U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

September 27, 2006

The Honorable Chris Cannon
Chairman
Subcommittee on Commercial and Administrative Law
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Please find enclosed the Department of Justice's responses to questions directed to Clifford White, Director of the Executive Office for United States Trustees, following the Subcommittee's Oversight Hearing on the Reauthorization of the Department of Justice on April 26, 2006.

The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to the submission of this proposal. Please do not hesitate to call upon us if we may be of additional assistance.

Sincerely,

William E. Moschella
Assistant Attorney General

Enclosure

cc: The Honorable Melvin L. Watt
Ranking Minority Member

RESPONSES TO FOLLOW-UP QUESTIONS FOR THE WRITTEN RECORD TO CLIFFORD J. WHITE III, DIRECTOR OF THE EXECUTIVE OFFICE FOR UNITED STATES TRUSTEES

HOUSE COMMITTEE ON THE JUDICIARY SUBCOMMITTEE ON COMMERCIAL AND ADMINISTRATIVE LAW

"Oversight Hearing on the Reauthorization of the Department of Justice, Executive Office for United States Trustees"

April 26, 2006

QUESTIONS SUBMITTED BY THE HONORABLE CHRIS CANNON

IN GENERAL

1. **Effective April 30, 2005, Lawrence Friedman resigned his position as Director of the Executive Office for United States Trustees. It is now more than one year later and this position has yet to be filled. Why has no one yet been named to be the permanent Director of the Program?**

The Attorney General appoints the Director of the Executive Office for U.S. Trustees. I became Acting Director of the Executive Office upon the departure of Lawrence Friedman on May 1, 2005, and exercise the full authority of the position. The Department cannot comment on specific personnel decisions .

2. **Historically, the Program was headed by a Director and a Deputy Director. It now appears that, in addition to these two positions, the Program is also headed by a "Principal Deputy Director."**

When was this position created?

The organization chart creating a Principal Deputy Director for the United States Trustee Program was approved by the Attorney General on May 14, 2002.

What is the difference between a "Principal Deputy Director" and a "Deputy Director"?

As noted in the reorganization proposal submitted to the Department on March 13, 2002, the Principal Deputy Director has responsibility for overseeing the activities of the 95 United States Trustee field offices, as well as the Program's administrative functions. The Deputy Director position has responsibility for overseeing the offices of the General Counsel, Review and Oversight, and Research and Planning in the Executive Office, as well as coordinating and

implementing the Program's high profile initiatives, facilitating the agency's ability to keep pace with the historically high caseload, and preparing for implementation of bankruptcy reform.

Why is the additional Deputy position necessary?

The second Deputy Director position was created in 2002 to permit the Principal Deputy Director to focus greater attention on the operations of the Program's 95 field offices. The reorganization occurred as the Program was shifting its focus to combating fraud and abuse in the bankruptcy system through its national civil enforcement initiative and developing local civil enforcement strategies. The reorganization permits the Principal Deputy Director to work more closely with the 21 United States Trustees by providing assistance in the development of regional management and enforcement plans; ensuring that the Program's major initiatives and policy direction are implemented locally; and assessing and evaluating field activities by the standards established under the Government Performance and Results Act.

What are the salaries respectively paid to the Director, Principal Deputy Director, and Deputy Director?

The Director, Principal Deputy Director, and Deputy Director positions at the Executive Office are classified as positions within the Senior Executive Service (SES). Effective January 2006, the rates of basic pay for members of the SES in agencies with a certified SES Performance Appraisal System range from a minimum of $109,808 to a maximum of $165,200.

3. **How many detailees within the Program were utilized in 2005? For what expenditures are detailees reimbursed when on detail? Please provide a breakdown of these expenditures.**

The Program utilizes detailees in a variety of ways to staff its offices and to perform critical functions. The length of time for a detail can vary from several days to several weeks or months.

- Detailees were utilized extensively in the implementation of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA) to develop policies and procedures, train field office staff, and review applications of credit counseling and debtor education providers. With just six months between the passage of the BAPCPA and the effective date of the majority of its provisions, time was of the essence and, absent immediate funding to staff the Program's new functions, detailees solved workload issues and enabled a seamless integration between the Program's regions and its headquarters in the area of policy development. Since the effective date of BAPCPA, detailees continue to be utilized to staff the Credit Counseling/Debtor Education Unit until permanent staff can be hired. Without the commitment of the staff detailed to that unit, the Program would not be able to carry out its new responsibilities.

