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July 2009

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The Long and Winding UCC Debtor Name

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UCC filers occasionally struggle with a perplexing issue – how to fit an extremely long organization debtor name into the space available on the financing statement form. The written forms have more than enough space for most organization debtor names; however, up to 5% of debtor names submitted on written forms exceed the number of characters that can fit legibly on a single line in the name field.

The secured party can face increased risk when a debtor name is too long to fit in the UCC form name field. There is almost no margin for error, due to the strict Article 9 name requirements and narrow search logic. Yet, it is often filers' mistakes that create long debtor names in the first place.

This article identifies potential traps for the unwary filer and offers some best practice suggestions for dealing with unusually long organization debtor names. While the focus is on organization names, the same concepts apply equally to individual names.

Narrative Debtor Names

The threshold issue for a filer when confronted with a long debtor name is whether the name is in fact correct. Long debtor names often result when the filer uses the name field to provide a narrative that includes the debtor name. Some filers include statements of the debtor's capacity, descriptive information and other explanatory language. These "narrative names" should raise red flags for the filer, because the added information will almost always make the financing statement seriously misleading.

A narrative name normally will not satisfy the debtor name requirements of Section 9-503(a). A financing statement that fails to provide the correct name of the debtor in accordance with UCC Section 9-503(a) is seriously misleading under Section 9-506(b). Strict compliance is necessary - even what appears to be a minor error can prove serious enough to make the financing statement ineffective. The only exception to this rule occurs when a search of the correct debtor name, using the filing office's standard search logic, would disclose the record under Section 9-506(c).

The majority of state central filing offices use a variation of the standard search logic ("SSL") developed as part of the Model Administrative Rules for Revised Article 9. The SSL in most states will disregard minor deviations in spacing, punctuation and ending "noise words" that designate the debtor's entity type. However, the SSL will not disregard the most common errors found in narrative debtor names.

Narrative names appear frequently when the debtor is a trust or trustee acting with respect to

property held in trust. The name requirements in Section 9-503(a)(3) when the debtor is a trust or trustee are not always intuitive and have been misunderstood by many filers.

Under Section 9-503(a)(3)(A), regardless of whether the debtor is the trust or trustee under state law, the financing statement must provide the name specified for the debtor trust in its organic documents, or, if no name is specified, the record must provide the name of the settlor and additional information to distinguish the debtor from other trusts with the same settlors. The financing statement must also indicate, in the debtor's name or otherwise, that the debtor is a trust or trustee.

UCC filers should note that neither of the alternate name options is the name of the trustee. The name of the trustee is not sufficient, even if the trustee is the debtor under state law. The only exception would occur if the trustee is also the settlor of an unnamed trust. Even then the name is required in the debtor's capacity of settlor, not trustee.

Filers run into trouble when they expand the name required by Section 9-503(a)(3) with additional information. It is very common for the filer to include the name and capacity of the trustee, information about the trust documents and other descriptive text that extends the length of the debtor name. As demonstrated by the following example, names can reach great lengths when the filer combines explanatory information with the debtor name required by Section 9-503(a)(3).

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names	
1a. ORGANIZATION'S NAME	NORTH STAR TRUST COMPANY, SUCCESSOR TRUSTEE TO RBS CITIZENS, N.A. F/K/A CITIZENS BANK, N.A., SUCCESSOR BY MERGER TO CHARTER ONE BANK, N.A., AS SUCCESSOR TRUSTEE TO FIRST NATIONAL BANK, AS SUCCESSOR TRUSTEE TO GREATBANC TRUST COMPANY, AS SUCCESSOR TRUSTEE TO MILLENNIUM TRUST CO., AS SUCCESSOR TRUSTEE TO INDEPENDENT TRUST CORPORATION, NOT PERSONALLY OR INDIVIDUALLY, BUT SOLELY AS TRUSTEE UNDER A TRUST AGREEMENT, DATED DECEMBER 17, 1985, AND KNOWN AS TRUST NO. 315
OR	

The problem with narrative names is not limited to trust and trustee debtors. Decedent's estate and registered organization debtor names are not immune from errors that can contribute to an overly long name.

When the debtor is a decedent's estate, Section 9-503(a)(2) requires the financing statement to provide the name of the decedent and indicate the debtor is an estate. An estate is an organization. Yet, the name of the decedent is an individual name. The name must be provided in the individual name fields, just as if the decedent was a living individual. The indication that the debtor is an estate is a requirement of the financing statement, not of the name. There is a check box in Section 17 of the financing statement addendum form designated for the filer to make the required indication.

Perhaps due to concerns over the need to provide an individual name for an organization debtor, filers make a number of common errors when the debtor is a decedent's estate. Filers often include "ESTATE OF," "DECEASED" and other explanatory language. In some cases, the name includes references to the administrator of the estate or describes the will. These errors are compounded when the filer provides the information in the organization name field. When the filer combines these errors, the result is often an extremely long debtor name. The following example illustrates the problem with providing additional information in the organization name field on the form.

