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# JUDGE’S BANKRUPTCY BENCHBOOK

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## I. PRELIMINARY PROCEDURE

The deadline for issuing the first court order on a motion for initiation bankruptcy proceedings is **15 days** after receipt of the motion by the court intake registry office. The order should either:

1. require supplementing the motion for initiation of bankruptcy proceedings; or
2. set the advance payment amount for the preliminary procedure.

### A) Order Requiring Supplementing the Motion

In reviewing the motion for initiation of bankruptcy proceedings, the bankruptcy judge must first examine:

1. Whether the creditor made a credible claim?
  - a) Not only must the creditor's claim be **mature**, but settlement of that claim must also be **requested** by the creditor before the motion for initiation of bankruptcy proceedings is filed (article 6. par. 2 of the Law).
  - b) The creditor must make his claim **credible**. In this phase the creditor does not have to prove his claim, but only the likeliness of its existence. From the court's standpoint, the standard of likeliness is lower than the standard of proof, and it will exist every time the court has more reason than not to believe that a certain fact is valid. Therefore, the court does not need to insist that a creditor prove existence of the claim, but only to make it likely.
  - c) The creditor's claim must be designated in the exact **determined**, and not an **approximate monetary amount** (for example, not approx. KM 10.000)
2. Debtor's likely inability to pay
  - a) The most frequent proof by which creditor or debtor will establish the bankruptcy debtor's likely inability to pay, is debtor's **blocked bank account**. In that regard, it would be enough that only one bank account is blocked out of many used by the bankruptcy debtor in transactions. Bank confirmation can be used as proof that a debtor's account is blocked, or an excerpt from the Official Gazette in which banks are required to publish lists of companies with blocked accounts on a monthly basis.
  - b) Although a blocked bank account is the most common indicator that certain company is unable to pay debts, it is not the only sign upon which conclusion can be made that the debtor is unable to make payments. A debtor can be **unable to make payments even if its accounts are not blocked**, i.e., although transactions are still being made through them. The key criteria is whether debtor can pay its due and claimed liabilities within the legally prescribed time (30/60 days), and not whether it is still able to perform transactions through its accounts.

In the case where payment inability is not proved by blocked bank account, the petitioner must submit other documentation from which conclusion could be made that the debtor is unable to make payments. Example of other documentation include the debtor's **balance sheet and income statement for the latest fiscal period (from which the ratio between debtor's liabilities and assets is apparent), debtor's cash flow analysis (cash availability to cover due liabilities)**, threats of initiation of enforcement proceeding sent by its creditors and related replies that it is not in position to make payments on its debts, etc.

3. Whether appropriate documentation has been attached?

With the motion for initiation of bankruptcy proceeding, the **creditor** must file appropriate documentation to make his claim and debtor's payment inability likely (article 4. par. 1). In that regard, the motion should have the following attachments:

- a) Contracts, court judgments, court and out-of-court settlements, authorized bodies' orders, written admissions of liabilities, and similar documents from which it can be deduced that the creditor's claim is likely.
- b) Bank confirmation that debtor's account is blocked, debtor's balance sheet or income statement for the latest fiscal period (six or 12 months), debtor's cash flow analysis (monthly), findings and opinion of expert (engaged by the creditor prior to initiation of bankruptcy proceedings) and other, from which it is deduced that debtor's payment inability is likely.

When a motion for initiation of bankruptcy proceeding is filed by the **debtor**, it has to make likely the existence of bankruptcy, i.e., its inability to make payments. The debtor accomplishes this by filing bank confirmation that its account is blocked, or by its balance sheet and income statement for the latest fiscal period (six or 12 months), cash flow analysis (monthly), findings and opinion of expert (engaged by the creditor prior to initiation of bankruptcy proceedings), etc.

4. If the petitioner is a legal entity, whether the person who filed the motion is authorized to represent the petitioner?

According to the Law on Companies, a company can be represented only by the company's director or another person who is authorized by the company's statute. Thus, in legal transactions or towards third parties, members of supervisory board, owners, or founders of a company are not authorized to represent the company, except if they are authorized to do so by explicit provision of the company's statute. Regardless of the basis from which they derive the right to represent the company (law or statute), persons who represent the company, together with the scope of authorization, must be registered in the register of companies.

In reviewing a motion for initiating of bankruptcy proceedings, the bankruptcy judge must check the excerpt from the company register for legal representatives, and their scope of authorization. In that regard, the excerpt can be attached to the petitioner's motion. If not, the bankruptcy judge should obtain this excerpt ex officio from the registry court.

5. Whether there is an excerpt from the company register, for the company against which bankruptcy proceedings are being initiated?

In order for bankruptcy proceeding to run smoothly against a bankruptcy debtor in this phase, it is of crucial importance for the bankruptcy judge to accurately identify the legal entity against which the bankruptcy proceeding is conducted. In practice, often there are cases of multiple related companies with very similar titles or business organizational formats. In order to avoid conducting a proceeding against one company and entering certain legal consequences in the register of companies for another company, before taking any legal actions the court must be certain against which company the bankruptcy proceeding is being conducted. The most practical solution is when the excerpt from the register of companies is attached to the motion for initiation of bankruptcy proceedings itself. However, if there's no such document attached, then the court should not require that excerpt from the petitioner to supplement the motion for initiation of bankruptcy proceeding, but, for practical purposes, the bankruptcy judge himself should obtain that excerpt ex officio, directly from the registry court.

After received motion for initiation of bankruptcy has been reviewed, if the court finds that there are some of the above-mentioned omissions, it will issue an order requiring the petitioner to supplement or correct the motion for initiation of bankruptcy proceedings (Form no. 1). The judge delivers the order, together with copy of the motion submitted to the court, to the petitioner, and sets the deadline to comply within 15 days of receipt of the order. This order is a procedural order, by which the court administers the case, thus appeal against this order is not allowed (see article 11 par. 1 of the Law on Bankruptcy).

## **B) Order Rejecting Motion For Initiating a Bankruptcy Proceeding**

After seven days of ordering the petitioner to supplement its motion, the court will inspect the case file and determine on what date service was made, by reviewing the date on the return receipt for that order. If more than 15 days has elapsed from the date of service of the order (date from return receipt), and petitioner has not filed a motion within that deadline, the court **must** issue an order which states that the motion is considered withdrawn (Form no. XX).

If, however, the petitioner does file the motion within 15 days, the court will examine:

1. Whether the petitioner has supplemented the motion in accordance with the court instructions; and
2. Whether the petitioner attached the documentation required by the court.

If, after receipt of the new, corrected and supplemented motion, the court concludes that the petitioner failed to comply with the court order (i.e., hasn't corrected or supplemented the motion

or hasn't filed the required documentation, in the manner required), the court **must** issue an order which rejects the motion for initiation of bankruptcy proceeding (Form no. 4).

### **C) Order Which Determines the Advance Payment For Costs of Preliminary Procedure**

The deadline to determine the advance payment for conducting the preliminary procedure is **15 days after receipt of an acceptable motion for initiation of bankruptcy proceedings**. That deadline can start as of:

1. the date when the motion for initiation of bankruptcy proceedings is first received (contains all legally prescribed necessary elements);
2. the date when the supplemented and corrected motion for initiation of bankruptcy proceeding is received, in case the court required supplementing or correction of the motion, or attaching the missing documentation, and the petitioner complied with court order within the given deadline.

In regular course of actions, advance payment must be paid by the **creditor** who initiates bankruptcy proceedings or the **debtor** itself, if it the one who filed the motion for initiation of bankruptcy proceeding. As a rule, only if the motion for initiation of bankruptcy proceeding has been filed by the **liquidator** (from the liquidation procedure), the court doesn't have to order advance payment of costs of the preliminary procedure.

The purpose of the advance payment is to finance all expenses that could arise in the course of the preliminary procedure. Those expenses are:

Fee of interim bankruptcy trustee	max. 1200 KM per month
Expenses of interim bankruptcy trustee	max. 1000 KM
Fee for possibly appointed expert	max. 500 KM
Advertisement of one order on security measures and appointment of interim bankruptcy trustee in Official Gazette	max. 100 KM
Advertising order on initiation of bankruptcy proceeding	max 100 KM

Besides these ordinary expenses of the preliminary procedure, the court must also take into consideration extraordinary ones that can arise for various reasons. These expenses can be:

- i. Subsequent ordering and advertising of security measures in Official Gazette, that were not ordered together with order appointing interim bankruptcy trustee (100 KM)
- ii. Unexpectedly long duration of the preliminary procedure (longer than planned 60 days), if debtor files an appeal against the order initiating bankruptcy proceedings, and that order is reversed and returned for repeated preliminary procedure, or if the second instance court issues its

decision after significant delay. That could entail the new appointment of interim bankruptcy trustee or an expert for additional tasks.

- iii. In case of bankruptcy against a company that provides no protection for its assets (e.g., an abandoned company), the interim bankruptcy trustee must look after those assets. In order to achieve control over the assets of future bankruptcy debtor, the interim trustee may have to employ a security service to be paid from the advance payment for preliminary procedure. In that regard, the average additional expenses could be about KM 1500 per month.

Based on the above calculations, and court practice developed thus far, by order (Form no.2) the court should instruct the petitioner to make the advance payment for financing the preliminary procedure in the amount of KM 5000, within 15 days upon receipt of the order.

Seven days after the court has issued an order to serve the advance payment order on the petitioner, the court will check the case file to determine on what date service has been carried out by reviewing the date on the return receipt for that order. If more than 15 days has elapsed from the date of service of the order (date from return receipt), and the petitioner has not submitted proof of advance payment made in court's account, the court **must** issue an order which rejects the motion for initiation of bankruptcy proceedings (Form no. 3).

**In limited exception**, the court doesn't have to issue the order of advance payment for expenses of preliminary procedure. This happens in case where the following two conditions are met:

1. The motion for initiation of bankruptcy proceedings is filed by the debtor;
2. The value of debtor's assets is sufficient to cover the expenses of not only the preliminary, but also the entire bankruptcy proceeding.

However, even though it is prescribed by law, this option (issuance of order exempting advance payment for the preliminary procedure) should not be exercised by the judge, because the court cannot finance regular expenses of the preliminary procedure from its own budget, such as the fee of interim bankruptcy trustee, possible expert services, advertisement of order on institution of preliminary procedure, and order on initiation of bankruptcy proceeding. For that reason, the court should always issue an order on advance payment in preliminary procedure, otherwise it will be unable to finance the preliminary procedure.

## **D) Order on Appointment of Interim Bankruptcy Trustee**

After the petitioner submits the proof of advance payment of the required amount for expenses of the preliminary procedure, **the bankruptcy judge must determine** whether all conditions have been met, in the specific case, to open the bankruptcy proceeding. In that regard, the bankruptcy judge must determine within the preliminary procedure (article 43 par. 4. of the Law):

- 1) whether the debtor is unable to make payments;
- 2) whether the motion is admissible;
- 3) whether the court expenses in the bankruptcy proceeding would be covered from debtor's bankruptcy estate;

The above-mentioned conditions can be determined by the judge in two ways:

- 1) on his own, without engaging an interim bankruptcy trustee or expert; or
- 2) by appointing an interim bankruptcy trustee and, if necessary, expert.

Although the law allows the first option (article 14 par. 1 – «may appoint »), in court practice this is very rare because the motion for initiation of bankruptcy proceeding does not contain all the relevant data to indicate whether all the conditions have been met to initiate bankruptcy proceeding in a specific case. In that regard, it is common for bankruptcy judge to issue an **order which appoints an interim bankruptcy trustee** (Form no.8) in order to examine whether all conditions are met to initiate the bankruptcy proceeding.

By that order, a person from the list of bankruptcy trustees valid in the relevant entity, is appointed as interim bankruptcy trustee. The fact that a person is on the list of bankruptcy trustees for a certain canton/county court does not imply that a person from that area cannot be appointed as the bankruptcy trustee in a different canton/county court.

Before issuing the order, the bankruptcy judge must **hear the bankruptcy debtor** about circumstances of initiation of bankruptcy proceeding. In that regard, the bankruptcy judge issues an order which schedules the hearing of debtor (Form no. 10). Exceptionally, this hearing can be held later, but in such case the order appointing the interim bankruptcy trustee should include an explanation of why bankruptcy debtor was not heard prior to issuance of order appointing interim bankruptcy trustee.

When issuing an order appointing interim bankruptcy trustee, the bankruptcy **court must take into account** the following:

1. whether that bankruptcy trustee has a conflict of interest in the specific case. In that regard, the interim bankruptcy trustee, as well as the bankruptcy trustee, must not be (article 23 par. 4 of the Law):

- a) a former employee of debtor or member of its management;
- b) one of the debtor's creditors or their representatives;
- c) person who worked for debtor in an advisory capacity.

Also, a person who cannot be appointed as a member of supervisory board or director of company is not eligible to be appointed as (interim) bankruptcy trustee.

2. The order should set forth all tasks that the interim bankruptcy trustee must carry out within 30 days of his appointment. Those tasks are:

- a) determine whether conditions are met to open bankruptcy proceedings (i.e., determine whether debtor is unable to make payments);
- b) determine whether debtor's assets can cover expenses of bankruptcy proceeding;
- c) in case debtor still operates at the moment of initiation of bankruptcy proceeding, determine whether those operations can continue during the preliminary procedure;
- d) In F BiH, perform inspection of privatization and debtor's business operations.

The bankruptcy judge can appoint an expert to perform tasks under a) and b), but that is not common court practice in BiH because it is considered to add to accrual of preliminary procedure

expenses, especially having in mind the fact that trustees are quite capable of performing those tasks in a satisfactory manner.