- Because of the relatively small size of most Program offices and regions, details are often used to provide temporary expertise and assistance to individual regions and offices. For example, when Region 13 (Kansas City) had a large, difficult chapter 11 case filed in 2005, an Assistant U.S. Trustee with extensive experience in handling such cases was dispatched from Brooklyn to assist with important aspects of the case. When field offices have critical vacancies (*e.g.*, due to a resignation, a retirement, or an illness), the Executive Office coordinates detailees from other field offices to handle the staffing exigency.

- At the Executive Office, the Program has used details to fill vacant leadership and senior staff positions. Bringing talented field personnel to the Executive Office on a rotational basis and utilizing those talents to lead key offices, including the Office of General Counsel, the Office of Review and Oversight, and other senior management positions, brings a practical legal perspective to the Program's headquarters operations and provides leadership development opportunities for talented field personnel.

During FY 2005, the Executive Office coordinated 112 temporary duty travel (TDY) details for the purposes identified above, as well as three Extended TDY assignments in Washington, D.C. Detailees are reimbursed for their expenses in accordance with General Services Administration and Department of Justice travel regulations and policies. This includes reimbursement for transportation, lodging, and meals and incidental expenses (M&IE) at the applicable government rates. For those employees on Extended TDY assignments, the Program contracts for lodging and reimburses M&IE expenses at a reduced rate. Costs are limited to no more than 75 percent of the TDY government rate.

4. **What is the cost of publication of the Program's Annual Report of Significant Accomplishments? Do other Justice Department components publish similar reports? If so, please identify these components.**

The cost of publishing 6,000 copies of the FY 2004 Annual Report was $32,304.37. The Program's report was published through the Government Printing Office, which charged its standard rates for in-house design services and obtained publishing services through competitive bidding. The Program does not have information regarding the publications of other components of the Department of Justice.

5. **The FY 2006 budget request exceeded the prior year's request by $11.8 million. A substantial portion of that increase was for an item denominated "GSA Rent" in the amount of $6.411 million. The FY 2007 budget request with respect to GSA Rent reflects an increase of only $1.267 million. Please explain the difference between these two requests.**

The U.S. Trustee Program operates in 21 regions with 95 offices nationwide and an Executive Office in Washington, D.C. The GSA rent estimate includes the cost of the Program's office space, as well as costs associated with the rental of approximately 160 administrative

hearing rooms where section 341 statutorily-mandated meetings of debtors and creditors are held. In recent years, the Program has had to expand both the size and the number of administrative hearing rooms paid for through GSA rent, as bankruptcy filings have grown and the ability to find free space for section 341 meetings has declined.

The rent estimates included in the FY 2006 and FY 2007 budget requests were developed using the Department of Justice's FIRM system. In calculating the annual rent estimates, inflationary factors are applied to the various components of the rent, *e.g.*, office rent, leased parking, contract parking, basic security, building-specific security, and the National Capitol Region surcharge rate, which includes projected tax escalation costs that are borne by tenants. The annual rent estimates also factor in the number of anticipated lease expirations for both offices and administrative hearing rooms; projected required moves to federal buildings or courthouses; projected office expansions and the acquisition of new administrative hearing rooms, including the dates that such moves and expansions will occur; and the annualization costs for moves/expansions that occurred in the previous fiscal year. For FY 2006 and FY 2007, the Program estimated that lease expirations would generally increase the annual rent of a particular office property by approximately 30 percent and of a meeting room by approximately 15 percent. Because the rent estimates are dependent on all of the factors listed above, they vary from year to year.

The Program believes that the rent estimates included in its FY 2006 and FY 2007 budget requests may be overstated. This occurs because occupancy dates slip from the projections that are included in the initial budget presentation that is developed nearly two years in advance, the costs of new leases come in below the estimates, and general escalation factors are not applied consistently nationwide. The Program is working to refine its rent estimates. Based on updated data, the Program believes that more realistic rent estimates for FY 2006 and FY 2007 are $24,897,024 and $28,031,443, respectively. The Department has recently deployed a new rent system that will assist components in better estimating annual rent costs, and the Program's Facilities Management Staff and Budget Staff are working together to monitor actual rent increases to develop a more accurate method of projecting the costs of new rental properties.

6. What is the current annual rent for the Program's headquarters in Washington, DC? What is the rental rate based on the square footage of these premises? What was the annual rent for the Program's previous headquarters in Washington, DC, for the last year that it occupied those premises? What was the rental rate based on the square footage of the previous premises?

