

Pursuant to applicable local rules (see below), a chapter 11 liquidating plan may provide that any unclaimed funds may be redistributed to a tax-exempt, not-for-profit, non-religious organization identified in the plan or disclosure statement accompanying the plan.

The ABI Endowment Fund has been appropriately designated as the recipient of such unclaimed funds in several chapter 11 cases, both large and small.

Sample local rule:

Disposition of Undistributed Funds Under a Chapter 11 Liquidating Plan.

(1) Undistributed funds are any funds other than unclaimed funds, including, but not limited to, funds that cannot be disbursed because (a) a creditor has affirmatively rejected a distribution, (b) the administrative costs of distribution effectively interfere with distribution, or (c) all creditors, including administrative claimants, have been paid in full and there is no one that has a right to the funds.

(2) A chapter 11 liquidating plan may provide that any undistributed funds, if applicable or practicable, may be redistributed to other creditors or administrative claimants or donated to a not-for-profit, non-religious organization identified in the plan or disclosure statement accompanying the plan.

(3) If a chapter 11 liquidating plan does not provide for the disposition of undistributable funds then, if there are any such funds at the time of final distribution under the plan, the disbursing agent shall file a motion, upon notice and hearing, proposing disposition of such funds, including as described in subdivision (C)(2) of this local rule.

Sample unclaimed liquidation plan language, designating the American Bankruptcy Institute Endowment:

“Unclaimed Property” means any distribution of Cash or any other property made to the holder of an Allowed Claim pursuant to this Plan that (a) is returned to the Plan Administrator as undeliverable and no appropriate forwarding address is received within the later of (i) 90 days after the Effective Date and (ii) 90 days after such attempted Distribution by the Plan Administrator is made to such holder or (b) in the case of a distribution made in the form of a check, is not negotiated within 90 days and no request for re-issuance is made. Pursuant to Local Rule XXXX-X, Unclaimed Property shall be donated to the American Bankruptcy Institute Endowment Fund, a not-for-profit, non-religious organization dedicated to, among other things, promoting research and scholarship in the area of insolvency.