In the end, an order appointing the interim bankruptcy trustee must be advertised in the Official Gazette (Form no. 11), and entered in the register of companies.

## **E) Order of Security Measures**

Ex officio, or upon motion of the petitioner or interim bankruptcy trustee, the court can issue the order of security measures (Form no. 7).

To order those measures, the necessity of the measures must be apparent from relevant documentation and filings submitted to the court. Therefore, the bankruptcy judge should not order security measures “offhand” without clear indicators that activities of the debtor or third parties are such that it is justified to expect that these activities can jeopardize the future bankruptcy estate.

Types of security measures are stated in article 15 of the Law. The most common measures pronounced by courts in BiH are:

- 1) Ban on disposing of debtor’s assets without approval from the bankruptcy judge or interim bankruptcy trustee;
- 2) Temporary suspension of all security and enforcement measures during preliminary procedure.

Pronouncing measure under item 2 is only declarative in character. The legal consequence of a ban on enforcement against debtor’s assets, i.e., separation of assets of third parties from debtor’s property, is in effect by the law itself, once the preliminary procedure starts. In order to make this consequence known to all, the court should include this ban ex officio in the order on appointment of interim bankruptcy trustee, if not in a special order (Form no.5), upon motion from interim bankruptcy trustee or bankruptcy debtor. For practical reasons, order on measure under item 2 should also be served ex officio on the enforcement court with jurisdiction in debtor’s location, since, in the majority of cases, in the same area the greatest portion of debtor’s assets is located, which can be subject of enforcement procedure. Optionally, obligation of serving an order of measure under item 2 on other enforcement courts for debtor’s assets outside the court’s location should be carried out by the bankruptcy trustee or debtor’s management, if interested.

In the end, the court must make sure that the order of any security measures is published in the Official Gazette (Form no. 11) and entered in the register of companies.

## **F) SCHEDULING HEARING FOR DETERMINATION OF PRECONDITIONS FOR INITIATION OF BANKRUPTCY PROCEEDING**

After receiving the report of interim bankruptcy trustee about his findings regarding preconditions for initiation of bankruptcy proceeding, the bankruptcy judge must review the report and decide if, based on information in the report, he can make a decision on initiation of bankruptcy proceeding. If the judge cannot make such decision due to lack of information, he should issue an order (Form no. XX) of possible **supplementing of interim bankruptcy trustee's report**.

After reviewing interim bankruptcy trustee's report and determining that it contains all necessary information for making a decision on initiation of bankruptcy proceedings in the particular case, the court issues **an order scheduling a hearing** to discuss whether the conditions are met to initiate bankruptcy proceeding (Form no. XX). Although in certain courts it is common practice to schedule the hearing for determination of preconditions for initiation of bankruptcy proceeding by the order appointing the interim bankruptcy trustee, such practice should be avoided. The hearing should be scheduled only after the court receives the report of interim bankruptcy trustee. Besides the fact that this is explicit legal requirement of article 43. par. 1 of the Law, it makes practical sense for management of the proceeding. In certain cases the interim bankruptcy trustee submits his report to the court before the given deadline, in which case the court is bound by previously set date of that hearing, scheduled in order appointing the interim bankruptcy trustee. Therefore, in such situations it would be much more practical for the court not to schedule the hearing instantly, but rather to schedule it after receipt of the report, because it provides grater flexibility and efficiency in scheduling of the hearing and management of the proceeding in general.

Additionally, the interim bankruptcy trustee in his report may fail to provide all necessary information, or fail to carry out all given tasks, and in such case the bankruptcy judge will have to issue a special order and require the interim bankruptcy trustee to supplement his report or carry out additional tasks. If the hearing has already been scheduled by order on appointment of the interim bankruptcy trustee, the court will have to postpone the hearing.

It would be optimal if the bankruptcy judge held the hearing for determination of preconditions for initiation of bankruptcy proceeding within 8-10 days after receipt of interim bankruptcy trustee's report. **The order scheduling the hearing** is served on the bankruptcy trustee and the petitioner. Presence of the debtor and interim bankruptcy trustee at the hearing is not required.

## **G) HEARING FOR DETERMINATION OF PRECONDITIONS FOR INITIATION OF BANKRUPTCY PROCEEDING**

If the interim bankruptcy trustee or debtor is not present at the hearing, the bankruptcy judge shouldn't postpone the hearing. Article 43 Para 1 of the Law explicitly stipulates that the interim bankruptcy trustee and debtor are summoned to that hearing "if that is possible", which implies that their presence at the hearing, if they have been summoned, is not necessary. Besides, by subsidiary application of provisions of CPC, article 84 para. 2, absence of debtor (i.e., the defendant) is not a reason to postpone the hearing, provided there is proof that service of summons is complete. Therefore, the hearing will be held regardless of debtor's (defendant's) absence.

If, however, the petitioner fails to appear at the hearing, the court must issue an order dismissing the bankruptcy proceeding, in accordance with rules of CPC, article 84 para. 2, treating the petitioner as plaintiff in a civil procedure. According to these rules, plaintiff's failure to appear at

the hearing is treated as his choice to withdraw the complaint, based on which the civil court (bankruptcy court) makes the decision on withdrawal of the complaint (motion for initiation of bankruptcy proceeding). Accordingly, presence of the petitioner is necessary to hold the hearing for determination of preconditions for initiation of bankruptcy proceeding.

The hearing commences with opening of the hearing. After that:

- 1) Presence of the summoned parties and completion of service of summons or absent parties is confirmed;
- 2) Authorization for representation of respective parties in the proceeding is checked. In that regard, bankruptcy judge must take into account that only the legal representatives of the debtor, registered in the register of companies, has the right to represent parties, i.e. lawyers for individuals and legal entities, and attorneys employed by companies that are parties in the proceeding. For purpose of proof of authorization for representation, the bankruptcy judge should require proof of the basis for representation (power of attorney, excerpt from register of companies etc.). If the proof of authorization for representation is missing, according to provisions of CPC, art. 319 para. 2 and 3, the bankruptcy judge can allow representation of parties, provided the representatives obtain the power of attorney in the shortest possible time and submit it to the court. In that regard, the bankruptcy judge should give a short deadline to a representative, optimally one day, under threat that representative's statements, given in the name of a represented party, would be disregarded. The deadline should be short in any case because the bankruptcy judge must keep in mind that, within 3 days of the hearing for determination of preconditions for initiation of bankruptcy proceeding, he must make the decision to initiate the bankruptcy proceeding or to reject the motion for initiation of bankruptcy proceeding.

After it has been established (1) which of the summoned parties are present and if service of the order scheduling the hearing is complete for all parties, and (2) who is authorized to represent parties in the proceeding, the bankruptcy judge makes the decision whether the hearing can be held or not. In case some of the parties haven't been properly informed of the hearing, the court must postpone the hearing in accordance with the provisions of article 111 para. 1 of CPC. Present parties are informed about the new date of the postponed hearing at the hearing itself, and the court doesn't have to send them special notification. Absent parties will be informed about the postponed hearing by special order delivery.

If the court decides to hold the hearing (because all summoned parties are present and absent parties have been duly informed), the court:

- 1) announces the subject of discussion;
- 2) shortly describes the course of the proceeding to date (when the motion was filed, is it allowed, when the interim bankruptcy trustee was appointed, what security measures are taken, what actions have been taken by the interim bankruptcy trustee in the course of the preliminary procedure, etc.);
- 3) calls on the interim bankruptcy trustee to present his report;
- 4) gives the floor to the bankruptcy debtor to comment on the report and findings of the interim bankruptcy trustee;
- 5) gives the floor to the petitioner to comment on the report and findings of the interim bankruptcy trustee, and state whether he stands by his motion;

- 6) gives the floor to all participants in the proceeding during a discussion of respective issues;
- 7) after the discussion is finished, announces when the decision on the motion for initiation of bankruptcy proceeding will be made (maximum legal deadline is three working days after the hearing) and in what manner the decision will be announced.

## **II. DECISION ON MOTION FOR INITIATION OF BANKRUPTCY PROCEEDING**

On the date publicly announced by the court at the hearing for determination of preconditions for initiation of bankruptcy proceeding, the court issues an order deciding on the motion for initiation of bankruptcy proceeding. The decision may be:

### **A) Order Rejecting the Motion For Initiation of Bankruptcy Proceeding (Order no. 12).**

This order is issued if it has been determined at the hearing that debtor's inability to make payment hasn't been established, petitioners claim against bankruptcy debtor doesn't exist, concurrence of authorized bodies for the proceeding is missing (Ministry of Defense for both entities and, in RS, concurrence of Government for companies with majority state owned equity), and/or debtor's assets are not sufficient to finance costs of bankruptcy proceeding. In addition to a decision and reasons for rejection, the order must also contain the following:

- a) discharge of interim bankruptcy trustee;
- b) cancellation of any pronounced security measures;
- c) return to petitioner of surplus of funds left from advance payment for conducting the preliminary procedure.

The order rejecting the motion for initiation of bankruptcy proceeding is served on the petitioner and debtor, delivered to the register of companies and also to the competent prosecutor's office if the motion has been rejected due to inability to cover the costs of the proceeding from debtor's assets. It is also advertised in the Official Gazette. Only the petitioner can appeal this order within 8 days after receipt of the order, and his appeal stays the effect of the order. In case an appeal is filed, the preliminary procedure moves forward until the appeal is adjudicated and all measures of bankruptcy court, pronounced up to that point, remain in effect. In that period, therefore, the interim bankruptcy trustee must look after debtor's assets, as is common in preliminary procedure, until the court discharges him by special order.

In case the order rejecting the motion for initiation of bankruptcy proceeding is issued due to lack of debtor's assets to finance the bankruptcy proceeding, the court delivers such order to the appropriate prosecutor's office and, in FBiH, to the registry court, for which it is the basis to remove the company from court register, based on article XX of the Law on Companies.

### **B) Order Initiating Bankruptcy Proceeding (Order no.13)**

A order initiating bankruptcy proceeding is issued if the following conditions are satisfied:

- a) if the motion is allowed (has all necessary approvals from Ministry of Defense or, in RS, from the Government for companies with majority state owned equity);
- b) if reason for bankruptcy exists (non-payment of due and claimed debts for 30/60 days);
- c) if either debtor's assets are sufficient to pay the costs of the proceeding or, if that's not the case, petitioner has advanced a sufficient amount of money to finance further court procedures.

Besides an array of elements that should be contained in the order initiating bankruptcy proceeding, the bankruptcy judge must always schedule the investigation and reporting hearings by this order. In practice of some courts in BiH, the order initiating bankruptcy proceeding schedules only the investigation hearing, whereas the reporting hearing is scheduled at the investigation hearing itself. It should be noted that courts often do not advertise the order scheduling the reporting hearing in the Official Gazette, even though they should in accordance with articles 48 para.1 with respect to article 47 para. 1 point 1.

Such court practice, besides being contrary to the law, represents a much more complicated and inefficient solution compared to what is prescribed by article 47 para. 1 point 1. of the Law. Thus, it should certainly be abandoned.

The issued order is posted on the court notice board the same day, advertised in Official Gazette, and delivered personally to the debtor and petitioner. In addition, the order must be delivered to the register of companies and all known creditors and debtors of the debtor company (those reached by interim bankruptcy trustee in his work – but delivery to Tax Administration of the Entity is mandatory).

In advertising the order in the Official Gazette, in connection with scheduling the investigation and reporting hearings, the bankruptcy judge must take into account that often advertisement of the initiation of bankruptcy proceeding is not published immediately and in the same time the order is delivered to other participants in the procedure. In that regard, it should always be assumed that advertisement in the Official Gazette will take approximately 20 days, and calculate the 30 day deadline for reporting claims as of that moment. Therefore, it is necessary for bankruptcy judge to always make sufficient time span between deadline for reporting of claims and hearing for investigation of claims in order to avoid shortening of the legal deadline for reporting claims due to delays in publishing of advertisement in Official Gazette.

Only the debtor can appeal this order, and in FBiH (as opposed to RS), that appeal stays the implementation of the order initiating bankruptcy proceeding. Where the order initiating bankruptcy proceeding is confirmed, the legal consequences enter into effect as of the date of its initiation.

### **III. ACTIVITIES OF COURT AFTER ISSUING ORDER ON INITIATION OF BANKRUPTCY PROCEEDING**

## **A) Table of Claims (Form no. 14)**

The first activity the bankruptcy court should perform after opening the bankruptcy is to compose a table of claims of creditors who reported them. The court should compose that table immediately after the deadline for reporting of claims has elapsed, and certainly no later than eight days prior to the investigation hearing. Namely, the bankruptcy judge is not only responsible to compose the table of claims with all the data indicated in article 110 of the Law, but also to present that table to all interested parties on the court premises no later than eight days prior to the investigation hearing.

The table should contain a list of all creditors who reported their claims on time, together with the basis for such claims and the documentation creditors attached to their claims. In that manner, any information about the origin of any reported claim is made available to all interested parties, especially to creditors who reported claims, based on which, among other things, every creditor with a reported claim can contest reported claims at the investigation hearing.

In order to make it accessible to public on the court premises, the court can post the table on the notice board of the court or in the court registry office. If the table with associated documentation is located in the court registry office, the bankruptcy judge doesn't have to issue a special authorization every time an interested party wishes to review the table and attached documentation.

