

BANKRUPTCY ^{UP}DATE

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Motions to Obtain Credit in Chapter 13 Cases

Bankr. D.S.D. R. 4001-3 sets forth what details must be included if the debtor determines he or she needs to file a motion for authority to obtain credit. However, 11 U.S.C. §364 and Fed.R.Bankr.P. 4001(c) control when such a motion should be filed. Specifically, 11 U.S.C. §1304 and Fed.R.Bankr.P. 4001(c)(4) state such a motion is **not** required in individual, non-business Chapter 13 cases. Chambers encourages practitioners to read these rules, among the others, when determining whether a motion for authority to obtain credit is required to be filed in a case.

If requested by a lender, Chapter 13 Trustee Kyle Carlson has stated he will issue, when appropriate, a letter of no objection in response to a debtor's request to obtain credit. Parties may contact Trustee Carlson's office directly with any questions about or requests for such a letter.

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