The FY 2006 annual rent for office space (45,300 rentable square feet) at the Program's headquarters building at 20 Massachusetts Avenue, N.W., in Washington, D.C., is projected to be $1,976,784, a rate of $37.41 per square foot. This annual projection is based on six months of actual billings from the General Services Administration. In addition to the square footage charges, the projection includes the National Capitol Region rate for tax escalation and operating expenses. It does not include parking charges. Since the enactment of the BAPCPA, the Program has also acquired office space at 1301 New York Avenue, N.W., to house its

information technology contractors and at 800 North Capitol Street, NW, for its facilities and administrative services staffs.

The annual rent for office space (30,354 rentable square feet) at the Program's previous headquarters at 901 E Street, NW, was $1,654,016 during FY 2002 (the last full year the space was occupied), including the National Capitol Region rate for tax escalation and operating expenses. The rent did not include parking charges. The Program paid $38.09 per square foot for the first two months of FY 2002 and $52.77 per square foot for the remaining 10 months of the fiscal year. The reason for the variation in the square footage rate was that the Program's lease expired in November 2001, and the Program was subject to new higher rates for the majority of the fiscal year.

The Program's relocation to 20 Massachusetts Avenue, NW, was part of a Department of Justice proposed consolidation of agencies that resulted in lower rent per square foot and a more secure environment for DOJ employees. The relocation proposal was submitted to and approved by the Appropriations Committees of the Congress in accordance with section 605 of the annual Appropriations Act.

FERRETING OUT FRAUD AND ABUSE

1. **Will the Program's refocused emphasis on dismissing chapter 7 cases for substantial abuse take resources away from other Program priorities, such as detecting criminal fraud and abuse?**

The detection and referral of criminal fraud and abuse remains a key component of the Program's efforts to promote the integrity of the bankruptcy system. In fact, in recent years, the Program's work in this regard has been steadily enhanced by the Criminal Enforcement Unit (CREU), which was established in 2003 to coordinate the criminal referral responsibilities carried out by our 95 field offices and to directly assist prosecutors in pursuing bankruptcy crimes. CREU comprises four veteran federal prosecutors and a long-standing Program attorney.

The unit has made a marked difference in the quality of our criminal program by providing extensive training, developing resource materials, and enhancing coordination between agencies. Over the past year, CREU has been involved in more than 50 training programs that have reached approximately 1,500 people, including Program personnel, private trustees, prosecutors, and federal law enforcement agents. In addition, there are approximately 25 Program lawyers presently serving as Special Assistant United States Attorneys, who are available to assist in the investigation and prosecution of bankruptcy fraud crimes. All of these criminal enforcement enhancements have occurred simultaneously with the Program's increased civil enforcement efforts.

2. **How many section 727 objections to discharge were filed last year? What were the outcomes of each objection?**

In FY 2005, the Program filed 1,301 complaints objecting to discharge. As of March 31, 2006, 1,014 had been decided by judicial resolution and the Program was successful in obtaining a denial of discharge in 99.4 percent of those cases. Of the remaining 287 complaints filed, 184 are pending and 103 were withdrawn. A withdrawal is appropriate when information received after the complaint is filed persuades the United States Trustee that the denial of the debtor's discharge should not be pursued.

3. **According to your written testimony, the Program made 744 criminal referrals during FY 2005. What was the outcome of those referrals? How many of those referrals were prosecuted? What were the outcomes of those prosecutions? For FY 2004, the Program "reported approximately 528 criminal referrals." What were the outcomes of those referrals? Why did the number of referrals made between FY 2004 and FY 2005 increase by more than 40 percent?**

The chart below is based upon Program records and provides the outcome data for the 744 bankruptcy-related criminal referrals made by the Program in FY 2005. As of May 2006, the data reflects that 53 referrals from FY 2005 have resulted in formal criminal charges being brought, 25 of which have not yet been resolved by plea, trial, or other disposition.

OUTCOME/DISPOSITION OF FY 2005 REFERRALS	NUMBER OF CASES
Prosecution Declined by U.S. Attorney's Office	251
Administratively Closed	3
With Investigative Agency	49
Under Review in U.S. Attorney's Office	388
Formal Charges Filed (Case Still Active)	25
Formal Charges Filed (Case Closed)	28 *
– *At least one guilty plea or conviction*	25
– *At least one pre-trial diversion*	2
– *At least one acquittal*	0
– *At least one dismissal*	2
* One case had more than one defendant and thus more than one outcome.	

Prior to FY 2005, the Program did not have a comprehensive database for collecting the full range of data related to its criminal referrals. Effective in FY 2005, however, all 95 USTP offices began reporting criminal referral information using a new Criminal Enforcement Tracking System (CETS). CETS provides comprehensive data and allows for the analysis of criminal referral activity, including disposition information, in a more reliable and accessible electronic format. With the implementation of CETS, criminal referrals reported for FY 2005 will serve as the benchmark for all subsequent reporting years.