## **B) Hearing for Investigating Reported Claims (investigation hearing)**

At this hearing, **the bankruptcy trustee** investigates reported claims. Only **reported claims** can be investigated, which clearly results from article 112 para. 1 of the Law. Claims that have not been reported are not the subject of scrutiny at the investigation hearing, even if the bankruptcy trustee is convinced they exist (based on his review of bankruptcy debtor's business documentation for example). Therefore, the bankruptcy judge must not allow discussion of those claims. Since this is a not a civil case, the bankruptcy judge cannot discuss or decide the existence of a legal basis for recognizing or disputing reported claims that are disputed or recognized by the bankruptcy trustee. Any discussion about the basis of a reported claim can be conducted only in civil procedure, to which the bankruptcy judge must direct a party whose claim has been disputed, by order at the investigation hearing itself.

The investigation hearing can be held even if the bankruptcy trustee is the only present party, thus the court cannot postpone it for such reason.

Reported claims can be disputed by:

- 1) the bankruptcy trustee;
- 2) any bankruptcy creditor whose claim has been previously recognized by the bankruptcy trustee.

Therefore, reported claims cannot be disputed by:

- 1) bankruptcy creditors whose claims have not been recognized;

- 2) perfected creditors with right to separate settlement for amount that, according to estimate, can be covered from assets of the perfected security right.
- 3) extraction creditors, who are not bankruptcy creditors.

Based on provisions of article 114 of the Law, only those claims recognized by bankruptcy trustee are considered to be recognized claims. Any objection against the trustee's recognition of claims by creditor whose claim has been recognized does not prevent recognition of those claims. This means that the claim will be considered recognized if recognized by the bankruptcy trustee, despite it being disputed by some of the creditors with voting rights or bankruptcy debtor itself.

At the hearing, the court must have the table of reported claims in which to immediately enter results of investigation. Entering the fact that a certain claim has been recognized into the table of claims has the effect of final adjudication (article 114 par. 4 of the Law). However, disputed claims at one investigation hearing can be recognized by the bankruptcy trustee in writing after the hearing or at the next investigation hearing, if any. Therefore, once a claim is recognized by the bankruptcy trustee, it can no longer be disputed either by bankruptcy trustee or other creditors with voting rights, whereas a claim disputed by the bankruptcy debtor can be recognized by bankruptcy debtor subsequently. Only the bankruptcy trustee has this right of subsequent recognition, not a bankruptcy creditor.

Order of actions taken at the hearing:

- 1) bankruptcy judge opens the hearing with a statement of the type of hearing, the case, and the subject matter of the hearing;
- 2) bankruptcy judge invites all creditors present to identify themselves and to submit basis for representation of legal entities, and individuals as well, if there are representatives;
- 3) Bankruptcy judge briefly explains the course of the investigation hearing, and rights of present and absent creditors who reported their claims;
- 4) Bankruptcy judge calls on bankruptcy trustee to submit his report about reported and investigated claims, and to state the total number of reported, disputed, and recognized claims;
- 5) Bankruptcy trustee presents his report on total reported, recognized, and disputed claims;
- 6) Bankruptcy judge invites bankruptcy trustee to make a statement on each individual reported claim, and warns him of his obligation to give reasons for disputing each disputed claim;
- 7) After each claim is either recognized or disputed by the bankruptcy trustee, the court checks if any of bankruptcy creditors disputes the claim that is subject of scrutiny;
- 8) If a claim is disputed, the court issues a procedural order at the hearing that directs the bankruptcy debtor or creditor to civil procedure to determine the disputed claim;
- 9) The court enters results of investigation of claims into the table of claims;
- 10) After each claim is processed in compliance with points 7, 8 and 9, the court notifies the present parties when the table with disputed and recognized claims will be posted on the notice board of the court;

11) Bankruptcy judge closes the hearing and notifies the present parties that they must sign the minutes of the hearing immediately. In the same time, the court will notify all present that, in exchange for copying fee, they can get a copy of the minutes.

### **C) Reporting Hearing**

The date of the reporting hearing is scheduled by order on initiation of bankruptcy proceeding, which is advertised in Official Gazette. In that regard, the bankruptcy judge should not send the order scheduling the reporting hearing to each individual creditor whose claims has been recognized, since there is the legal presumption that those persons have been notified of the hearing by the advertisement in the Official Gazette and thus personal delivery of the order to those persons is unnecessary.

At the reporting hearing, the assembly of creditors makes the following decisions:

- 1) adopts the report of bankruptcy trustee;
- 2) decides on whether the bankruptcy trustee is going to draft a plan for reorganization of the bankruptcy debtor or if the assets of bankruptcy debtor should be realized immediately;
- 3) decides on continuation of debtor's operations;
- 4) decides on manner and conditions of realization of debtor's assets;
- 5) decides on replacement of bankruptcy trustee;
- 6) appoints board of creditors, if necessary;
- 7) decides on initiation, continuation, or termination of litigation in which the bankruptcy debtor is the plaintiff;
- 8) decides on filing a complaint to reverse certain actions of bankruptcy debtor.

Actions at the reporting hearing are taken in the following order:

- 1) Bankruptcy judge opens the hearing with a statement of the type of hearing, the case, and the subject matter of the hearing;
- 2) Bankruptcy judge invites all creditors present to identify themselves and to submit basis for representation of legal entities, and individuals as well, if there are representatives;
- 3) Bankruptcy judge briefly explains the course of reporting hearing, what decisions can be made by the assembly of creditors, and the rights of present creditors with recognized claims;
- 4) Bankruptcy judge creates a table of voting rights for present creditors (Form no. XX), based on which it will assess whether a decision of assembly of creditors represents the necessary majority;
- 5) Bankruptcy judge invites bankruptcy trustee to briefly outline his report and briefly explain reasons for decisions he is proposing to assembly of creditors in his report;
- 6) Bankruptcy trustee presents basic features of his report and explains reasons for measures he has proposed to the assembly of creditors in his report;
- 7) Bankruptcy court invites the assembly of creditors to vote on adoption of bankruptcy trustee's report, on each individual measure proposed by bankruptcy trustee in his report, and any proposal given by any of bankruptcy creditors present;
- 8) After establishing that the necessary majority made the decisions of the assembly of creditors, bankruptcy judge will note them in the minutes of the hearing. He will not issue any court order.

If a decision to have the trustee start drafting a bankruptcy plan or liquidating the debtor's assets, does not have the necessary majority, the court will note in the minutes that the necessary majority has not been reached. Thus, the bankruptcy trustee is authorized to start liquidating bankruptcy debtor's assets, in accordance with provisions of article 101, related to article 2, of the Law. Namely, from the aforementioned provisions it is apparent that the general goal of bankruptcy proceeding is liquidation of debtor's assets and proportional satisfaction of bankruptcy creditors, and reorganization of bankruptcy debtor is a possibility which diverts from legally prescribed rules on liquidation. Therefore, if a decision of assembly of creditors has not been reached on this, based on article 101 of the Law, the bankruptcy trustee has every authority to initiate procedure for liquidation of the bankruptcy debtor's assets. The court, therefore, makes no decision on this, but only notes in the minutes that no decision is made and the resulting legal consequences.

#### **IV. LIQUIDATION OF BANKRUPTCY DEBTOR'S ASSETS**

All assets of the bankruptcy debtor in bankruptcy proceedings **are sold by the bankruptcy trustee** (article 101 par. of the Law). Thus, under no circumstances are the conditions of the sale controlled by the bankruptcy judge, regardless of whether assets are encumbered by a perfected lien or not. However, the bankruptcy judge can play a certain role in the sale of those assets if the sale is conducted according to the rules of enforcement procedure.

The bankruptcy trustee sells the debtor's assets in accordance with the decision of assembly of creditors made at the reporting hearing. He is, therefore, bound by that decision, notwithstanding his disagreement with it (e.g., the assembly made a decision that the minimum price cannot be lower than an amount deemed totally unrealistic by the bankruptcy trustee). In such case, the bankruptcy trustee is required to attempt the sale of assets under those conditions, and the bankruptcy judge has no right to alter the decisions of the assembly of creditors.

If the sale of the bankruptcy debtor's assets is unsuccessful, the bankruptcy trustee can ask the assembly of creditors to make a decision he proposes about the sale. He, therefore, can propose to the assembly a decision on the precise manner and conditions of the sale. If the assembly rejects the bankruptcy trustee's proposal for the second time bankruptcy trustee can request that this decision is made by bankruptcy judge instead of the assembly (article 29 par. 6 and article 108 of the Law).

The bankruptcy judge issues the decision approving the proposal of the bankruptcy trustee, from article 29 par. 6 of the Law, by order no. XX. That decision is issued by the bankruptcy judge based on assessment of the validity of the bankruptcy trustee's proposal and evidence of trustee's failure to sell the assets in accordance with the decision made by the assembly of creditors.

If the bankruptcy trustee fails to sell the assets in accordance with the decision of the assembly of creditors, and proposes no manner of sale of his own, he must sell the assets without a court decision according to the rules given in articles 102 through 107 of the Law. This will mean selling bankruptcy assets piece-meal (real and personal property) according to the rules of enforcement procedure.

## **A) Role of the Court in Sale of Bankruptcy Debtor's Assets According to the Rules of Enforcement Procedure**

The sale according to the rules of enforcement procedure will occur in the following situations:

- 1) if such decision was made by the assembly of creditors at the reporting hearing;
- 2) if assembly of creditors made no decision at the reporting hearing about the future course of bankruptcy proceeding (liquidating assets of bankruptcy debtor or reorganization of debtor), the bankruptcy trustee is authorized by the law to liquidate assets according to rules of enforcement law.

In sale of the bankruptcy debtor's assets, the bankruptcy judge plays the following role:

- 1) in case of an auction, the judge issues an order on award of real property (Form no. XX) to the highest bidder, who has previously paid the sales price to the court's account.
- 2) in case of direct settlement, according to rules of enforcement law, the judge issues an order on award after reviewing the sales agreement entered between the bankruptcy trustee and buyer, by which he actually issues approval of that agreement (Form no. XX).

Order on award of real property is issued by the bankruptcy judge only if the following conditions are met:

- 1) Sales price is paid;
- 2) Buyer is eligible to own real property, according to article XX of LEP (Law on Enforcement Procedure). Here, the court should especially take into account that an order on award of real property cannot be issued if the buyer is a foreign person who is not eligible to acquire property in BiH, according to the property law (reciprocity condition);
- 3) Property of bankruptcy debtor, which is the subject of sale, is not excluded from legal transactions, or there is no preemption right of other person, all in accordance with the rules arranging transfers of real property.

All other actions of sale of the debtor's assets, according to the rules of enforcement procedure, are performed by the bankruptcy trustee.

## **B) Distribution of Funds Obtained by Liquidation of Bankruptcy Debtor**

Any cash amount from the sale of assets of the bankruptcy debtor are paid by the buyer to account of the bankruptcy debtor, opened by bankruptcy trustee upon initiation of the bankruptcy proceeding. As a rule, proceeds from sale of assets paid to the account of bankruptcy debtor are distributed only when the majority of the debtor's assets have been realized. However, according to his own assessment, the bankruptcy trustee can also perform a partial distribution of obtained proceeds before the majority of bankruptcy debtors' assets have been realized, but only with approval of creditors' board or assembly, if a board has not been established (see article 117 par. 3). Here, the bankruptcy trustee must compose distribution list for the partial distribution, and

proportionally repay all creditors in the amount and ranking of their claims as determined at the investigation hearing.

Distribution is performed by the bankruptcy trustee based on the distribution list (article 117 par. 3, related to article 118). In order to carry out distribution of realized assets, the following activities must be undertaken by the law:

- 1) bankruptcy trustee drafts a distribution list (article 118), based on the table of claims and realized amount of bankruptcy estate, whereas the amount of repayment for each creditor is determined (Form no. XX);
- 2) bankruptcy trustee makes the proposed distribution list available to the public, on the premises of the court (court registry office) – article 118;
- 3) bankruptcy trustee will advertise in the newspapers the total amount of claims and the amount of bankruptcy estate that is available to satisfy claims (article 118);
- 4) within 23 days of advertisement of the distribution list (15 days according to article 119 par. 1 plus 8 days according to article 123 par. 1 of the Law), creditors can file an objection against the proposed distribution list. Objections are filed with the bankruptcy court.
- 5) Court makes a decision on filed objections against the distribution list. Deadline for court decision on objection against the distribution list is not specified, but the court should always take into account that the bankruptcy procedure is urgent in nature. Court can make two decisions on that objection:
  - a) reject the objection by court order (Form no. XX). That order is served on the creditor and bankruptcy trustee, and only the creditor can appeal that order within eight days after the receipt (article 123 par. 2 of the Law). The appeal itself stays the implementation of the order. Main distribution cannot be carried out until this order is legally final.
  - b) amend the distribution list by court order (Form no. XX). That order is served on the creditor and bankruptcy trustee, and it is posted on the notice board of the court. Bankruptcy trustee and creditor can appeal this order within eight days of advertisement of the order on the notice board of the court (article 123 par. 3. of the Law). Appeal stays the implementation of that order. Main distribution cannot be carried out until this order is legally final.
- 6) After deciding on objections against the distribution list, or if there were no such objections, bankruptcy judge schedules the hearing for main distribution by court order (Form no. XX). That order is published in the Official Gazette, and the hearing must be held within 15 to 30 days after publication (article 124 par. 7 of the Law).

At the hearing for main distribution:

- 1) bankruptcy judge, together with creditors and bankruptcy trustee, reviews the distribution list, closing balance of the bankruptcy trustee, and his report (article 124 par. 1 and 4 of the Law);
- 2) creditors have the right to file objections against the distribution list (rules described above under point 5 apply);

- 3) bankruptcy trustee has the right to amend or supplement the proposal for distribution at the hearing, taking into account disputed claims, claims of creditors with right to separate settlement, and already performed partial distributions (article 122 of the Law). The condition is that all present creditors concur with proposed changes;
- 4) Upon proposal of the bankruptcy trustee, creditors make the decision on distribution of assets that could not be realized during bankruptcy proceeding (article 123 par. 5 of the Law);
- 5) By court order, the judge issues approval of distribution proposal (Form no. XX) if there are no more proposals for changes or supplementing the distribution list, or if those proposals have already been decided on.

