITY NUMBER SHALL NOT BE ATTACHED TO THE NOTICE OF AMENDMENT TO STATEMENT OF SOCIAL SECURITY NUMBER FILED WITH THE COURT, BUT SHALL BE SEPARATELY SUBMITTED AND MAILED TO THE COURT AND ALL PERSONS RECEIVING THE NOTICE OF COMMENCEMENT OF CASE, MEETING OF CREDITORS AND DEADLINES (§ 341 NOTICE).