

APPENDIX F

UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF CONNECTICUT

CHAPTER 12 OPERATING ORDER

Having filed a petition for relief for a family farmer or family fisherman under Chapter 12 of the Bankruptcy Code, the Debtor and the Debtor's counsel are hereby directed to conform to the following rules, regulations, and procedures:

1. 11 U.S.C. §521 requires the Debtor to cooperate with the Chapter 12 Trustee appointed in this case. The Debtor is also required to furnish information required by the Chapter 12 Trustee in supervising the, administration of this case, including regular reports of operations of the Debtor's farming/fishing enterprise. The Debtor and the Debtor's attorney of record are required to give the Chapter 12 Trustee and such others as directed, notice of all motions and other pleadings filed in this case, as specified in the Federal Rules of Bankruptcy Procedure.
2. The Debtor shall provide the Chapter 12 Trustee with the following financial and informational reports, with a copy to the Office of the U.S. Trustee, 150 Court Street, Room 302, New Haven, CT 06510:
 - a. Summary of Operations for Chapter 12 Case. The attached form report is an information report showing the Debtor's, results from last year's operation, and estimates or projections for the current or next crop year. This report should be completed and filed with the Clerk of the Court within __days of the filing of the Chapter 12 Petition in Bankruptcy. **[Form to be attached.]**
 - b. Monthly Cash Receipts and Disbursements Statement. The attached form is to be completed and filed with the Clerk of the Court no later than the 15th day following the end of each month and report all of the Debtor's receipts or income, in cash, by check, or by any other means, received during the month. The receipts should be itemized by kind, quantity, and dollar amount, for example: "Sold 2,000 bushels of corn - \$2,000", "Sold 10 beef cattle - \$4000", "Sold 5 tons of hay - \$275." Likewise, all expenses paid in cash or by check should be itemized. All cash received must be deposited in the Debtor-in-possession's bank account and all payments for expenses should be made by check to extent feasible. If cash is paid by the Debtor, a written receipt must be obtained and kept in a file or envelope. Household or family living expenses need not be itemized, but a lump-sum of funds used or spent for household or family living expenses should be shown. Operating expenses should be itemized under appropriate headings such as fuel, feed, veterinary expenses, repairs, etc. A copy of this report must be timely served upon the Chapter 12 Trustee and the Office of the United States Trustee. **[Form to be attached.]**

- c. Tax Deposit Statement. If the Debtor is a family farm/fishing corporation or if the Debtor has employees for which the Debtor is legally required to withhold income taxes or pay social security taxes, the Debtor must complete the tax deposit statement attached to this Order and timely provide evidence to the Chapter 12 Trustee of the full and timely payment of such taxes. **[Tax deposit statement to be attached.]**
 - d. Insurance Statement. Within 14 days after the filing of the petition or Order of Conversion to this Chapter 12, the Debtor shall provide the Chapter 12 Trustee with a verified statement or written evidence from the Debtor's insurance carrier or broker that the Debtor has fire, casualty and extended coverage on the Debtor's buildings and the equipment, motor vehicle insurance on all vehicles operated on public highways, and workers compensation insurance; if applicable. If no such insurance is currently in effect, the Debtor must explain why it is not in force. The Debtor shall immediately notify the Chapter 12 Trustee and the Office of the United States Trustee of any lapse, cancellations, of proposed cancellation of any such insurance coverage.
3. Commencing on the day the Chapter 12 petition was filed, the Debtor shall commence keeping books and records for the new separate taxable entity. The Debtor shall do the following:
 - a. The books and records of the Debtor shall be closed as of the date of filing the bankruptcy petition, and a new set of books and records must be kept, thereafter, for the Debtor-in-possession under Chapter 12
 - b. All the Debtor's bank accounts shall be closed immediately upon the filing of the Chapter 12 petition, and new bank accounts opened. All amounts from the old account and all receipts from on or after the petition date shall be deposited in the new bank accounts, and all disbursements shall be made by check. The new bank accounts shall be in the name of the Debtor as "Chapter 12 Debtor-in-possession," and this description shall also appear on the new bank pre-numbered bank checks and deposit slips for this checking account.
 - c. The Debtor shall keep a file (or envelope) with copies of all bills, invoices and sales slips for purchases or payments the Debtor makes after the petition is filed.
 4. Both the Debtor and the Debtor's attorney shall attend the § 341 Creditors' Meeting, at which time the Debtor will be examined under oath by the Chapter 12 Trustee and by any creditors who may attend. The Debtor shall bring to the meeting a copy of the Debtor's last year's federal, state, and local (if required) income tax returns and all schedules filed with the return, including Schedule F. The copy of the income tax returns shall be presented to the Chapter 12 Trustee at the First Meeting, if not earlier supplied to the Chapter 12 Trustee.
 5. It is the responsibility and duty of the Chapter 12 Debtor to prepare and timely file all federal, state, and local tax returns required by applicable law. It is advisable in the complex area of bankruptcy and taxation that the Debtor retain a qualified tax preparer to perform the obligations to file federal and state returns. Neither the United States Trustee

nor the Chapter 12 Trustee are permitted to give any tax advice to individual Debtors. Copies of the federal, state, and local tax returns which are filed by the Debtor for any period commencing with the filing of the Chapter 12 petition through the completion of the confirmed plan shall be timely provided to the Chapter 12 Trustee and the United States Trustee's office.

