

B-6004-1
Sales Outside the Ordinary Course of Business

(a) A motion to sell property of the bankruptcy estate outside the ordinary course of business shall be served upon the United States trustee, any committee and/or the entities included on any list required by Fed. R. Bankr. P. 1007(d), and all entities that can be discovered through a reasonably diligent inquiry holding liens upon or having interests in the property to be sold.

(b) Notice of the motion must be given to all creditors and parties in interest, unless the court orders otherwise, in addition to service of the motion itself as required by paragraph (a).

(c) In the event the motion is granted, within seven (7) days following the sale the trustee or debtor-in-possession shall file or cause to be filed the report of sale required by Fed. R. Bankr. P. 6004(f)(1). The report of sale shall be served upon the parties identified in paragraph (a) and any objectors.

(d) The proceeds of the sale shall not be disbursed, except pursuant to court order following an appropriate motion upon notice to all creditors and parties in interest, in accordance with Local Bankruptcy Rule B-2002-2.

Commentary (1994)

This rule attempts to clarify who should receive a copy of any motion for sale outside the ordinary course of business, particularly for a sale free and clear of liens. It is designed to ensure that certain parties, those most likely to be interested it was going on, not only receive notice of the motion but the motion as well.

Paragraph (c) is designated to clarify the report of sale and establishes a time limit for it to be filed - although the seven (7) days allotted may be more liberal than the "on completion of a sale" stated in Rule 6004(f)(1). It also provides for the dissemination of this report to those most likely to be interested in the outcome of the sale.

Paragraph (d) in conjunction with paragraph (c) is designed to separate the somewhat ministerial function of reporting upon a sale from the most significant distribution of the sale proceeds. The court is not required to approve the resulting sale - what happens to the sale proceeds, however is another matter.

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Bankruptcy Rules dated August 31, 2012, this rule was amended to clarify that motions to disburse sale proceeds are subject to Local Bankruptcy Rule B-2002-2.

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