After the hearing for main distribution:

- 1) bankruptcy judge issues a court order approving the proposal for main distribution (Form no. XX), against which appeal is not allowed;
- 2) bankruptcy trustee conducts the distributions in accordance with the approved distribution list and submits proof to the court;
- 3) bankruptcy judge orders personal delivery of documentation to all creditors whose claims have not been satisfied according to the distribution list, with notification (Form no. XX) that they can exercise their rights against bankruptcy debtor according to general rules of the enforcement procedure. With that documentation, bankruptcy court also delivers excerpt from the distribution list approved by bankruptcy judge, which serves as an enforceable document in enforcement procedure, in case it is initiated.

## V. CLOSING OF BANKRUPTCY PROCEEDING

Bankruptcy proceeding can be closed in one of the following manners:

- 1) Closing of bankruptcy proceeding after realization of debtor's bankruptcy estate.

Court issues **order on closing of bankruptcy proceeding** (Form no.15), immediately after bankruptcy trustee submits evidence to the court that he conducted the distribution based on the proposal approved by the bankruptcy judge at the main distribution hearing (article 126 par. 1 of the Law).

This order is **published** in the Official Gazette with reasons for closing of bankruptcy proceeding (Form no. XX) – art. 126 par. 2 of the Law. Appeal is not allowed against this order (article 11 par. 1, related to article 126).

After the order has been published in the Official Gazette, all conditions are met for the bankruptcy judge to issue a special **order which instructs the registry court to erase the debtor from the register of companies** (Form no. 15) – article 140 par. 3 of the Law. Although article 140 par. 3 of the Law speaks of the legal finality of an order on closing of bankruptcy proceeding as the precondition for erasing the bankruptcy debtor from the register of companies, it should be understood that the order becomes legally final the moment it is issued, in case appeal is not allowed against such order (article 13 of the LEP, related to article 11 par1 of the Law on Bankruptcy Procedure).

## 2) Closing of bankruptcy proceeding due to bankruptcy estate insufficiency

A bankruptcy proceeding can also be closed if, **after opening** of the bankruptcy proceeding, it is determined that the **bankruptcy estate is insufficient to cover court expenses** (article 132 par. 1 of the Law). In practice this should not be frequent, since the bankruptcy trustee must assess in the preliminary procedure whether the bankruptcy estate, known to him at the time, will cover the costs of bankruptcy proceeding. It is then the court's obligation, at the hearing for determination of preconditions for initiation of bankruptcy proceeding, to check this assessment of interim bankruptcy trustee. If estimated that bankruptcy estate would not cover the costs of bankruptcy proceeding, the court must issue order rejecting the motion for initiation of bankruptcy proceeding.

Insufficiency of the bankruptcy estate must be **reported** to the court by **the trustee**. He will be able to draw that conclusion already in the phase of preparation of his report for the reporting hearing, when he is obliged to assess the value of bankruptcy estate at bankruptcy debtor's disposal. Bankruptcy trustee would have to, therefore, report insufficiency of bankruptcy estate to the court before or when submitting his report for the reporting hearing.

After receiving the report of insufficient bankruptcy estate from the trustee, the court issues an **order** which instructs the petitioner to **make advance payment** in an amount sufficient to continue the bankruptcy proceeding (Form no. 2) – article 132 par. 1, related to article 13 and article 43 par. 4 of the Law. If the petitioner fails to pay the set amount within 15 days, the court will **schedule, by order, a hearing** of representatives of the assembly of creditors, creditor's of the bankruptcy estate, and the bankruptcy trustee. That hearing can be also conducted **within the investigation hearing**, upon a motion from the trustee (article 132 par. 2).

From legal provision that, before closing bankruptcy proceeding due to insufficiency of bankruptcy estate, representatives of assembly of creditors must be heard (article 132 par. 2), it can be concluded that such closing can occur only **after the investigative hearing has been held** at which claims were investigated, and voting rights of each creditor were established.

After the report of insufficiency of bankruptcy estate, the bankruptcy trustee is not obliged to take actions for realization of assets of bankruptcy estate (article 132 par. 3). **An order on closing of bankruptcy proceeding due to insufficiency of bankruptcy estate** (Form no. XX) is issued after the court hears the bankruptcy trustee, representatives of the assembly of creditors, and creditor's of the bankruptcy estate. At that hearing, the court may possibly check whether such reason truly exists to close the bankruptcy proceeding.

The order on closing of bankruptcy proceeding due to insufficiency of bankruptcy estate is **published in the Official Gazette** – article 140 par. 1, related to article 126 par. 2 of the Law (Form no. XX). **Appeal** against this order must be filed within ten days of advertisement of Official Gazette (article 141 par. 1, related to article 11 par. 2 and article 13 par. 2 of the Law). Appeal can be filed by any bankruptcy creditor and bankruptcy debtor (article 141 of the Law). Appeal stays the implementation of the order (article 11 par. 5, related to article 141 par. 1 of the Law).

After the order on closing of bankruptcy proceeding due to insufficiency of bankruptcy estate becomes legally final, the court issues an **order which instructs the registry court to erase the bankruptcy debtor from the register of companies** (Form no. XX) – article 140 par. 3 of the Law).





# COURT FORMS ATTACHED TO BANKRUPTCY BENCHBOOK

**SARAJEVO  
December 2004**

## **LIST OF COURT FORMS ATTACHED TO JUDGES BENCHBOOK**

Form No.1 - Order directing the petitioner to cure defective petition to initiate a bankruptcy procedure

Form No.2 - Order establishing amount of the deposit required to fund the preliminary proceeding

Form No.3 - Order rejecting petition to initiate bankruptcy proceeding

Form No.4 - Order which dismisses the procedure on motion for initiation of bankruptcy proceeding due to failure to comply with court's request

Form No.5 - Order reinforcing stay during the preliminary proceeding

Form No.6 - Order on enforcement;

Form No.7 - Order on security measures;

Form No. 8 -Order appointing interim bankruptcy trustee

Form No. 9 -Order dismissing procedure on motion for initiation of bankruptcy proceeding due to repayment of debt

Form No.10- Order scheduling hearing of bankruptcy debtor, expert or witnesses (Article 9 oar. 2 and 3)

Form No.11- Announcement of security measures (Article 18 par. 1)

Form No.12 - Order rejecting Bankruptcy proceeding after hearing

Form No.13 - Order opening bankruptcy procedure

Form No.14- Table of reported claims

Form No.15- Order on conclusion of the bankruptcy proceeding

Form No.16- Order on extension of the deadline for submitting the bankruptcy plan

Form No.17- Order on rejection of the bankruptcy plan

Form No.18- Order on rejection of the bankruptcy plan for resubmission of the same plan

Form No.19- Order requiring opinion on the bankruptcy plan

Form No.20- Order on scheduling hearings on discussion and voting the plan

Form No.21- List of creditors and their voting rights with regards to bankruptcy plan

Form No.22- Order on confirmation of the bankruptcy plan

Form No.23- Order on denial of confirmation of the bankruptcy plan

Form No.24- Order on stay of liquidation of assets

**FORM NO. 1 - ORDER DIRECTING THE PETITIONER TO CURE  
DEFECTIVE PETITION TO INITIATE A BANKRUPTCY PROCEEDING**

Municipal Court in XX  
Number: St-01/04  
In XX, [Date]

Municipal/Basic Court in XX, Bankruptcy Judge [Insert Name of Judge] presiding, on the petition of [Name of Petitioner] to initiate a bankruptcy proceeding against [Name of Debtor] filed on [Date Petition Filed], having considered the matter, now decides, decrees, and orders as follows:

**ORDER**

1. The Petitioner is hereby granted 15 days from the date of this Order to file a supplemented petition supported by appropriate documentation showing that both its claim and the debtor's inability to make payments are probable.
2. If the Petitioner fails to file such documentation within this time period, the Court will reject this petition and levy the costs of the proceedings against the petitioner.

**DECISION**

On [Date], the Petitioning Creditor, [Name], filed a Petition with this Court to initiate a bankruptcy proceeding against [Name of Debtor] with [add additional motions, e.g., to immediately appoint an interim bankruptcy trustee, to prohibit the debtor from disposing of assets, to remove management, etc.]. This Petition was filed without adequate documentation attached to enable the Court to determine whether the Petitioning Creditor probably has a claim against the Debtor and whether the Debtor is probably unable to make payments as they are due.

Accordingly, pursuant to Art. 4, pars. 1 and 3 of the Law on Bankruptcy, the Court has required the Petitioning Creditor, [Name], to file within 15 days a supplemented Petition supported by appropriate documentation showing that both its claim and the debtor's inability to make payments are probable. Should the Petitioner fail to file the necessary documentation within this time period, the Court decided to reject the petition, levying the costs of the proceedings against the Petitioner, pursuant to Article 4, par. 3, of the Law on Bankruptcy.

Dated:  
[Date]

Bankruptcy Judge:  
[Signature]

**Appeal Rights:**

This Order is not subject to appeal, pursuant to Art. 11, par. 1, of the Law on Bankruptcy.

**Parties Notified:**  
Petitioner; Debtor

**FORM NO. 2 - ORDER ESTABLISHING AMOUNT OF THE DEPOSIT  
REQUIRED TO FUND THE PRELIMINARY PROCEEDING**

Municipal Court in XX  
Number: St-01/04  
In XX, [Date]

Municipal/Basic Court in XX, Bankruptcy Judge [Insert Name of Judge] presiding, having found the Petition of [Name of Petitioning Creditor] to initiate a bankruptcy proceeding against [Name of Debtor] filed on [Date Petition Filed] acceptable, now decides, decrees, and orders as follows:

**ORDER**

1. The amount of the deposit required to fund the preliminary bankruptcy proceedings in this case is KM [amount], which amount the Petitioning Creditor, [Name of Petitioner,] is hereby directed to deposit into the Court's account [account number] within 15 days, from the day of receipt of this order.
2. If the Petitioner fails to provide the court with prove of depositing KM [amount] to the Court's account within 15 days, the Court will reject this Petition.

**DECISION**

On [Date], the Petitioning Creditor, [Name], filed a Petition with this Court to initiate a bankruptcy proceeding against [Name of Debtor], which the Court has found to be acceptable. Accordingly, pursuant to Art. 4, par. 4, and Art. 13, par. 1, of the Law on Bankruptcy, the Court is required within 15 days to set the amount of the deposit necessary to fund the preliminary proceedings, directing the Petitioning Creditor to make the deposit in this amount into the Court's account within 15 days from the receipt of this order. The court in order warned Petitioner that his failure to furnish the Court with the prove that deposit was made within 15 days from receipt of this order would lead that, pursuant to Art. 13, par. 2 of the Law on Bankruptcy, the Court rejects this Petition.

Dated:  
[Date]

Bankruptcy Judge:  
[Signature]

**Appeal Rights:**

This Order is not subject to appeal, pursuant to Art. 11, par. 1, of the Law on Bankruptcy.

**Parties Notified:**

Petitioner; Debtor

**FORM NO. 3 - ORDER REJECTING PETITION TO INITIATE BANKRUPTCY  
PROCEEDING**

Municipal Court in XX  
Number: St-01/04  
In XX, [Date]

Municipal/Basic Court in XX, Bankruptcy Judge [Insert Name of Judge] presiding, on the petition of [Name of Petitioner] to initiate a bankruptcy proceeding against [Name of Debtor] filed on [Date Petition Filed], having considered the matter, now decides, decrees, and orders as follows:

**ORDER**

1. This Petition to initiate a bankruptcy proceeding against [Name of Debtor] filed on [Date Petition Filed] is hereby rejected.
2. [If denied under Art 4, Par. 3, for failing to file supplemented Petition or to provide necessary documentation within 15 days of the Order to do so:] The costs of the proceedings in the amount of KM [amount] are hereby levied against the Petitioning Creditor, and have to be paid within 15 days from the moment of receipt of this decision.

**DECISION**

On [Date], the Petitioning Creditor, [Name], filed a Petition with this Court to initiate a bankruptcy proceeding against [Name of Debtor]. This Petition was filed without adequate documentation attached to enable the Court to determine whether the Petitioning Creditor probably has a claim against the Debtor and whether the Debtor is probably unable to make payments as they are due, as required by Art. 4, par. 3, of the Law on Bankruptcy.

On [Date] the Court issued an Order granting Petitioner 15 days from the date of receipt of the Order to file a supplemented petition supported by appropriate documentation showing that both its claim and the debtor's inability to make payments are probable. The court in order warned that if Petitioner fails to file such documentation within this time period, the Court will reject this petition and levy the costs of the proceedings against the Petitioner, pursuant to Art. 4, par. 3, of the Law on Bankruptcy.

Petitioner received this decision personally on [Date], and having failed to file a supplemented petition supported by appropriate documentation showing that both its claim and the debtor's inability to make payments are probable, within 15 days from receipt of the order, this Court decided to reject the Petition to initiate a bankruptcy proceeding against [Name of Debtor], pursuant Art. 4, Par. 3, of the Law on Bankruptcy.