As suggested above, the Program does not have complete and reliable information on criminal referrals and, in particular, their outcomes prior to FY 2005. Current FY 2004 data indicates that 660 referrals, not 528 as reported in the Program's budget document, were made. The difference in the number of referrals is attributable to a combination of data "scrubbed" as part of the Program's implementation of the CETS system and a review of other databases. Using the updated number, there was a 12 percent increase in referrals between FY 2004 and FY 2005, which indicates that the work the Criminal Enforcement Unit has been doing to improve the quality of our criminal program is providing dividends. Though not complete, available records indicate that convictions or guilty pleas have been obtained in at least 45 of the FY 2004 referrals, and there are at least 20 cases still pending with charges filed.

4. **Section 1519 of title 18 of the United States Code was enacted pursuant to the Sarbanes Oxley Act of 2002. This provision, as you know, prohibits the destruction or falsification of records in bankruptcy cases and federal investigations. Has the Program made any criminal referrals in connection with section 1519?**

Since the enactment of 18 U.S.C. § 1519 in July 2002, the Program has made approximately 34 criminal referrals containing allegations relating to section 1519.

CREDIT COUNSELING

1. **In light of concerns about the caliber of certain entities that provide credit counseling services, how has the Program ensured that only fully qualified providers will be approved by the Program?**

Given the troubled history of the credit counseling industry, the Program has taken very seriously its responsibility to ensure that only qualified agencies are approved to provide pre-bankruptcy credit counseling services. This new responsibility presented a unique challenge since credit counseling was an area in which the Program had no experience or expertise .

In consultation with other government agencies and interested parties, the Program developed an application designed to gather information necessary to ensure that applicants met statutory standards and to assist in the identification of potential problems areas. Applications and re-applications are carefully reviewed to exclude unscrupulous providers. For example, applications are reviewed to ensure that:

- Each organization displays elements of quality service, operates as a nonprofit, and has an independent board of directors.

- Counselors have appropriate credentials (*e.g.*, training, experience, certifications).

- Sessions are of adequate length; there is an opportunity for the consumer to interact with a counselor; and the counseling session script covers specific topics (*i.e.*, analysis of financial condition, repayment without re-amortization of debt, budgeting, and a discussion of alternatives to bankruptcy).

Further, information on corporate status, bonds, and service agreements is independently verified. As a result of our scrutiny, about 200 applications have been either denied for failure to meet minimum requirements or have been withdrawn after further inquiry. Denials have been based on reasons such as:

- Failure to produce documents in connection with an IRS audit.

- Lack of an independent board, *e.g.*, relatives and employees are a majority of the board.

- Inappropriate tie-ins between the agency and a profit-making enterprise (personal enrichment), *e.g.*, requiring debtors to obtain a credit report through a service owned by the principal of the agency; use of vendors controlled by principals; and referrals to a debt management plan controlled by a principal.

Monitoring of agencies continues after approval. Complaints received against an approved agency are investigated to ensure that consumers are treated properly and that agencies comply with statutory requirements. Further, the Program is in the final stages of development of a protocol for Quality of Service Reviews, in which approved agencies will undergo a review of their financial practices and the quality of their counseling sessions. That protocol has been developed in coordination with the Internal Revenue Service and the Federal Trade Commission, and they are also assisting in further refining the application process.

We are building knowledge to continue to improve our capabilities to perform these new responsibilities. We are pleased with our progress thus far, and have been commended by consumer groups for the care we have taken in not approving unscrupulous providers.

2. **Has the Program issued any guidelines to credit counseling agencies regarding whether their fees should be reduced or waived for an indigent debtor?**

The BAPCPA requires agencies to offer services regardless of an ability to pay. However, unlike the legislation's *in forma pauperis* provision on filing fees in bankruptcy cases, there are no specific criteria set forth for fee waivers by credit counseling agencies. The Program has advised agencies both by email and in a Frequently Asked Question posted on our

Internet site that they must disclose at the beginning of a counseling session that there is an opportunity for a waiver of fees for qualified individuals.

Fee schedules are reviewed as part of the Program's application approval process and may be an area of inquiry if they appear unreasonable. When complaints are received regarding an agency's refusal to waive a fee in an appropriate case, the Program investigates the matter. Agencies generally have cooperated in resolving these complaint investigations.

