

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK

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IN RE:

THE BENNETT FUNDING GROUP, INC.  
BENNETT RECEIVABLES CORPORATION  
BENNETT RECEIVABLES CORPORATION II  
BENNETT MANAGEMENT AND DEVELOPMENT  
CORPORATION

Debtors

CASE NO. 96-61376  
96-61377  
96-61378  
96-61379

Chapter 11  
Jointly Administered  
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**CASE MANAGEMENT ORDER**

This Court finds that because of the great number of creditors and other parties in interest in these cases, burdensome expense and unnecessary delay will result unless a modified procedure for noticing and motion practice is implemented.

The caption of this order is the official caption to be used in this case and shall hereafter be used on all pleadings.

Pursuant to §§102(1) and 105(a) of the Bankruptcy Code (11 U.S.C. §§101-1330) and Federal Rules of Bankruptcy Procedure ("FRBP") 2002, 7016, 9007 and 9014, it is hereby

ORDERED as follows:

**A. Service of Papers**

To promote better understanding by the staff of this Court and all parties involved as to the current notice procedures being employed in this case, to eliminate unnecessary expense, and to eliminate certain ambiguities, the Court hereby sets out the procedures to be followed:

1. The Clerk shall maintain current master service lists ("Lists"), as further specified respectively in paragraphs 5 and 6 below, to be known and to be referred to in all pleadings as the "Full List" and the "Short List" in this case, with specific reference to this Order and any subsequent

amendments thereto. The Short List will be used generally for notice purposes where the Court has discretion to limit notice (under the Bankruptcy Code and Rules) to less than all scheduled creditors and other parties in interest unless the Court specifically orders otherwise as to a particular matter.

2. Whenever service of process is required to be made pursuant to this or any other order, a certificate of service shall be filed with the Clerk in accordance with Rule 913.1(b) of the Local Rules of this Court ("LR") and appended as a separate document to the original of the document served. Said certificate shall identify which List was utilized, whether the Full List or the Short List.

3. The Lists may be periodically updated and the certificate of service shall in addition to designating the List utilized, also designate the date of the List so utilized. Counsel shall have the duty, from time to time, of assuring the currency of the Lists used. The Clerk is not required automatically to furnish copies of the Lists to creditors or other parties in interest as they are updated.

4. Failure to furnish the requisite certificate of service as required by paragraph 2 above, will result in the non-scheduling of the matter or will delay setting a hearing on any matters not covered by a superseding order of this Court.

5. The Full List shall include the Debtors; the United States Trustee; the §1104 Trustee and any and all indenture trustees, as well as their counsel; counsel for and members of any committee appointed pursuant to 11 U.S.C. §1102 ("Committee"), including separate non-appointed attorneys for individual committee members who have filed notices of appearance; the twenty largest creditors in the particular case, unless a member of the Committee; and any creditor, equity security holder or other party in interest who serves upon the Debtor or the Code §1104 Trustee and

files with the Clerk a request that all notices be mailed to it pursuant to FRBP 2002(i). The Full List shall also include all entities listed in paragraph 6 below if not otherwise covered by the foregoing enumeration.

6. The Short List shall include and be limited to the following entities:

- a. the §1104 Trustee and his counsel
- b. Counsel for any Committee
- c. the District Director of the Internal Revenue Service
- d. the Securities and Exchange Commission
- e. all indenture trustees and their attorneys
- f. the United States Trustee
- g. the Debtor(s) and Debtor(s) counsel

7. This Order is without prejudice to any request by a party in interest, or a further order by the Court on its own motion, that for good cause in a particular circumstance a different notice procedure shall be followed with respect to any particular entity or matter.

8. With the aid of the Clerk of the Court the Debtor and/or the §1104 Trustee initially shall prepare within 20 days of the date of this order the Full List and the Short List in compliance with the this Order. Thereafter, such Lists shall be maintained by the Clerk and no additions or deletions thereto shall be made, except by the Clerk in accordance with this Order, or upon an appropriate motion and amending order entered by this Court.

9. Nothing in this Order shall preclude the United States Trustee, the Debtor, the §1104 Trustee, or any other party in interest from seeking amendment of this Order to add or delete entities for good cause shown. It is the intent of the Court, however, that this Order be strictly

complied with and serve as a bench mark with amendments hereafter serially-numbered . Any requests for change shall be made with specific reference to the current List in question and shall identify the name and status of the specific entities to be added or deleted. Periodically, to eliminate unnecessary administrative expense, the Debtor and/or the § 1104 Trustee are directed to review all entities on the Full List to determine the continuing justification for their inclusion on the Full List (and/or justification of duplicative listings) and to move for deletion of such entities as may be appropriate after such review.

10. The § 1104 Trustee, at the expense of Debtor, shall serve a copy of this Order upon the Full List and shall certify service in accordance with the provisions hereof.

11. All parties filing notice of appearance with the Clerk of the Court after the effective date of this Order shall also serve a copy of the notice of appearance on the § 1104 Trustee.

12. Except as otherwise ordered by the Court, all service shall be made by regular first class mail.

13. All pleadings in adversary proceedings shall be served, pursuant to FRBP 7004, upon all adverse parties and upon the parties listed on the Short List.

