

**Instruction: This is a model letter. Adapt to fit your facts and circumstances.**

<date>

<Name>

<address>

<address>

<address>

**Re:** \_\_\_\_\_

Dear \_\_\_\_\_ :

We have filed appropriate pleadings with the Court to obtain default judgments against the above referenced defendants. Because \_\_\_\_\_ and \_\_\_\_\_ had previously filed a Motion to Dismiss, we were required to notice a hearing regarding the Default Judgment as to these defendants and provide them with at least 3 days notice. The hearing is presently scheduled for \_\_\_\_\_, \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_.

After noticing the hearing, \_\_\_\_\_ filed an Answer and Motion to Dismiss, pro se. A copy of the Answer and Motion to Dismiss is attached for your review. As a result of \_\_\_\_\_ Answer, we will not be able to obtain a Default Judgment against him. However, we will proceed with the hearing on Friday and ask the Court to enter Default Judgments against \_\_\_\_\_ and \_\_\_\_\_. In his Answer, \_\_\_\_\_ clearly admits that \_\_\_\_\_ owes the amount claimed. However, in light of the fact that \_\_\_\_\_ did not answer on behalf of the corporation, I would anticipate that the corporation has no asset from which we can recover. Also, while \_\_\_\_\_ has not filed an Answer, he is entitled to do so at any time prior to the hearing and this would prevent us from taking a Default Judgment against him.

Even though \_\_\_\_\_ has filed an Answer, we can still proceed with the litigation in our attempts to recover against him. Although \_\_\_\_\_ implies that his bankruptcy should prevent us from recovering, I do not believe this is true. It is important to note that the debt at issue was created after his bankruptcy. As a result, his prior bankruptcy does not prevent recovery. His second argument is that he acted only in his capacity as an officer in the corporation. This causes a slightly more difficult problem. He signed the proposal in his individual capacity without any indication that he was acting on behalf of the corporation. However, our billing was to the corporation and not him personally.

We will proceed with the hearing on Friday and attempt to obtain Default Judgments against the corporation and \_\_\_\_\_. After the hearing, we can discuss how you would like to proceed with regards to \_\_\_\_\_.

Sincerely,

BY:

/  
Enclosure

Cc: