

Office of the Standing Chapter 13 Trustee
105 Decker Ct
Suite 1150 11th Floor
Irving, TX 75062
(214) 855-9200

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

IN RE:
GEORGE DALE WIGINGTON
Debtor

CASE NO: **22-31780-SWE-13**

Pre-Hearing: **July 25, 2024 at 8:30 am**
Hearing: **July 25, 2024 at 2:00 pm**

Trustee's Motion to Dismiss For Failure to Cooperate With the Trustee

TO THE HONORABLE U.S. BANKRUPTCY JUDGE:

Comes now, **Thomas D. Powers, Standing Chapter 13 Trustee, Movant** herein, and pursuant to Section 1307(c) of the Bankruptcy Code and FRBP 9014 files this Trustee's Motion to Dismiss For Failure to Cooperate With the Trustee ("Motion") and for same would respectfully show the Court as follows:

NO HEARING WILL BE CONDUCTED HEREON UNLESS A WRITTEN RESPONSE IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AT 1100 COMMERCE STREET, 14TH FLOOR, DALLAS, TX 75242 BEFORE CLOSE OF BUSINESS ON July 05, 2024, WHICH IS TWENTY-FOUR (24) DAYS FROM THE DATE OF SERVICE HEREOF.

ANY RESPONSE MUST BE IN WRITING AND FILED WITH THE CLERK, AND A COPY MUST BE SERVED UPON COUNSEL FOR THE MOVING PARTY PRIOR TO THE DATE AND TIME SET FORTH HEREIN. IF A RESPONSE IS FILED, A HEARING WILL BE HELD WITH NOTICE ONLY TO THE OBJECTING PARTY.

IF NO RESPONSE IS FILED, THE RELIEF REQUESTED SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT OR THE NOTICED ACTION MAY BE TAKEN.

NOTE: IF A COPY OF THE TAX RETURN, APPLICATION FOR EXTENSION OR AFFIDAVIT IS PROVIDED TO THE MOVANT PRIOR TO THE DATE SET FORTH ABOVE, NO RESPONSE WILL BE REQUIRED

1. Debtor initiated the instant Chapter 13 proceeding by the filing of a voluntary petition on September 28, 2022.
2. Section 521(f) of the Bankruptcy Code provides, *inter alia*, "At the request of the court, the United States Trustee, or any party in interest in a case under chapter 7, 11, or 13, a debtor who is an individual shall file with the court - (1) at the same time filed with the taxing authority, a copy of each Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such tax return) with respect to each tax year of the debtor ending while the case is pending under such chapter;"
3. Movant is the Trustee, and therefore, is a party in interest in this case.
4. Debtor is an individual and has a duty to cooperate with the Trustee with regard to 11 USC Section 521.
5. On January 29, 2024, the Trustee mailed to Debtor by United States First Class Mail, postage paid, at his/her address shown on the Petition or any notice or change of address most recently received from the Debtor by the Trustee, a "2023 Tax Year Reminder Notice" ("the Request") which contained the following statement: "**The Trustee hereby requests a copy of the first two pages of your 2023 1040/1040A/1040EZ Federal Tax RETURN and Schedule C (if filed), when the RETURN is filed.**" The Trustee's mailing address and information to upload a PDF copy via 13Documents was provided.

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6. The Request also stated: "If you request an extension from the IRS for filing your RETURN...please provide a copy of that request for extension when filed (no later than April 15th, 2024) to this office and then provide the RETURN once filed."

7. Finally, the Request also stated: "If you are not required to file a RETURN, please contact your attorney so that he or she can assist you in preparing an Affidavit as to why a RETURN is not required."

8. The Trustee did not receive the 2023 Tax Return or Extension or an affidavit as to why a RETURN is not required.

9. The Trustee is requesting that the Court dismiss this case for Debtor's failure to provide the 2023 Tax Return as required under Section 521(f) of the Bankruptcy Code or an Extension or Affidavit, which would have enabled the Trustee to perform the duties required under Sections 1302(b) and 704(a)(4) of the Bankruptcy Code.

WHEREFORE, PREMISES CONSIDERED, Thomas D. Powers, Standing Chapter 13 Trustee, prays that this Court dismiss this Chapter 13 bankruptcy, for such other and further relief as this Court deems necessary.

Respectfully submitted,

THOMAS D. POWERS, CHAPTER 13 TRUSTEE

Date: 6/11/2024

By: /s/ Thomas D. Powers

Thomas D. Powers
State Bar No. 16218700
105 Decker Ct
Suite 1150 11th Floor
Irving, TX 75062
(214) 855-9200 / (214) 965-0755 (Fax)

NOTICE OF HEARING

You are hereby notified of the filing of the foregoing Trustee's Motion. A pre-hearing conference on the Trustee's Motion will be held on **July 25, 2024**. Due to the Covid pandemic Debtor's Counsel must initiate the pre-hearing conference by contacting the Trustee or his staff attorney **no later than 4:00 P. M.** on 07/24/2024.

Any objection or response to the proposed Motion not resolved or defaulted at the Pre-Hearing Conference will be heard by the Court on **July 25, 2024** by Webex beginning at 2:00 P.M..

You may access the Webex Hearings at the following:

Judge Everett - <https://us-courts.webex.com/meet/everett>

Access Webex instructions at

<https://www.txnb.uscourts.gov/judges-info/hearing-dates/judge-everetts-hearing-dates>

You do not have to attend the pre-hearing conference or hearing unless you oppose the Motion.

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Certificate of Service

I hereby certify that a copy of the foregoing "Trustee's Motion to Dismiss For Failure to Cooperate With the Trustee " was served on the following parties at the addresses listed below by United States First Class Mail or via electronic service.

Debtor: George Dale Wigington, 2451 Elm Grove Road, Wylie, Tx 75098
Notice Creditor(s): County Of Dallas, Co Linebarger Goggan Blair Et Al, 2777 N Stemmons Fwy Ste 1000, Dallas, Tx 75207**
Garland Isd, Perdue Brandon Fielder Collins & Mott, 1919 S Shiloh Rd Ste 640 Lb40, Garland, Tx 75042
Padgett Law Group, 546 Silicon Dr, Suite 103, Southlake, Tx 76092
Robertson Anschutz Schneid Crane Et Al, 13010 Morris Rd, Ste 450, Alpharetta, Ga 30004

**Indicates party has elected to receive all notifications via electronic service and was not served a copy via United States First Class Mail.

Date: June 11, 2024

/s/ Thomas D. Powers

Thomas D. Powers