6. Chapter 1, 3 (except for Section 361) and 5 of the Bankruptcy Code also apply to a case under Chapter 12 of the Bankruptcy Code. The Debtor shall not:
 - a. Retain or employ attorneys, accountants, appraisers, auctioneers or other professional persons without court approval. This includes employing the attorney who filed the petition to provide services after the filing. *See* 11 U.S.C. § 327.
 - b. Compensate any attorney, accountant, appraiser, auctioneer or other professional except as allowed by the Court. *See* 11 U.S.C. § 330.
 - c. Use cash collateral (or cash equivalence) without the consent of the secured creditor or court authorization. *See* 11 U.S.C. § 363(c)(2). Cash collateral includes proceeds, products, offspring, rents, or profits of property subject to a security interest when reduced as cash.
 - d. Obtain credit or incur unsecured debt other than in the ordinary course of business without court authorization. *See* 11 U.S.C. § 364(c).
 - e. Incur secured debt without court authorization. *See* 11 U.S.C. § 364(c).
 - f. Pay any creditor for goods or services provided before the filing of the petition except as provided in a confirmed plan. *See* 11 U.S.C. § 549.
7. A Chapter 12 plan shall be filed within 90 days of the date that the petition was filed, unless the court extends the time. 11 U.S.C. § 1221. Failure to comply is cause for dismissal under 11 U.S.C. § 1208.
8. The Debtor shall file objections to claims within 45 days of the confirmation order and proceed promptly with the prosecution and resolution of any such objections so as not to unduly delay the Chapter 12 Trustee's distributions to creditors.
9. Plan Confirmation Requirements. The Court shall confirm a plan only if the plan provides a basis for determining whether the requirements of 11 U.S.C § 1225 (a) and (b) have been met. The requirements of §§ 1225 (a)(4), 1225 (a)(5)(B)-(C) and 1225 (a)(6)-(7) may be deemed not satisfied if the plan does not contain at least the following information:
 - a. A statement disclosing any change of the Debtor's assets or liabilities from the date of filing of the petition through the date of filing of the plan.
 - b. A cash-flow projection for the life of the proposed plan, including and identifying the Debtor's farm/fisherman and non-fisherman income sources.
 - c. Assumptions and sources upon which the cash-flow projection is based, with historical or other data justifying such assumptions.

- d. Farm/fisherman and expense information in a form comparable to Internal Revenue Code Schedule F forms filed by the Debtor for the previous ___ years plus a statement of the Debtor's non-farm/non-fisherman income for the tax year preceding the filing of the plan.
 - e. Projected administrative expenses, including attorney fees.
 - f. A plan summary indicating the dates, amounts, and payees of all amounts to the paid under the plan.
 - g. If the plan proposes the sale of assets, a statement from the qualified accountant or attorney, setting forth the probable tax consequences thereof.
 - h. The basis of any valuation of property, including names of appraisers and dates of appraisal, if any.
 - i. A statement with detailed information, specifying the need for the plan payments to be made over a period longer than three years.
 - j. If the Debtor proposes to retain secured property, a statement itemizing such property, the value of the property, and the basis of the valuation estimate.
 - k. A liquidation analysis sufficient to show compliance with 11 U.S.C. § 1225(a)(4), including a statement from a qualified tax accountant or attorney as to tax liabilities from liquidation, if any.
 - l. A projected disposable income statement for the term of the plan.
 - m. In the event the Debtor asserts that certain taxes are to be treated as general unsecured claims under 11 U.S.C. § 1222(a)(2)(A), the Debtor shall provide to the affected governmental units copies of the Debtor's complete tax returns for the three years prior to the filing of Chapter 12 relief.
 - n. The Debtor has paid all amounts that are required under a domestic support obligation and that first become payable after the date of the filing of the petition if the Debtor is required by a judicial or administrative order, or by statute, to pay such domestic support obligation.
 - o. In a Chapter 12 case, the Debtor must file the certification of payment of domestic support obligations (Appendix "H") with the Court at least seven days prior to the expiration of the Objection to Confirmation deadline. A certification must be filed prior to the confirmation of all original plans and all amended plans and all post-confirmation amended plans. If the certification is not filed with the Court, the confirmation or approval may be denied. The Certification should not be filed before the applicable plan is filed.
10. Tax returns. A Debtor operating under a confirmed plan shall file post-petition tax returns, both state and federal, and pay post-petition taxes, both state and federal, on a timely basis. The Debtor shall comply with all requirements of Title 26 of the United States Code or applicable state tax code. Failure to file post-petition federal or state tax returns or failure to timely pay post-petition federal or state tax liabilities, in the manner prescribed by Title 26, or applicable state law, absent a showing of good cause, may be considered a material

default of a confirmed plan. All post-petition federal and state tax returns and all post-petition federal and state tax liabilities are included in this paragraph, including returns or liabilities for which the Debtor is a responsible party under 26 U.S.C. § 6672 or similar state laws. Complete copies of such tax returns shall be timely provided to the Chapter 12 Trustee.

11. If the Chapter 12 Trustee and/or United States Trustee require periodic reports after confirmation of a plan of reorganization until the court grants a final decree, the information required to be reported and the frequency of the reports shall be determined at the time the plan is confirmed.
12. Failure to comply. Failure of the Debtor to comply with the instructions contained in this Order may be grounds for dismissal of the Chapter 12 case under § 1208.