

## CERTIFICATE OF RETENTION OF DEBTOR IN POSSESSION

### **Advisory Committee Note (1983):**

This form may be used in chapter 11 reorganization cases. Usually, a trustee will not be appointed, in which event the debtor is automatically continued in possession pursuant to § 1101(a) of the Code.

When evidence of debtor in possession status is required, this certificate may be used in accordance with Rule 2011.

### **Applicable Law and Rules**

1. Section 1101(1) of the Bankruptcy Code (11 U.S.C. § 1101(1)) states:

“debtor in possession” means debtor, except when a person that has qualified under section 322 of this title is serving as trustee in this case.

2. Fed. R. Bankr. P. 2011(a) provides:

Whenever evidence is required that a debtor is a debtor in possession or that a trustee has qualified, the clerk may so certify and the certificate shall constitute conclusive evidence of that fact.

### **Fee**

There is a charge of \$5 for certification. Bankruptcy Court Miscellaneous Fee Schedule, Item 2. This amount must be paid in cash or by check or money order made payable to “Clerk, U.S. Bankruptcy Court.” PLEASE DO NOT SEND CASH THROUGH THE MAIL. In addition, many bankruptcy courts accept credit cards for payment of court fees by attorneys and law firms.

### **General Information for the Clerk**

This form is to be used when the chapter 11 debtor requests that it be certified as a debtor in possession. Section 1101 of the Bankruptcy Code and Rule 2011 permit the clerk to make the certification ONLY if no trustee has been appointed, and ONLY in a chapter 11 case. This form should not be used in a chapter 12 case. This form, which previously was designated as Official Form No. 26, was abrogated as an Official Form in 1991 and reissued as a Director's procedural form.