OR  
**DECISION**

On [Date], the Petitioning Creditor, [Name], filed an acceptable Petition with this Court to initiate a bankruptcy proceeding against [Name of Debtor]. Therefore, on [Date], the Court issued an Order, pursuant to Art. 4, par. 4, and Art. 13, par. 1, of the Law on Bankruptcy, setting the amount of the deposit required to fund the preliminary bankruptcy proceedings in this case at KM [amount] and directing the Petitioning Creditor to deposit this amount into the Court's account within 15 days from receipt of the Order. The Court further in the same Order indicated that if the Petitioner failed to deposit this amount into the Court's account by this date, then the Court would reject this Petition, pursuant to Art 13, par. 2, of the Law on Bankruptcy. Petitioner received notice of this decision personally, on [Date].

Accordingly, the Petitioning Creditor, despite an Order and its receipt, having failed to deposit the required amount into the Court's account within 15 days from receipt of the Order, this Court decided to reject the Petition to initiate a bankruptcy proceeding against [Name of Debtor] pursuant Art. 13, Par. 2, of the Law on Bankruptcy.

OR  
**DECISION**

On [Date], the Petitioning Creditor, [Name], filed a Petition with this Court to initiate a bankruptcy proceeding against [Name of Debtor]. This Petition was filed without adequate documentation attached to enable the Court to determine whether the Petitioning Creditor probably has a claim against the Debtor and whether the Debtor is probably unable to make payments as they are due, as required by Art. 4, par. 3, of the Law on Bankruptcy. On [Date] the Court issued an Order granting Petitioner 15 days from the date of the Order to file a supplemented petition supported by appropriate documentation showing that both its claim and the debtor's inability to make payments are probable. On [Date] Petitioner timely filed a supplemented petition supported by additional documentation intended to show that both its claim and the debtor's inability to make payments are probable. After careful study of this documentation, including [describe pertinent documentation], the Court finds that Petitioner has failed to establish [the Debtor's probable inability to make payments on accrued and current payables, as required by Art. 4, par. 1, and Art. 6, par. 2, of the Law on Bankruptcy *and/or* the Petitioning Creditor's holding a probable claim against the Debtor, as required by Art. 4, par. 1, of the Law on Bankruptcy].

Accordingly, despite notice and an opportunity to cure, the Petitioning Creditor having failed to meet the legal requirements of Art. 4, par. 1, and Art. 6, par. 2, of the Law on

Bankruptcy, for initiating a bankruptcy proceeding, this Court must reject the Petition to initiate a bankruptcy proceeding against [Name of Debtor].

Dated:  
[Date]

Bankruptcy Judge:  
[Signature]

**Appeal Rights:**

This Order is not subject to appeal, pursuant to Art. 11, par. 1, of the Law on Bankruptcy.

**Parties Notified:**

Petitioner; Debtor

**FORM NO. 4 - COURT ORDER WHICH DISMISSES THE PROCEDURE ON MOTION  
FOR INITIATION OF BANKRUPTCY PROCEEDING DUE TO FAILURE TO COMPLY  
WITH COURT'S REQUEST**

Municipal Court in XX  
Number: St-01/04  
In XX, [Date]

Municipal/Basic Court in XX, Bankruptcy Judge XX presiding, on the motion of company XX for initiation of bankruptcy proceeding against assets of debtor XX, from XX, on 05/27/2004 issued the following:

**ORDER**

Motion for initiation of bankruptcy proceeding against the company XX from XX is considered withdrawn.

**EXPLANATION**

On XX petitioner filed with this court the motion for initiation of bankruptcy proceeding against assets of company XX from XX. The Motion was filed without appropriate documentation attached, based on which existence of claim and debtor's inability to pay can be assessed.

On 05/27/2004, by Order no. St. 1/04, the Court ordered the petitioner to rectify certain deficiencies determined by the aforementioned Order, with warning of consequences. The aforementioned Order has been served on the petitioner to the address from the motion, but the return receipt has been returned with note that the addressee no longer resided at that address.

After that, pursuant to art. 352 par. 5 of the Civil Procedure Code ("Official Gazette" no.), the aforementioned Order was served on the petitioner by the way of court's notice boards. The Order was posted on the court's notice board on XX.

Since the service of this court's order no. St 1/04 dated 05/27/2004 is considered complete, and the petitioner has not complied with the instruction of the court, thus legal requirement has been met to assume that the petitioner's motion has been withdrawn, hence the court decided as said in the order, pursuant to article 4 par. 3 of the Law on Bankruptcy.

Bankruptcy Judge:

XX

(signature)

**NOTE ON LEGAL REMEDY:**

Appeal against this order is not allowed, pursuant to article 11 par. 1, and art. 4 par. 3 of the Law.

Serve on:

Petitioner

**FORM NO. 5 - ORDER REINFORCING STAY DURING THE PRELIMINARY PROCEEDING**

Municipal Court in XX  
Number: St-01/04  
In XX, [Date]

Municipal/Basic Court in XX, Bankruptcy Judge [Insert Name of Judge] presiding, on the petition of [Name of Petitioner] to initiate a bankruptcy proceeding against [Name of Debtor] filed on [Date Petition Filed], having considered the matter, now decides, decrees, and orders as follows:

**ORDER**

All measures of individual enforced execution commenced against the debtor are hereby temporarily stayed, and no creditor may exercise its right to its collateral or for separate recovery during the preliminary proceeding,

**DECISION**

On [Date], the Petitioning Creditor, [Name], filed a Petition with this Court to initiate a bankruptcy proceeding against [Name of Debtor]. After the court establishes that all legal requirements for further procedure of preliminary procedure were met, on [date], it issued an Order appointing [Name] as an Interim Trustee, who is charged with preserving the assets of [Name of Debtor] and evaluating whether the conditions for initiating a bankruptcy proceeding against the Debtor are present.

Accordingly, to aid the Interim Trustee in accomplishing his duties, to preserve the property of the Debtor, and to protect the creditors, the Court, pursuant to Art. 15, par. 3, of the Law on Bankruptcy, hereby reinforces the temporary stay of individual enforced execution against the debtor during the preliminary proceeding.

Dated:  
[Date]

Bankruptcy Judge:  
[Signature]

**Appeal Rights:**

This Order is subject to appeal by the Debtor or the Interim Trustee, pursuant to Art. 15, par. 7, of the Law on Bankruptcy. The appeal must be filed within 8 days, pursuant to Art. 11, par. 2, of the Law on Bankruptcy. An appeal by the Debtor does not stay the implementation of this decision, pursuant to Art. 15, par. 7, of the Law on Bankruptcy.

**Parties Notified:**

Interim Trustee; Petitioner; Debtor; All Known Creditors and Other Parties

## FORM NO. 6 - ORDER ON ENFORCEMENT

Municipal Court in XX  
Number: St-01/04  
In XX, [Date]

Municipal/Basic Court in XX, Bankruptcy Judge [Insert Name of Judge] presiding, on the petition of [Name of Petitioner] to initiate a bankruptcy proceeding against [Name of Debtor] filed on [Date Petition Filed], on motion of the Interim Trustee [or *ex officio*], having considered the matter, now decides, decrees, and orders as follows:

### ORDER

1. The subpoena of Debtor or its authorized representative at [location] to the [date and time] is hereby ordered.
2. Should the Debtor or its authorized representative fail to appear at this scheduled hearing, the Court will impose a cash penalty in an amount of 1.700 KM each.
3. The Debtor or its authorized representative is directed to make a solemn declaration, that he has supplied the information demanded from him correctly and completely.
4. Should the Debtor or its authorized representatives fail to make solemn declaration, as ordered in point 3 of this decision, the Court will impose a cash penalty in an amount of 1.700 KM.

### DECISION

On [Date] Interim Trustee moved the court with the request that Debtor and its representatives are hared by the court in order to provide him with necessary information. In that sense, Interim Trustee suggested that the Court from the debtor obtain following data [state information needed by Interim Trustee]. In addition Interim Trustee, required the Court to warn Debtor and its authorized representatives to stop obstruct work of Interim Trustee, and enable him to properly complete his report on conditions for opening of the bankruptcy.

Because of alleged difficulties the Interim trustee has encountered in obtaining the Debtor's co-operation, the Court has subpoenaed the Debtor or its authorized representative to appear and explain its conduct, under penalty of a cash fine, and required the Debtor or its authorized representative to solemnly declare, under penalty of a cash fine, that to the best of its belief and knowledge, he has supplied the information demanded from him correctly and completely pursuant to Art. 10, par. 2 and par. 3, sec. 1 and 2 and Art. 62, par. 5 and 7 of the Law on Bankruptcy. At this hearing,

the Court shall have an opportunity to interrogate the Debtor, pursuant to Art. 9, par. 3, of the Law on Bankruptcy.

Dated:  
[Date]

Bankruptcy Judge:  
[Signature]

**Appeal Rights:**

This Order is subject to appeal by the affected person within 8 days, but such an appeal does not stay the implementation of the decision, pursuant to Art. 10, par. 4, of the Law on Bankruptcy.

**Parties Notified:**

Interim Trustee; Debtor and its representatives, Court Police

## FORM NO. 7 - ORDER ON SECURITY MEASURES

Municipal Court in XX  
Number: St-01/04  
In XX, [Date]

Municipal/Basic Court in XX, Bankruptcy Judge [Insert Name of Judge] presiding, on the petition of [Name of Petitioner] to initiate a bankruptcy proceeding against [Name of Debtor], on motion of the Interim Trustee [or *ex officio*], having considered the matter, now decides, decrees, and orders as follows:

### ORDER

1. The Debtor, its representatives, and its management are prohibited from any of the following activities: [List Activities], without prior approval of this Court.
2. The Debtor, its representatives, and its management are hereby prohibited from engaging in any of the following activities: [List Activities],
3. The Debtor, its representatives, and its management are prohibited from any of the following activities: [List Activities], without prior approval of this interim Trustee [or The Interim Trustee may undertake legal actions and legal activities necessary for the continuation of the Debtor's business on behalf of the Debtor, which actions and activities shall bind the Debtor, who is hereby excluded from management,]
4. An interim ban on the postal exchange is hereby imposed,
5. [On motion of I-T after showing that continuing the business will impair the debtor or its estate] The Debtor's business activities are hereby temporarily suspended,
6. The following measures for preserving specific items of property of value, amounts in accounts, or claims of the debtor, even if they are subject to rights to separate satisfaction or separate recovery, are hereby imposed: [list additional measures],

### DECISION

On [Date], the Interim Trustee moved the Court to impose above stated interim measures in order to preserve the Debtor's estate and prevent him from any activities that could harm future bankruptcy estate. In his Petition, the Interim trustee proposed the following measures [list the measures].

According to Interim Trustee, the Debtor is engaged in the following activities [provide detailed summary, identifying specific problems]. Accordingly, in order to preserve the

property of the estate [and facilitate the ongoing and effective operation of the Debtor's business,] the Court has imposed the foregoing measures, pursuant to Art. 15, par. 1, 4, and 5; Art. 16, par. 3; and Art. 61, of the Law on Bankruptcy.

Dated:  
[Date]

Bankruptcy Judge:  
[Signature]

**Appeal Rights:**

This Order is subject to appeal by the Debtor or the Interim Trustee within 8 days, but such an appeal does not stay the implementation of the decision, pursuant to Art. 15, par. 7, of the Law on Bankruptcy. An appeal of the temporary suspension of the Debtor's business, pursuant to Art. 16, par. 3, of the Law on Bankruptcy, stays the implementation of this provision, in accordance with Art. 11, par. 5, of the Law on Bankruptcy.

**Parties Notified:**

Interim Trustee; Debtor; Register of Companies; Land Registry Office

Publication in "Official Gazette"

## **FORM NO. 8 - ORDER APPOINTING INTERIM BANKRUPTCY TRUSTEE**

Municipal Court in XX  
Number: St-01/04  
In XX, [Date]

Municipal/Basic Court in XX, Bankruptcy Judge XX presiding, on the motion of company XX for initiation of bankruptcy proceeding against assets of debtor XX, from XX, on 06/15/2004 issues the following:

### **ORDER**

1. XX, economist, is appointed as interim bankruptcy trustee for company XX.

Interim bankruptcy trustee will:

- look after debtor's assets
- inspect debtor's business premises and review debtor's business books and documentation,
- determine whether there is a reason for initiation of bankruptcy proceeding,
- explore whether the assets of bankruptcy debtor can cover the expenses of bankruptcy proceeding,
- determine whether operations of bankruptcy debtor can be fully or partially continued during preliminary proceeding.

Interim bankruptcy trustee must submit his report to this court within 30 days of issuance of this order, in which he will report about actions taken and provide his expert opinion about the situation found.

[OPTIONAL: In order to determine debtor's payment inability, financial appraisal is ordered as of XX, by financial court expert XX.

Bankruptcy debtor is ordered to provide access to substantive financial documentation for court expert, and to provide him with necessary information about company's operations.

Court expert is ordered to submit his written findings and opinion to the court, in four copies, within 30 days after issuance of this order]

2. Until decision is issued on the motion for initiation of bankruptcy proceeding, debtor can dispose of his property only with prior approval from interim bankruptcy trustee.

3. This order is published in "Official Gazette" and creditors are invited to notify interim bankruptcy trustee about security measures they intend to claim against assets of bankruptcy debtor.

4. Hearing of bankruptcy debtor is scheduled for 06/05/2004 at 11:00 AM, on the premises of this court, II floor, room no. 15, invited herewith.

## EXPLANATION

On XX petitioner filed motion with this court for initiation of bankruptcy proceeding against assets of debtor XX, from XX, claiming debtor owes him KM 95,000 for delivered electric power, and that for more than two months debtor hasn't been paying the debt. In the same motion, petitioner requested from the court to impose security measure upon company XX, in the form of ban on disposing of its assets during preliminary proceeding without prior approval from interim bankruptcy trustee, and for that purpose states that according to his information, the company XX has been selling its assets hastily in order to thwart settlement of its creditors.