1a. ORGANIZATION'S NAME
Estate of Spencer B. Street, Jr., Deceased, admitted to probate under Cause No. 6384, Co. Court of Young Co, TX

A decedent's estate debtor name provided in such a manner is not the name required by Section 9-503(a)(2). The added information will prevent a search of the correct name from ever locating the record. The result will most often be a seriously misleading financing statement.

Registered organization names are also occasionally submitted with additional information that extends the length of the debtor name. Under Section 9-503(a)(1), the financing statement must provide the name of the registered organization debtor indicated on the public record that shows the debtor to have been organized.

Common registered organization name errors include combining a DBA along with the correct name, providing the entity's name history and indicating the debtor's domicile. As with other debtor names, a combination of these errors can lead to very long names that are insufficient under Section 9-503(a)(1) and will prevent a filing office search from disclosing the record.

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) do not abbreviate or combine names

1a. ORGANIZATION'S NAME	SHILOH MISSIONARY BAPTIST CHURCH OF PLANO, a Texas non-profit corporation, one and the same as: Shiloh Baptist Church; Trustees of Shiloh Baptist Church; Shiloh Missionary Baptist Church of Plano, Inc.; Shiloh Missionary Baptist Church, Inc.; Trustees for Mount Zion Colored Baptist Church of Plano, n/k/a Shiloh Baptist Church of Plano, Texas; and Shiloh Missionary Baptist Church		
OR	1b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME

Filers should be careful to provide nothing more than the correct name required by Section 9-503(a). Other information placed in the name field will normally prevent a search from disclosing the record. Anytime the organization debtor name does not easily fit in the form name field, the filer must stop and verify that the debtor's name is in fact extraordinarily long.

If after careful scrutiny the correct name of the debtor remains longer than the available space in the name field, the filer still must determine how best to provide it in a manner that the filing office can index. There are not many options.

Filing Long Debtor Names

UCC filers have tried several methods to provide lengthy debtor names in the limited space on a financing statement. All of them carry significant risks, depending on the jurisdiction's indexing practices.

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name

1a. ORGANIZATION'S NAME	See Exhibit A attached
OR	1b. INDIVIDUAL'S LAST NAME

One technique some filers have tried is to list the long debtor name on an attached exhibit and incorporate it by reference in the name field. The financing statement may provide the debtor name as "SEE ATTACHED" or a similar reference. One problem with this approach is that most filing offices will not index any information provided on an exhibit. The filing office will only index the contents of the form name fields. In most jurisdictions, a name listed on an exhibit has not been provided and the financing statement will be insufficient.

Another method filers occasionally use is to provide as much of the name as will fit in the name field and end it with "CONT. ON ADDEN," an asterisk or similar indication that the rest of the name is provided in another location.

Attempting to continue a name in another area of the form is highly risky. As noted above, state filing offices must index the name exactly as it appears in the name field. If continued in another name field, filing office rules require each part of the name to be indexed as a separate debtor. If the remainder of the name is somewhere other than a name field, such as the "Miscellaneous" field on the Addendum form, the filing office will index only a partial name.

There are some exceptions. A couple states routinely index the full name when it has been continued on other areas of the form. The Illinois Secretary of State and Texas Secretary of State filing offices will attempt to index according to the filer's instructions.

The most common method UCC filers use to provide a long debtor name is to wrap it on multiple lines within the name field. This requires the use of a word processor version of the UCC form. Many states will index the entire name submitted in this format. However, when the name wraps, the form field labels and sizes often shift position. The scanning and indexing systems in some states are highly sensitive to form layout. If the debtor name wraps onto multiple lines some states will reject the form. In some cases wrapping could even result in the indexing errors that are not the fault of the filing office.

The best solution for dealing with long debtor names is for the filer to take advantage of electronic filing. More than forty states currently offer electronic UCC filing. The online systems typically allow the filer to submit names of up to 300 characters. Only in the rarest of cases would any debtor name exceed 300 characters.

Where electronic filing is not available the best practice is to contact the filing office before submitting a long debtor name. The filing office can provide guidance on the best way to provide a name so it can be indexed in its entirety.

Conclusion

Filers must be extremely careful when submitting long debtor names on a financing statement. In most cases, names that exceed the space provided are not sufficient under Section 9-503(a) and will make the financing statement seriously misleading. In the rare case where the correct debtor name does not easily fit within the space provided on the UCC form, filers should consider submitting the record electronically. If the jurisdiction does not offer electronic filing, the best practice is to consult with the filing office to determine what method will allow proper indexing of the name.

Please feel free to contact the author with any questions or comments at phodnefi@cscinfo.com, or 800-927-9801, ext. 2375.

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