

**OFFICE OF THE CLERK
U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA**

**GUIDELINES PERTAINING TO
APPLICATIONS FOR PAYMENT OF UNCLAIMED FUNDS**

Effective November 26, 2001

The following guidelines apply to all applications for the payment of unclaimed funds. To assist in safeguarding against fraudulent claims, all such applications must adhere to the following guidelines:

1. A request for an order releasing unclaimed funds pursuant to 28 U.S.C. § 2042 shall be made by written application in compliance with Local Bankruptcy Rule 9014-1, using the court-approved *Application for Payment of Unclaimed Funds* ([EDC 3-950](#)), or similar document that provides the same information, supporting documentation/evidence, and notarized signature required by the court-approved form.
2. Applications for payment of unclaimed funds shall comply with the general requirements set forth in Fed.R.Bankr.P. 9004(a) and (b) and Local Rule 9004-1(a), and must include the following information and/or documentation:
 - < The exact dollar amount of the dividend check(s) issued by the trustee to the original creditor/claimant and tendered to the court as unclaimed funds;
 - < The full name, address and telephone number of the person or entity that is the original owner of the funds;
 - < A brief history of the claim from the time of the filing of the original claim to the present, addressing possible reasons (such as change of address, any sale, merger, consolidation, buy-out, dissolution, marriage or death of the original creditor/claimant and relevant supporting documentation) for the funds not being deliverable at the time of the initial distribution;
 - < An affirmative statement as to why the alleged owner is entitled to receive the requested funds;
 - < The applicant's identity and relationship to the original creditor/claimant;
 - < If the applicant is the agent or representative of the owner of the funds, a statement that the owner of the funds has authorized the agent or representative to collect the funds, supported by an **original power of attorney** containing the notarized signature of the owner of the funds and such grant of authority;
 - < If the applicant is the agent or representative of the owner of the funds, the date copies of the application and supporting documentation were mailed to the owner of the funds;
 - < The date copies of the application and supporting documentation were mailed to the U. S. Attorney as required by 28 U.S.C., Section 2042; and
 - < The applicant's certification under penalty of perjury that the information set forth in the application is true to the best of the applicant's knowledge, information, and belief.

3. Applications for payment of unclaimed funds will **only** be processed when filed by either the owner of the funds or the owner's duly authorized agent or representative. The applicant must make sufficient inquiry to satisfy the court that the funds have not been previously paid, that no other applications for payment of the funds are pending, and that no party other than the owner of the funds or its agent or representative is entitled to submit an application requesting payment of the funds.
4. Applications for payment of unclaimed funds shall be accompanied by all required supporting documentation, including, but not limited to, the appropriate identification form for unclaimed funds (either *Individual Identification Form for Unclaimed Funds (EDC 3-951)* or *Corporation/Business Identification Form for Unclaimed Funds (EDC 3-952)*), as well as certified copies of documentation establishing identity (such as a birth certificate, unexpired passport, or valid driver's license), chain of ownership (such as articles of merger or successor corporation articles of incorporation, board meeting minutes, partnership agreements, articles of organization, operating agreements), and authority to act (such as a corporate power of attorney which is signed by the CEO, or other corporate officer, of the company, with a corporate seal and a statement of the signing officer's authority). For a complete list of required supporting documentation, see *Documents Required for Processing an Application for Payment of Unclaimed Funds (EDC 3-953)*.
5. The burden of proving a person or entity's entitlement to unclaimed funds rests with the person or entity. A \$26.00 fee will be charged for the physical search of the case file conducted by the Clerk to verify that the proper claimant is being paid the funds. If the case file has been archived, a \$45.00 fee for retrieval of the archived file will be charged in lieu of the \$26.00 search fee. The applicable fee must be paid by a business check, cashier's check or money order payable to Clerk, U.S. Bankruptcy Court. If you are unsure whether the case file has been archived, the check should be written "Not to Exceed \$45.00". Personal checks will not be accepted for payment.
6. The proposed *Order for Payment of Unclaimed Funds (EDC 6-950)* completed by the applicant and submitted with the application for payment and supporting documentation may direct the Clerk to mail the check to the owner's agent or representative, and generally must require that the Clerk issue the check payable to the owner of the funds. However, once rights to the property have been determined, the check for the funds may be made payable jointly to the owner and its representative.
7. The original, plus one copy, of the *Application for Payment of Unclaimed Funds (EDC 3-950)* and all supporting documents should be submitted directly to the Financial Administrator, U.S. Bankruptcy Court, 501 I Street, Suite 3-200, Sacramento, CA 95814.
8. Upon receipt of an *Application for Payment of Unclaimed Funds (EDC 3-950)* and payment of the required search or archive retrieval fee, the Financial Administrator will review the application and supporting documentation for completeness, determine whether the requirements of these Guidelines have been satisfied, verify that the requested funds remain on deposit with the Court, and forward the application and supporting documentation to the appropriate bankruptcy judge for final disposition.
9. In any case where there are questions concerning the completeness, accuracy, or veracity of the documents submitted, the Court may hold a hearing on the *Application for Payment of Unclaimed Funds*.

Questions concerning these Guidelines should be directed to the Financial Administrator, U. S. Bankruptcy Court, 501 I Street, Ste 3-200, Sacramento, CA 95814, (916) 930-4472, fax (916) 930-4607.