The court reviewed documents attached to the motion: invoice for delivered electric power no. 240/04 dated 03/26/2004., petitioner's letter to the company XX dated 05/25/2004., and report of "Svjetlost" Bank about the account no. XX as of XX. Based on allegations in the motion and content of attached documents, the court was convinced that the petitioner has made the existence of his claim probable, as well as existence of bankruptcy reason arising from the fact that debtor is unable to pay due debts. As the bankruptcy proceeding is initiated upon a motion from creditor or debtor, pursuant to art. 4 par. 1 of the Law on Bankruptcy ("Official Gazette" no. ), and, in described manner, the petitioner has made it probable he is authorized to file the motion, prescribed requirements have been met for initiation of bankruptcy proceeding.

Having in mind the aforementioned, as well as the fact that based on submitted documentation, the court is unable to asses existence of all necessary conditions prescribed by the law for initiation of bankruptcy proceeding, order was to be issued appointing interim bankruptcy trustee to determine conditions for initiation of bankruptcy proceeding against debtor.

Furthermore, having in mind petitioner's allegations that possibly such changes in debtor's property could occur, until decision on the motion is made, which could be unfavorable for creditors, the court has imposed security measures upon company XX, which prohibit disposing of assets without prior approval from interim bankruptcy trustee during the preliminary proceeding. Thus, in court's opinion, unspoiled conditions are met for completion of preliminary proceeding.

By the order appointing interim bankruptcy trustee itself, the court has scheduled date for subsequent hearing of debtor, pursuant to article 9 par. 2 of the Law on Bankruptcy. Namely, in spite of several attempts to hear the debtor before issuance of this order, he failed to respond to repeated court summons, thus, for facilitating further procedure upon motion for initiation of bankruptcy proceeding, decision had to be made on appointing interim bankruptcy trustee and ordering security measures before hearing the debtor.

Bankruptcy Judge:

XX  
(signature)

**NOTE ON LEGAL REMEDY:**

Appeal against order establishing security measures can be filed within 8 days of service or announcement of the decision in "Official Gazette". Appeal is filed with Canton Court XX through this Court. Appeal of bankruptcy debtor against order of security measures does not stay its implementation.

Appeal against order appointing interim bankruptcy trustee is not allowed.

Service on parties:

Debtor

Bankruptcy trustee

Petitioner for initiation of bankruptcy proceeding

Register of Companies

Land Registry in ....

Saying of the Order is to be published in Official Gazette

**FORM NO. 9 - COURT ORDER DISMISSING PROCEDURE ON MOTION FOR  
INITIATION OF BANKRUPTCY PROCEEDING DUE TO REPAYMENT OF DEBT**

Municipal Court in XX  
Number: St-01/04  
In XX, [Date]

Municipal/Basic Court in XX, Bankruptcy Judge XX presiding, on the motion of XX for initiation of bankruptcy proceeding against assets of debtor XX, from XX, on 05/27/2004 issues the following:

**ORDER**

Bankruptcy proceeding against bankruptcy debtor XX from XX is dismissed.

Bankruptcy debtor is required to pay for expenses of the bankruptcy proceeding in the amount of XX within 15 days upon receipt of this order.

**EXPLANATION**

On XX petitioner filed motion with this court for initiation of bankruptcy proceeding against assets of company XX from XX.

Since the petitioner notified this court that the company XX, against which bankruptcy had been initiated, repaid the debt, that he was withdrawing the motion for initiation of bankruptcy proceeding accordingly, and moving the court to dismiss initiated proceeding, pursuant to article 4 par. 5 of the Law on Bankruptcy, the court dismissed the case.

**NOTE ON LEGAL REMEDY:**

Appeal is allowed against this order, to be filed with County/Canton Court, within 8 days upon receipt of the order. Appeal is submitted in this court in two copies.

To be served on:  
Petitioner  
Debtor

**FORM NO. 10 - COURT ORDER SCHEDULING HEARING OF BANKRUPTCY  
DEBTOR, EXPERT OR WITNESSES (Article 9 oar. 2 and 3)**

Municipal Court in XX  
Number: St-01/04  
In XX, [Date]

Municipal/Basic Court in XX, Bankruptcy Judge XX presiding, on the motion of XX for initiation of bankruptcy proceeding against assets of debtor XX, from XX, on 05/27/2004 issues the following

**ORDER**

Hearing of XX as bankruptcy debtor/witness/expert is scheduled for XX at XX hours, on the premises of this court, room no. XX, about the circumstances of filed motion for initiation of bankruptcy proceeding /or state other reasons.

Bankruptcy Judge:

**FORM NO. 11 - ANNOUNCEMENT OF SECURITY MEASURES**  
**(article 18 par. 1)**

Municipal Court in XX  
Number: St-01/04  
In XX, [Date]

Municipal/Basic Court in XX, Bankruptcy Judge XX presiding, on the motion of XX for initiation of bankruptcy proceeding against assets of debtor XX, from XX, issues the following:

**ANNOUNCEMENT**

Security measures are hereby ordered for XX as bankruptcy debtor:

1. XX, from XX, address XX, is appointed as interim bankruptcy trustee.
2. Any disposing of assets by bankruptcy debtor is prohibited without prior approval by the court.
3. Any separate enforcement measures initiated against debtor are temporarily suspended, and perfected and judgment creditors cannot exercise their rights in the preliminary proceeding.
4. This order is announced in "Official Gazette", and creditors are invited forthwith to notify interim trustee about the security measures they intend to claim against assets of bankruptcy debtor.

Bankruptcy Judge

## FORM NO. 12 - ORDER REJECTING BANKRUPTCY PROCEEDING AFTER HEARING

Municipal Court in XX  
Number: St-01/04  
In XX, [Date]

Municipal/Basic Court in XX, Bankruptcy Judge [Insert Name of Judge] presiding, on the petition of [Name of Petitioner] to initiate a bankruptcy proceeding against [Name of Debtor] filed on [Date Petition Filed], after an evidentiary hearing before this Court held on [Date of Hearing], having considered the evidence, now decides, decrees, and orders as follows:

### ORDER

1. The petition of [Name of Petitioner] to initiate a bankruptcy proceeding against [Name of Debtor] is hereby rejected.,
2. The petitioning creditor, [Name], shall pay for the costs of the proceeding, in an amount of [Amount] within 15 days from the day of receipt of this decision.

### DECISION

On [Date], the Petitioning Creditor, [Name], filed a Petition with this Court to initiate a bankruptcy proceeding against [Name of Debtor], which showed that both its claim and the debtor's inability to make payments are probable and which the Court has therefore found acceptable.

The Interim Trustee has timely submitted his report, together with the opinion from any expert appointed to assess the debtor's insolvency. From these reports it appears {state allegations of the interim trustee and court expert}.

On hearing of [Date], that court called for determination of the precondition for opening the bankruptcy procedure, the debtor objected opening the bankruptcy stating that that the petitioning creditor's claim is not valid, [or] that the Debtor is able to pay its debts as they come due, [or] that the property of the debtor, according to the projections, is insufficient to cover the costs of the proceeding and no interested party has deposited sufficient funds, pursuant to Art. 43, par. 4], [or] that the Debtor produces arms or military equipment and has not obtained the prior approval of the Ministry of Defense, as required by Art. 5, par. 3, of the Law on Bankruptcy, [or in RS only] that the Debtor is a state-owned company and the State has not consented, [or any other legitimate grounds, e.g., petitioner is not an authorized person or has insufficient legal interest under Art. 4, par. 1],

Having in mind that at the hearing held on [Date] it was established that [state factual background for some of the reasons stated above].

Following that, the court brought decision as stated in saying above, in accordance with Article 43 para. 2 to the Law.

Dated:  
[Date]

Bankruptcy Judge:  
[Signature]

**Appeal Rights:**

This Order is subject to appeal to the District/Cantonal Court by the Petitioner Creditor within 8 days,. The appeal is submitted to this court.

**Parties Notified:**

Interim Trustee; Debtor; Petitioning Creditor, Office of Authorized Prosecutor; Register of Companies; Land Registry Office; All Other Parties.

**Publication**

Court Notice Board  
"Official Gazette"

## FORM NO. 13 - ORDER INITIATING BANKRUPTCY PROCEDURE

Municipal Court in XX  
Number: St-01/04  
In XX, [Date]

Municipal/Basic Court in XX, Bankruptcy Judge XX presiding, on the motion of company XX for initiation of bankruptcy proceeding against assets of debtor XX, from XX, on 06/15/2004 issued the following:

### ORDER

1. Bankruptcy proceeding is initiated against assets of the company XX, from XX, with head office located in XX.
2. XX, graduated economist from XX, address XX, is appointed as the Bankruptcy Trustee.
3. Creditors are invited to report their claims to the bankruptcy court within 30 days of announcement of the Order in the "Official Gazette", submitting written claim in two copies with attached evidence supporting the claim.
4. Creditors are invited to notify the trustee, within 30 days of announcement of the Order in the "Official Gazette", as to what security rights they are claiming to have against debtor's assets. In this it is necessary to specify property against which security right is claimed, type and basis for the security right, as well as the collateral.
5. Persons that have debts towards the bankruptcy debtor are invited to repay their debts to the bankruptcy debtor forthwith.
6. Bankruptcy proceeding is initiated on 06/15/2004 at 10 o'clock AM, after which this Order was posted on the notice board of the court.
7. Initiation of the bankruptcy proceeding must be recorded in the court register of this court, and in the land registry maintained by the Municipal Court XX.
8. Creditors' hearing to investigate reported claims (investigation hearing) is scheduled for 08/01/2004 at 9:00 AM on the premises of this court, address XX, I floor, room no. 10.
9. Creditors' hearing where, on the basis of trustee's report, decision will be made on further course of the bankruptcy proceeding (reporting hearing), is scheduled

for the same day and the same place, commencing at 1:00 PM.

## EXPLANATION

In his motion for initiation of bankruptcy proceeding against debtor's assets the petitioner stated that he is owed the total of KM 95,000 for delivered electric power in the period between 01/01/2004 and 03/30/2004, and that according to data obtained from "Svjetlost" Bank from Sarajevo, where the debtor keeps a transaction account, which is published in the "Official Gazette" on XX, the debtor has been unable to pay his due debts from more than two months.

In the preliminary proceeding, upon the request of petitioner stated in the motion for initiation of bankruptcy proceeding, the court has appointed interim bankruptcy trustee, expert in economy, and imposed measures on the debtor limiting disposing of his property only upon previous approval by interim trustee. At subsequent hearing, held on 06/05/2004, pursuant to article 9, par. 2 of the Law on Bankruptcy, the Court heard the debtor about circumstances of issuance of order appointing interim trustee and ordering security measures.

On XX, interim trustee filed his report which clearly shows that debtor's inability to pay exists, and that, according to his opinion and findings of appointed expert, debtor has sufficient assets, which could, once sold, cover the expenses of bankruptcy proceeding. Based on that he proposed initiation of bankruptcy proceeding against the debtor.

At hearings held on June 5 and 15, 2004, debtor's representative did not challenge the fact that he is unable to pay. However, in his statements he pointed out that the debt for delivered electric power is much smaller, since certain compensation deals have been entered with the petitioner in the meantime.

Pursuant to article 6.par 1 of the Law on Bankruptcy, inability to pay is the cause for bankruptcy. In the specific case it has been established that the debtor ceased to repay its due debts for the period longer than 30/60 days, thus is considered unable to pay according to article 6 par. 3 of the Law on Bankruptcy.

Based on presented evidence, bankruptcy judge has determined that conditions had been met to initiate bankruptcy proceeding against the bankruptcy debtor, thus, on the basis of article 43 par. 2 and article 6 of the Law on bankruptcy, the court decided as stated in paragraph 1 of the saying of this Order.

Bankruptcy Judge:

XX  
(signature)

**NOTE ON LEGAL REMEDY:**

Appela gainst this Order is allowed for bankruptcy debtor (art. 50 par.1 of the Law on Bankruptcy). Appeal is submitted in this court in three copies within 8 days after the order is posted on the notice board of the court. Appeal does not stay implementation of the Order (only for RS).

To be served on:

Petitioner

Bankruptcy Debtor

«Svjetlost» Bank, Sarajevo (and all other known debtors of bankruptcy debtor)

All known creditors

Authorized Prosecutor's Office

Court Register of Companies

Land registry of Municipal Court in XX

**FORM NO. 14 - TABLE OF REPORTED CLAIMS**

Municipal Court in XX  
 Number: St-01/04  
 In XX, 05/27/2004

Ordinal number	Date	Creditor	Basis for the claim	Amount in KM	Founded	Disputed
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Creditors with right to separate settlement

1.	28.3.2004.	Bank	loan	500.000	300.000	200.000
2.	28.3.2004.	Bank	loan	200.000	150.000	50.000
3.	28.3.2004.	Bank	loan	100.000	100.000	-

Higher repayment ranking

1.	28.3.2004.	Marko Markovic, from XX	Salary	2000	2000	-
2.	28.3.2004.	Murat Muratovic, from XX	Salary	2000	2000	-
3.	28.3.2004.	Ivan Ivic, from XX	Salary	1500	1500	-

General repayment ranking

1.	28.3.2004.	Marko Markovic	Salary	10.000	10.000	-
2.	28.3.2004.	Murat Muratovic	Salary	10.000	8.000	2.000
3.	15.4.2004	Firma	Loan Agreement	100.000	75.000	25.000
4.	17.5.2004.	Firma	Sales Agreement	50.000	40.000	10.000

Bankruptcy Judge:

## FORM NO. 15 – ORDER ON CONCLUSION OF THE BANKRUPTCY PROCEEDING

Municipal Court in XX  
Number: St-01/04  
In XX, [Date]

Municipal/Basic Court in XX, Bankruptcy Judge XX presiding, in the bankruptcy proceeding against debtor XX, from XX, on 06/15/2004 issued the following:

### ORDER

1. Bankruptcy proceeding against XX is hereby closed
2. This Order and reasons for closing the bankruptcy proceeding will be published in the Official Gazette
3. Order is delivered to the court registry of this court in order to delete the debtor from the court register.