14. All notices required by subdivisions (a)(2),(3)and(7) of FRBP 2002, FRBP 3007 and by FRBP 4001 shall be mailed to:

- a. each entity designated on the Short List; and
- b. when the notice is of a proposed use, sale, lease or abandonment of property or of a hearing thereon, each entity having an interest in the property;
- c. when the notice relates to relief from the stay to enforce rights against collateral of any type, each entity known to have an alleged lien or encumbrance on said

collateral;

d. when the notice relates to use of cash collateral or obtaining credit, each entity who is known to have an interest in the same cash collateral or each entity who has a lien or other interest in property on which a lien is proposed to be granted;

e. when the notice is of a proposed compromise or settlement or of a hearing thereon, each entity who is a party to the compromise or settlement;

f. when the notice is of an application for compensation or reimbursement of expenses or of a hearing thereon, each professional person who is seeking or will seek compensation or reimbursement and whose retention in these cases has been authorized by this Court; or

g. when notice is of an objection to claim, each creditor whose claim is being challenged.

15. Notices required by subdivision (a)(1),(5),(6) and (8), subdivision(b), and subdivision(f) of FRBP 2002 shall be mailed to each entity on the Full List, to all creditors and equity security holders.

16. Notice in accordance with the provision of this Order shall be adequate notice pursuant to FRBP 2002, 3007 and 4001 and the Local Bankruptcy Rules.

## **B. Motions, Objections, and Hearing Dates**

1. The procedures for motions and opposition thereto, except for motions seeking relief of an emergency nature, shall be as follows:

a. It is anticipated that during the routine administration of this case and

commencing August 1, 1996, motions shall normally be heard on the second and fourth Thursday of each month commencing at 11:00 a.m. and 3:00 P.M. at the U.S. Courthouse, 10 Broad Street, Utica, NY 13501. All matters, unless otherwise ordered by the Court, shall be heard at these regular motion terms. A calendar for each motion term will be issued by the Court. Prior to August 1, 1996, motions are scheduled to be heard on June 6, 1996, June 20, 1996, June 27, 1996, July 11, 1996, July 18, 1996 and July 25, 1996.

b. Absent exigent circumstances and to the extent that a different notice period is mandated by the FRBP, in accordance with LR 913.1, any motion, application, objection or other request shall be served at least fifteen (15) days prior to the anticipated hearing date on the motion in accordance with the schedule set forth in B(1)(a) and a certificate of service shall be filed at least three business days prior to said date.

c. The scheduling of motions to be heard at a particular hearing date shall be subject to the Court's discretion. If a party wishes a motion date other than the regularly scheduled motion dates, he or she must make an application for an order to show cause or an order shortening notice in accordance with LR 913.2((b) and (c). Where practicable, orders to show cause should be presented to the Court at least ten (10) days prior to the desired return date, except that in the event that a temporary restraining order is sought in accordance with FRBP 7065, the proposed return date of the motion shall not be more than ten (10) days from the date that the order seeking such relief is presented to the Court.

d. The Court may dispense with oral argument on motions and decide them on the briefs; however, parties may not waive oral argument except with the consent of the Court.

e. An objection or memorandum opposing a motion made by parties in interest, on regular notice, shall be filed and served at least three (3) business days prior to the return date of the motion. Stipulated orders should be presented to objecting parties in accordance with Local Rule 913.1(b) for their written approval and then may be presented to the Court at any time.

f. If an emergency hearing is unavoidable and essential, the Court in its discretion may hear the matter at the next regularly scheduled motion date or any other date set by the Court, upon such notice as the Court may deem appropriate.

2. The procedures for motions filed by parties seeking relief pursuant to §362(d) of the Bankruptcy Code, and any objections thereto, shall be handled pursuant to FRBP 4001(a) and LR 913.1, the within Order and this Court's Omnibus Order dated April 26, 1996.

3. Counsel for the movant shall be responsible for communicating with the Courtroom Deputy Clerk at (315) 793-8101, ext. 147 by 11:00 a.m. of the day preceding each scheduled motion date, whether, as of that time, the pending motion shown on the calendar is settled or withdrawn.

### **C. Bar Date**

The bar dates for proofs of claim and proofs of interest may be modified by a subsequent order of the Court.

**D. Court Information**

Attached hereto and marked as Exhibit A is a Memorandum which provides the phone number for contacting case administration personnel regarding these cases in the Office of the Clerk of the Bankruptcy Court for the Northern District of New York and other pertinent information.

**E. Non-resident Attorneys**

Motions by non-resident attorneys for permission to practice before the Court in these cases, pro hac vice, shall be in writing and filed with the Clerk's office, but not set for hearing. No attorney who has not been admitted to practice in the Northern District of New York or has not been admitted pro hac vice in this Court, shall be permitted to appear. LR 910.2(b) shall be applicable to such motions. No oral motions for admission pro hac vice shall be entertained by the Court.

**F. Terms of This Order**

Any party may at any time apply for reconsideration or modification of this Order or any portion thereof. Service of such motion shall be to persons on the Full List and shall be made upon at least 15 days notice. The Court may, sua sponte, amend this Order at any time.

This Order shall continue in effect until modified or terminated by further order of the Court and shall apply to any subsequently filed cases jointly administered with these cases.

IT IS SO ORDERED.

Dated at Utica, New York

this      day of      1996



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STEPHEN D. GERLING  
Chief U.S. Bankruptcy Judge