UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

BANKRUPTCY DISPUTE RESOLUTION PROGRAM INFORMATION SHEET

***Important:** Please note, this information sheet should be used in complying with the requirement of B.L.R. 9040-3 to discuss Alternative Dispute Resolution with clients.*

The United States Bankruptcy Court for the Northern District of California ("Bankruptcy Court") has established an alternate dispute resolution program known as the Bankruptcy Dispute Resolution Program ("BDRP" or "Program").

This description of the BDRP is being provided to you by the Bankruptcy Court because you are, or may be, a debtor or creditor in a bankruptcy case and/or a party to an adversary proceeding before the Bankruptcy Court, or counsel to a party involved with a bankruptcy case or an adversary proceeding, and may find this Program useful to you. If you are a party to an adversary proceeding, you are required by B.L.R. 9040-3 to discuss available dispute resolution options and consider whether your case might benefit from dispute resolution options, and submit a certification within a specified period of time.

The BDRP offers a means to resolve disputes quickly, at less cost and often without the stress and pressure of litigation. The Program offers a means to utilize the services of a trained Resolution Advocate ("RA") to assist the parties in the resolution of their dispute. The parties choose the method of resolution that best suits their needs. Methods include mediation, negotiation, early neutral evaluation and settlement facilitation, which are discussed below.

MATTERS THAT MAY BE REFERRED TO THE BDRP

The BDRP is available to parties, whether or not represented by counsel, in all controversies arising in adversary proceedings, contested matters or other disputes in a bankruptcy case with a few exceptions.

COST

The resolution advocates are entitled to receive $100 per side directly from the parties. That fee may be waived in whole or in part in the discretion of the resolution advocate (for example, if a party cannot afford the $100 fee).

PROCEDURE FOR REFERRING A MATTER TO THE BDRP

The rules governing the BDRP are found in the Bankruptcy Local Rules at B.L.R. 9040, et seq. The rules are available in the clerk's office or at the court's web site, www.canb.uscourts.gov

A matter may be referred to the BDRP by the Court with the agreement of the parties at any

BCRP01

time. Typically, the Court refers a matted to BDRP at a status conference or hearing, or the parties may submit a stipulated order requesting that the matter be referred to the BDRP. The order should recite that all parties to the dispute agree to the referral.

The following steps should be taken whether the matter is referred to the BDRP at a hearing, requested, or submitted by stipulated order.

1. The parties to the dispute are to confer and select a RA and an Alternative RA from the weekly lists of available panel members. There are separate lists covering RA's who are willing to serve in each location (e.g., Oakland, Salinas/Monterey, San Francisco, San Jose and Santa Rosa). These lists are updated weekly, and are posted outside the courtroom or may be obtained from the Courtroom Deputy. You may also call Edward J. Emmons at (415) 268-2395 to check availability. Your selection of an RA and Alternate should be made only from the weekly lists. A complete list of all panel members including short biographies is provided for reference in the clerk's office at the intake counter. It is also provided on the Court's web site at www.canb.uscourts.gov.

2. The parties should agree who is to complete the Order Appointing Resolution Advocate, and return or present 2 copies to the court for signature, together with a stamped envelope addressed to the submitting party.

3. The BDRP has been designed to be a streamlined procedure; therefore, upon receipt of the signed order, the submitting party must immediately serve a copy of the order on the RA, the Alternate, all parties to the dispute and Mr. Edward J. Emmons at: U.S. Bankruptcy Court, P.O. Box 7341, San Francisco, CA 94120.

Once the RA receives a copy of the order, he or she will contact the parties to schedule a conference. The RA in conjunction with the parties, will determine a time, place and format for the conference. Possible formats are as follows:

Facilitation - Facilitation is a collaborative process in which the RA functions as a neutral providing information about the process. The RA does not make substantive contributions regarding the merits of the dispute or possible settlements. A facilitator helps the parties define the issues in order to increase the likelihood that the parties will reach a consensus.

Mediation - Mediation is a flexible non-binding, confidential process in which a neutral facilitates negotiations among the parties to help them reach settlement. The mediator's goals include: improving communication across party lines, helping parties articulate their interests and understand those of the their opponent, probing the strengths and weaknesses of each party's legal positions, helping identify areas of agreement and generating options for a mutually agreeable resolution to the dispute. The mediator generally does not give an overall evaluation of the case. A hallmark of mediation is its capacity to expand traditional settlement discussion and broaden resolution options often by going beyond the legal issues in the controversy.

Early Neutral Evaluation - In Early Neutral Evaluation the parties and their counsel, in a confidential session, present summaries of their cases and receive a non-binding assessment by an experienced neutral professional with subject-matter expertise. The evaluator also helps identify areas of agreement, provides case-planning guidance and, if requested by the parties, settlement assistance.

All of the above are **non-binding, voluntary,** and **confidential.** Other processes and procedures may used by agreement and at the discretion of the parties and the RA.

If you have any questions, please contact the BDRP Staff Administrator, Edward J. Emmons at (415) 268-2395.

Revised 3/4/2003