### EXPLANATION

At the main distribution hearing held on XX, the court issued approval of the proposal for distribution, after the assets of bankruptcy debtor have been realized. According to the final balance of the trustee, the assets of the bankruptcy debtor have been realized in the amount of XX. Expenses of the bankruptcy proceeding are KM XX, and other costs in the bankruptcy proceeding KM XX. XX is left for distribution among bankruptcy creditors. The total of reported claims was KM XX, out of which KM XX has been disputed. Claims of creditors of the higher settlement priority (employee wages) are XX, and they have been paid in full. Claims of general priority creditors are XX, and they have been paid in x% of the reported and established claims.

Bankruptcy trustee notified the court that on XX he carried out the distribution in accordance with the established distribution list. For creditors XX, whose claims had been disputed, and who submitted evidence to bankruptcy trustee, pursuant to article 119 of the Law on Bankruptcy, that they had initiated litigation for establishing the basis for their claims, upon court's approval bankruptcy trustee has deposited the amount of XX in this court's account for their account, for purpose of securing that claim, pursuant to article 119 par. 2 of the Law on Bankruptcy.

After the aforesaid, pursuant to article 126 of the Law on Bankruptcy, decision was made as said in the order.

Date:

Bankruptcy Judge

**NOTE ON LEGAL REMEDY:**

Appeal against this appeal is not allowed, pursuant to article 11 par. 1 and article 126 of the Law on Bankruptcy.

**FORM NO. 16 - EXTENSION OF THE DEADLINE FOR SUBMITTING THE  
BANKRUPTCY PLAN**

Municipal Court in XX  
Number: St-01/04  
In XX, [Date]

Municipal/Basic Court in XX, Bankruptcy Judge [Insert Name of Judge] presiding, on the a bankruptcy proceeding against [Name of Debtor] having reviewed decision of the Creditors Assembly on [Date of session on which assembly ordered Trustee to draft the plan], and upon request of Trustee [Name] submitted to the court on [Date] now decides, decrees, and orders as follows:

**ORDER**

I The deadline for drafting the Bankruptcy Plan, set up at the Assembly of Creditors held on [Date], now is extended for next 30 days.

II Deadline for Trustee [Name] to submit the Bankruptcy Plan on [Name of Debtor] is now due on [Date].

III The Trustee in drafting of the Plan is still obliged to follow instructions voted by Assembly of Creditors.

**DECISION**

On [Date] Assembly of Creditors, decided to task the Trustee to draft the Plan within next 30 days, with due date on [Date]. By the same decision the Assembly gave the Trustee several instruction that he should follow during drafting of the Plan. The most important elements of these instructions were that Trustee should try to negotiate selling of 51 % of the future company for amount of [exact number] to the strategic investor [Name] whereas rest of 49% of future company should be divided among all creditors, on pro rata basis of their claims.

On [Date], the Trustee submitted motion to the court, requesting extension of deadline of [Date], when submitting the Plan to the court is due. As explanation, the Trustee provided that negotiations with strategic investor [Name] would require more time then he expected. According to him, preliminary negotiations showed significant interest of strategic investor for strategic Plan, and it also asked for more time for due diligence of the Debtor's business and financial status. According to Trustee, investor proposed start of negotiation on conditions of the Plan, on [Date]. As that date come after submitting

the Plan is due, the Trustee asked the court for prolonging of deadline set up by the Assembly of Creditors.

On basis of status of whole case, as well as explanation of the submitted Trustee's request, the court find expressed interest of strategic investor as positive sign and assessed request for extension of the period over which that investor would do due diligence, as a justified. Further, the court recall that Trustee was instructed to start negotiations with this investor, in order to draft the Plan, and it does find these extensions of negotiations as impairing of any rights of creditors.

Having in mind complexity of negotiations that have to take place, and drafting of the Plan afterwards, the court decided in accordance with Article 143 to the Law, as stated in saying above

Dated:  
[Date]

Bankruptcy Judge:  
[Signature]

**Appeal Rights:**

According to Article of 11 of the Law, appeal against this decision has not been allowed.

Delivery:  
Trustee  
Debtor  
Board of the Creditors

## FORM NO. 17 - ORDER ON REJECTION OF THE BANKRUPTCY PLAN

Municipal Court in XX  
Number: St-01/04  
In XX, [Date]

Municipal/Basic Court in XX, Bankruptcy Judge [Insert Name of Judge] presiding, on the a bankruptcy proceeding against [Name of Debtor] having considered the matter ex officio, now decides, decrees, and orders as follows:

### ORDER

The bankruptcy plan submitted on [Date] by [Name] is rejected.

### DECISION

On [Date], the Petitioning Creditor, [Name], filed a Plan of reorganization with this Court with the request that the plan be discussed and accepted by creditors assembly. In his petition Petitioning creditor requested the court to deliver his Plan and schedule hearing on discussion on it.

Having in mind provisions of Article 143 and right of various persons to file the Plan during the bankruptcy procedure, the court finds that filing of Plan by Petitioning Debtor was not done by authorized person, and such decided to reject plan. According to provisions of Article 143 authorized person for filing the Plan within bankruptcy procedure are trustee and bankruptcy debtor. As the Petitioning Creditor [Name] is not among the persosns stated in 143, the court decided like in his order.

Dated:  
[Date]

Bankruptcy Judge:  
[Signature]

### Appeal Rights:

Party that submitted Plan is entitled to appeal this Decision within 8 days, submitting the it to the Cantonal/District Court through this court.

### Parties Notified:

This Order must be served to the bankruptcy trustee, the bankruptcy debtor, and Petitioning Creditor.

**FORM NO. 18 - ORDER ON REJECTION OF THE BANKRUPTCY PLAN  
(resubmission of the Plan – Art. 156 para.2)**

Municipal Court in XX  
Number: St-01/04  
In XX, [Date]

Municipal/Basic Court in XX, Bankruptcy Judge [Insert Name of Judge] presiding, on the a bankruptcy proceeding against [Name of Debtor], having considered the matter upon request of the Trustee, submitted on [Date], now decides, decrees, and orders as follows:

**ORDER**

The bankruptcy plan submitted on [Date] by [Name] is rejected.

**DECISION**

On [Date], the Debtor [Name], filed a Plan of reorganization with this Court with the request that the plan be discussed and accepted by creditors assembly. In his petition the Debtor requested the court to deliver his Plan after opening the Bankruptcy and schedule hearing on discussion on it.

On [Date], the Assembly of the Creditors, at its reporting hearing, rejected the possibility of reorganization of the Debtor, and Plan as such, and instructed the Trustee to cash the property of the Debtor at the best possible way, and distribute collected money among all creditors that have filed their claims in Bankruptcy procedure. However, two month later, on [Date] the debtor filed the same Plan again to the court, without consent of the Trustee or Board of Creditors.

On [Date], the Trustee move the court with the request to reject the Plan, on the basis that the substantially the same Plan was already rejected by Assembly of the Creditors on [Date]. He reminded the court that Creditor Assembly even rejected any idea of reorganization of the Debtor. He stated that by such submission, debtor only tries to slow down whole procedure and delay liquidation of assets, and that considering of the Plan again, especially without consent of the Bard of Creditors, would only lead to abuse of Debtor's right to submit the Plan during the Bankruptcy procedure. With his submission, the Trustee provided decision of the Board of creditors, from which it could be concluded that Trustee, for request to the court to reject the recently submitted Plan, have consent of Board of Creditors.

During procedure, the court also heard the Debtor on status of the case. In his statement he confirmed that for drafting of the Plan, he did not consult Creditors Board neither Trustee. In his opinion, by his Plan, the creditors were provided with greater opportunity to settle their claims in greater percent then they would be in position of liquidation of assets. According to him, that Plan provide 50 % of settlement of the creditors claims, whereas liquidation of assets offer only 20 %. The debtor is of opinion that neither Board of Creditor nor Trustee is aware of benefits of such Plan, and he asks the court to give him opportunity to explain his Plan at the Creditors Assembly.

Having reviewed all submission to the court as well as all factual background of the case, the court finds that resubmission of the Plan by the Debtor, have no consent of the Trustee or Board of creditors. That fact undoubtedly arises from statements of Trustee as well as Debtor, given to this court. Actually, from the decision of the Creditors Assembly of [Date], trustee submission of [Date of submission for rejecting the Plan] as well as consent of Board of Creditors [Date] provided by Trustee, it appears that there is no will at the Creditors Assembly even to discuss any Plan, especially substantially the same as previously submitted to the court.

That being so, the court find that all preconditions for rejection of the Plan, that are provided by Article 156 to the Law, are meet.

Dated:  
[Date]

Bankruptcy Judge:  
[Signature]

**Appeal Rights:**

Party that submitted Plan is entitled to appeal this Decision within 8 days, submitting it to the Cantonal/District Court through this court.

**Parties Notified:**

This Order must be served to the bankruptcy trustee, the bankruptcy debtor, and Board of Creditors.

## FORM NO. 19 - REQUEST FOR OPINION ON THE BANKRUPTCY PLAN

Municipal Court in XX  
Number: St-01/04  
In XX, [Date]

Municipal/Basic Court in XX, Bankruptcy Judge [Insert Name of Judge] presiding, on the a bankruptcy proceeding against [Name of Debtor] having reviewed the Bankruptcy Plan submitted on [Date] by trustee [Name] now decides, decrees, and orders as follows:

### ORDER

I The Bankruptcy Plan submitted on [Date] is hereby delivered for stating the opinion.

II Opinion to the plan has to be delivered to the court 30 days from elapsing 2 days form the moment of publishing this order at the court's bulletin board.

### DECISION

On [date] trustee [name] submitted with this court the bankruptcy plan. In his submission trustee requested the Court that the plan be discussed and accepted by creditors assembly. In his petition submitter of the Plan proposed the court to deliver his Plan for opinion to the debtor, Board of creditors, chamber of commerce and line Ministry of [Name] and schedule hearing on discussion on it.

Bearing in mind that court reviewed the plan and find that there is no reason to reject it in accordance with Article 156, it brought decision to deliver it for opinion, in accordance with Article 157 of the Law.

Dated:  
[Date]

Bankruptcy Judge:  
[Signature]

### Appeal Rights:

According to Article of 11 of the Law, appeal against this decision has not been allowed.

Delivery:  
Debtor  
Board of the Creditors

Line Ministry  
Chamber of Commerce

**FORM NO. 20 - ORDER ON SCHEDULING HEARINGS ON DISCUSSION AND  
VOTING THE PLAN  
(Art. 160)**

Municipal Court in XX  
Number: St-01/04  
In XX, [Date]

Municipal/Basic Court in XX, Bankruptcy Judge [Insert Name of Judge] presiding, on the a bankruptcy proceeding against [Name of Debtor], having considered the matter ex officio, now decides, decrees, and orders as follows:

**ORDER**

I The hearing for discussion and voting the Bankruptcy Plan for the [Name of Debtor] is scheduled for [Date – 30 days from date of this order – and day in the week].

[OPTIONAL:

I The hearing for discussion the Bankruptcy Plan for the [Name of Debtor] is scheduled for [Date – 30 days from date of this order – and day in the week], in the room no. XX, at [Hour], in the premises of this court..

II The hearing for voting the Plan is scheduled for [Date – maximum 30 days form the hearing on discussion of the Plan – and the day in the week], in the room no. XX, at [Hour], in the premises of this court. ]

II The hearing [both hearings] will be held in the room no. XX, at [Hour], in the premises of this court..

III The Bankruptcy Plan and received comments to the Plan are available at the court registry office as of [Date – at the least two weeks before the hearing].

**DECISION**

On [Date], the Debtor [Name], filed a Plan of reorganization with this Court with the request that the plan be discussed and accepted by creditors assembly. In his petition the Debtor requested the court to deliver his Plan after the bankruptcy procedure is opened, and schedule hearing on discussion on it.

After the court reviewed the Plan and decided that there were no reason to reject it, in accordance with Article 156 to the Law, on [Date], the court send the Plan to the trustee, Board of Creditors and Chamber of Commerce, in accordance with Article 157 to the Law, for their comments and suggestions. All their submissions that the court received are available in registry office of this court.

After the procedure for discussion on the Plan have been completed in accordance with above mentioned Articles, the court finds that condition for scheduling the hearing [s] on discussion and voting of the plan have been meet. [OPTIONAL: For efficiency of whole procedure, the court decided to join these two hearings, especially having in mind that Board of creditors already participated in drafting of the Plan, and as such, there is presumption that creditors are already informed on its provisions.]

Dated:  
[Date]

Bankruptcy Judge:  
[Signature]

**Appeal Rights:**

According to Article 11 to the Law, appeal against this decision is not allowed.

**Parties Notified:**

This Order, together with copy of the Plan and all submissions comenting the Plan, that court received so far, must be served to the bankruptcy trustee, the bankruptcy debtor, all creditors that filed their claims.

This order shall be published in Official gazette and immediately put at the Bulletin Board of this Court.

**FORM NO. 21 - LIST OF CREDITORS AND THEIR VOTING RIGHTS WITH  
REGARDS TO BANKRUPTCY PLAN  
(ARTICLE 164)**

Based on discussion of the bankruptcy plan held on [Date] and table of established claims supplemented at investigation hearing dated [Date] and posted on the notice board of the court on [Date], the following is established:

LIST OF VOTING RIGHTS BY GROUPS:

Group I

Claims of creditors with rights to separate settlement:

Bank ...	100.000,00 KM
Bank ....	50.000, 00 KM
Company ....	50.000, 00 KM

Group II

Claims of creditors of higher repayment priority:

Employees of bankruptcy debtor with recognized claims for the last eight salaries prior to initiation of bankruptcy proceeding, according to minimum wage;

1.	Marko Markovic, from .... St. ....no. ...,	2.000,00 KM
2.	Murat Muratovic, from .... St. ....no. ...,	2.000,00 KM
3.	Ivica Ivic, from .... St. ....no. ...,	1.500,00 KM
4.	...	

III Group

Claims of employees as creditors of general repayment ranking, for amount exceeding claims from the first group:

1.	Marko Markovic, from .... St. ....no. ...,	10.000,00 KM
2.	Murat Muratovic, from .... St. ....no. ...,	10.000,00 KM
3.	Ivica Ivic, from .... St. ....no. ...,	8.500,00 KM
4.	...	

III Group

Claims of creditors of general repayment ranking, whose interest is to collect on their claims in shortest possible time:

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1.	Company .....	300 000, 00 KM
2.	Company .....	200.000, 00 KM
3.	Insurance company .....	100.000, 00 KM
4.	Bank .....	50.000, 00 KM
5.	...	

IV Group

Claims of creditors of general repayment ranking, whose economic interest is to swap their claims for shares of the future company to be formed after the bankruptcy plan is confirmed:

1.	Company .....	100.000,00 KM
2.	Company .....	50.000,00 KM
3.	Leasing company .....	10.000,00 KM

Note:

- a) all creditors will be deemed to have accepted the plan if in each group majority of total number of creditors in that group voted for the plan
- b) if the sum of claims of creditors within the same group, who voted for the plan, exceeds the sum of claims of creditors of that group who voted against the plan.

Date:

Bankruptcy Judge

## FORM NO. 22 - ORDER ON CONFIRMATION OF THE BANKRUPTCY PLAN

Municipal Court in XX  
Number: St-01/04  
In XX, [Date]

Municipal/Basic Court in XX, Bankruptcy Judge [Insert Name of Judge] presiding, on the a bankruptcy proceeding against [Name of Debtor] having considered the matter at the hearing for discussion and voting on the bankruptcy plan held on [Date] now decides, decrees, and orders as follows:

### ORDER

I The bankruptcy plan submitted on [Date] by [Name] is hereby is confirmed together with implementation part.

II All Claims of the creditors are reduced to 50% of their amount and would be paid of within 3 years, starting from 1 January 2006 [decision on confirmation of the plan should contain whole Implementation part of the Plan]

III Supervision of the Plan now is ordered. The supervision would be held by trustee for 2 years, with regular semi reports submitted to this court and Board of Creditors..

IV This order come into effect with the moment of its finality, with the effect for all creditors, regardless whether they filed their claims within bankruptcy procedure or participated in bankruptcy procedure.

### DECISION

On hearing for discussion and voting on bankruptcy plan held on, [Date], all groups of the creditors accepted the plan. After hearing the Board of the creditors and trustee, according to Article of 173 of the Law, the court noted that they did not have any objections to the procedure or result of voting within the groups. Based on the same Article, the court heard the debtor.

Within procedure of submitting , discussing and voting the Plan, the court did not find any irregularities. The plan was submitted by the trustee as authorized person by Article 143, it was subsequently discussed on hearing [Date] and voted at hearing [Date]. The court considers that plan was properly created, in a accordance with provisons of Article 144 -155 of the Law, and that groups of creditors were formed lawfully and correctly, in accordance with article 147 of the Law. Further, the court considers that procedure of the adoption of the plan provided by the Law, have been fully respected in this case.

Therefore, the court brought the order on confirmation of the Plan, in accordance with the Article 173 of the Law. Supervision of the implementation plan, was provided as such by the plan, and court ordered supervision of the plan in accordance with the Article 185 of the Law.

Dated:  
[Date]

Bankruptcy Judge:  
[Signature]

**Appeal Rights:**

All creditors and debtor are entitled to appeal this Decision within 8 days, from elapsing two days from the moment of publishing this decision at the court board, by submitting it to the Cantonal/District Court through this court. The appeal is submitted in two copies.

**Parties Notified:**

This Order must be served to the bankruptcy trustee, the bankruptcy debtor, and all creditors that filed their claims, altogether with the copy of the Plan.

## FORM NO. 23 - ORDER ON DENIAL OF CONFIRMATION OF THE PLAN

Municipal Court in XX  
Number: St-01/04  
In XX, [Date]

Municipal/Basic Court in XX, Bankruptcy Judge [Insert Name of Judge] presiding, on the a bankruptcy proceeding against [Name of Debtor] having considered the matter upon proposal of [Name of creditor], now decides, decrees, and orders as follows:

### ORDER

The conformation of bankruptcy plan submitted on [Date] by [Name] is denied.

### DECISION

On [Date], the Trustee, [Name], filed a Plan of reorganization with this Court. The Plan was reviewed by the court, distributed in accordance with Article 157 of the Law and discussed by Assembly of Creditors at the hearing held on [Date]. At the separate hearing , on [Date] the Plan was accepted by majority of all groups..

At the hearing for accepting the plan, Creditor [Name] as proponent move the court with the request that court deny confirmation of the Plan. Namely, proponent suggested that assembly of the Creditors, by accepting the Plan, have put him in worse position then he would be if the Plan did not exist. He stated, that by Plan, in two years of implementation of the Plan he would receive amount of 50 000 KM (his total claim is 100 000), compared with 45 000 KM that he would receive in straight liquidation of the bankruptcy debtor. Both estimations were calculated by appraiser [Name], that was approved by trustee and Board of creditors on [Date]. However, according to Creditor[Name], the calculation have serious omissions, as it did not take into account interest which he could get in two years, if he has put money received from liquidation, into his business now. According to him, profit margin in his business is 10% per year. In that calculation, after two years, he could earn 20% return capitalization, and thus, earn more then 9 000 KM in two years. That calculation lead to conclusion that in two years, if the company is liquidated now, he could receive 54 000 KM (45 000+ 9000), whereas,, according to bankruptcy plan, in two years he could get only 50 000 KM.

In that regard, Creditor [Name] provided court with his income statements and finical reports for last two years, approved by authorized auditors and submitted to Tax administration on [Date], opinion of the court financial expert as regards to expected

loss of Creditor [Name], in the case that the Bankruptcy Plan is approved, for two years, as well as Creditor's business contracts signed with two Customers, for next [Number] years.

On [Date] the court heard the Trustee [Name] and Chairmen of the Creditor board [Name], to the above stated allegations of the Creditor [Name]. According to Trustee, the calculation that was presented by Creditor is just business speculation, created with only one aim, to destroy reorganization of the Debtor. In that sense, he stated that in business, any guarantee that someone would earn 9 000 KM in two years is more than speculation. Any person with the basic knowledge on business should know that all estimations in business are just projections and plans, that very rarely they could be realized in real life. It is more often that realization of such plans exceeds them or does not meet the plan at all.

The trustee further stated, that he does not challenge the documentation and contracts provided by Creditor, but simply it does not mean that Creditor would earn additional 9 000 KM in two years, as market of that goods was turbulent in previous years, and there is no guarantee that even Creditor or its Contracting parties would survive incoming events at that market. From his point of view, Bankruptcy Plan guarantees him that he will receive 50 000 KM in next two years, the Plan is realistic, and give him a chance, after consolidation of the Debtor through bankruptcy, that he will have consumer for his goods for certain period of time in future. That is why, according to him, the objection of Creditor, the court should reject.

Chairman of Creditor Board [Name] stated that, majority of the creditors accepted the plan, that Plan is realistic and provide all creditors with better percentage of satisfaction of their claims. According to Plan, all creditors should receive 50% of their claims, and through liquidation only 45% of their claims. He even stated that he is of opinion that in liquidation creditors would not even be able to get 45%, as his perception is that it would be significantly lower, i. e. 20-25%. That is why he suggest the court not to accept objection of the Creditor [Name] as, otherwise, failure of the Plan would not only danger 50% of settlement, but much more, denial of the Plan would decrease settlement of the creditors for 50% compared what is offered by the Plan. President of the creditors stated that amount of 4 000 KM is too small, to endanger so many creditors and their settlement. At the end, he fully supported arguments that trustee offered in his statement.

After review of all arguments and provided documentation, the court decided as stated in saying of this decision.

Namely, Creditor [Name] offered set of arguments, and relevant documentation supporting his statements that he was put in worse position then if the Plan does not exist. Among others, he also provided the court with copies of his contracts signed with his consumers, stating that consumers would buy his whole production that he can make in next two years. Neither Trustee nor President of the Board of Creditors disputed validity of this documentation, and thus give to court reason to trust them.

Arguments of Trustee and Chairman of Board of Creditors relay on unrealistic projections of the Creditor's Plans for next two years, and uncertainty that he would earn 9 000 KM in two years. In that sense however, they have not stated any valid documentation, expert opinion or some relevant significant research, according to which market of goods would be unstable and not predictable in next two years.

Under such conditions, the court found that creditor move the court and prove that he would be put in less favorable position then he would have been in if there were no Plan, and such meet precondition provided by Artlice 176. For these reasons, the court denied conformation of the Bankruptcy Plan, voted and accepted on [Date], by Assembly of Creditors.

Dated:  
[Date]

Bankruptcy Judge:  
[Signature]

**Appeal Rights:**

All creditors and Bankruptcy Debtor are entitled to appeal this Decision within 8 days, submitting it to the Cantonal/District Court through this court. According to Article 178 of the Law, the appeal does not have suspensive effect.

**Parties Notified:**

This Order must be served to the bankruptcy trustee, the bankruptcy debtor, the Petitioning Creditor, and Board of Creditors .

**FORM NO. 24 - ORDER ON STAY OF LIQIDATION OF ASSETS  
(Art. 158)**

Municipal Court in XX  
Number: St-01/04  
In XX, [Date]

Municipal/Basic Court in XX, Bankruptcy Judge [Insert Name of Judge] presiding, on the a bankruptcy proceeding against [Name of Debtor], having considered the matter upon request of the Trustee, submitted on [Date], now decides, decrees, and orders as follows:

**ORDER**

I The liquidation of assets of Bankruptcy Debtor [Name] is stayed as of [Date].

II All actions that Trustee has done so far, for purpose of liquidation of assets, stay in force until further decision of the court.

**DECISION**

On [Date], the Debtor [Name], filed a Plan of reorganization with this Court with the request that the plan be discussed and accepted by creditors assembly. In his petition the Debtor requested the court to deliver his Plan and schedule hearing on discussion on it.

On [Date], the Assembly of the Creditors, at its reporting hearing, decided to liquidate the assets of the Debtor. However, on [Date] the bankruptcy debtor submitted Reorganization Plan, that, allegedly, he drafted with the consent of some of the creditors with the highest claims filed. As in the bankruptcy procedure the Board of the Creditors has not been established, the court decided to call Creditors Assembly for [Date], in order to check out whether Creditors assembly is still for the liquidation of the Debtor's company. In that sense session of the Creditor assembly is scheduled for [Date].

On [Date], the Trustee moved the court with the request that liquidation of the assets is temporally ceased, in order to research whether Creditors assembly would change their decision on liquidation of the Debtor's property, based on submitted Reorganization Plan. As Trustee has clear instruction on way and conditions of liquidation of the assets, as well as the fact that liquidation for some of the real property have reached the advanced phase, very close to transfer of ownership over the property, Trustee urged

the court to temporarily cease selling of assets, having in mind that Plan of Reorganization, submitted by Debtor, appears to be realistic and have support of some of the biggest creditors that filed their claims in Bankruptcy procedure. He stated that any late reaction of the court upon his request, to cease the procedure of liquidation, would probably lead to later impossibility of realization of the submitted Plan.

Following the Trustee's request, the court reviewed the factual background of the case, and finds that liquidation procedure for 4 real estates are already in the phase of paying purchasing prices, after bidding was successfully completed. In addition, after hearing of two creditors with the biggest claims filed, that took place on [Date], the court established that their support for submitted Plan really exists, as Debtor and Trustee stated in their submissions to the Court. However, they were not sure whether Plan would get necessary support by Creditors Assembly. From the Trustees reports, submitted to the court on [Date], it appears that prolonging of the liquidation of assets for 15 days, when next session of Creditors Assembly is scheduled, would not harm the liquidation process nor rights of creditors.

Having in mind all above stated, the court decided that, according to Article 158 to the Law, all conditions for staying the liquidation are met, and thus, decided to halt liquidation procedure by [Date]

In its saying above, the court decided to preserve valid all actions performed by the Trustee in liquidation procedure, in order to prevent possible damage for Bankruptcy estate. It is court assessment, based on Trustee input from his submission on [Date], that the best bidders at the auctions would be willing to wait with payment of the price until [Date], when next Assembly of Creditors should take place.

Dated:  
[Date]

Bankruptcy Judge:  
[Signature]

**Appeal Rights:**

According to Article 11 to the Law, appeal against this decision is not allowed.

**Parties Notified:**

This Order must be served to the bankruptcy trustee, the bankruptcy debtor, and be put at Bulletin Board of this Court.