The Program is now collecting information from approved providers upon re-application with regard to how many sessions were provided free of charge or at a reduced fee. In addition, as part of the post-approval audit process, the practices of agencies with respect to fee waivers will be reviewed. Finally, this issue will be considered as we undertake APA rulemaking with notice and public comment later this year.

3. **Does the fee-waiver provision present the possibility that credit counseling agencies will be forced to render services below cost?**

Agencies assert that the fee waiver provisions are forcing them to render services below cost. The Program does not maintain data on an agency's actual cost of providing services.

4. **Is Internet counseling sufficiently adequate to educate consumers?**

The law clearly provides that an approved method of delivery for credit counseling may include a briefing conducted on the Internet. The Program has established special requirements an agency must meet to be approved to offer Internet counseling. These requirements include verification procedures to ensure that the proper individual is receiving counseling and a commitment from the agency that there will be some degree of direct interaction with the client, such as a follow up phone call, contemporaneous email, or instant messaging, to ensure the counseling was understood. The Program is also investigating the feasibility of conducting a study on the effectiveness of Internet counseling.

5. **Has the Program assessed the respective benefits and detriments of Internet, telephone, and in-person counseling?**

The Program has not assessed the relative merits of each of these methods of delivery of credit counseling services, although data is being collected as part of the re-application process on the number of sessions conducted in person, over the telephone, or on the Internet. The Program is proceeding with the Congressionally mandated study of debtor education, which will explore each method of delivery.

6. **Apparently, attorneys for debtors in certain instances pay the counseling fee on behalf of their clients directly to the credit counseling agencies. Does the Program view this as being problematic? What issues or concerns, if any, does this practice present? What guidance, if any, has the Program provided regarding this practice to credit counseling agencies?**

Unlike in 11 U.S.C. § 110 with regard to petition preparers and the collection of filing fees, the statute does not expressly prohibit such an arrangement between attorneys and credit counseling agencies. The Program has posted on its Internet site a Frequently Asked Question (FAQ) with respect to the issue of payment by third parties for counseling sessions. This FAQ states that the Program does not object to payments for credit counseling services being made by a person other than the consumer, so long as such payments are reasonable and comply with applicable laws, regulations, and ethical requirements. This position assumes that payments are fully disclosed, do not jeopardize the non-profit status of the credit counseling agency, and do not adversely affect the quality of the counseling services rendered.

The Program is, of course, concerned about any activity that may improperly influence a credit counseling session or an agency. Though we have received anecdotal information about debtors' counsel referring debtors to providers who issue certificates without providing adequate counseling on non-bankruptcy alternatives, no specific complaints that can be investigated have been received. We are attuned to the situation, however, and are taking steps to address this area of concern. First, the revised application for credit counseling agencies elicits information regarding whether a provider receives substantial referrals from a single source. We will also scrutinize such relationships in the post-approval audit process, and will thoroughly investigate specific allegations of inappropriate relationships between agencies and referring parties. Additionally, although there may be some question as to our authority to make a *per se* prohibition against referrals, we will consider this issue as we undertake APA rulemaking with notice and public comment later this year in an effort to glean information about conduct that should be prohibited to minimize the chance of abuse. For example, some have suggested prohibiting debtors from using their lawyer's computer terminal for Internet counseling.

DEBTOR EDUCATION

1. Section 105 of the Bankruptcy Reform Act requires the Program to test the effectiveness of financial management training curriculum for an 18-month period beginning not later than 270 days after the Act's date of enactment. What is the status of this evaluation? What are the six districts that have been selected for the evaluation? Has the Program developed the required curriculum? As required by the Act, has the Program consulted with a wide range of experts in the field of debtor education?

The Program contracted with Educational Development Center and convened a group of experts in 2005, including representatives from other government agencies, the credit counseling industry, educational advocacy groups, universities, the bankruptcy bench, and private trustee organizations, to assist in the development of a model debtor education curriculum. That curriculum, which includes a student workbook, a facilitator's guide, and two educational videos, was pilot tested from January to March 2006, and it is now being used and evaluated in six judicial districts. Those districts are the Eastern District of Virginia, Western District of Virginia, Northern District of Illinois, Northern District of Texas, Eastern District of Washington, and the District of New Jersey.

Abt Associates has been selected to conduct the independent evaluation of the model curriculum against two comparison curricula – one presented by the Trustees' Education Network (a non-profit organization of chapter 13 trustees) and one offered by a national non-profit personal financial management course provider. A standard student evaluation form has been developed and is being administered by Abt to debtors attending the three test programs offered in the six judicial districts. We anticipate that a large enough sample from each of these groups will be collected by the end of calendar year 2006 to be able to draw some conclusions as to effectiveness.

2. **What is your response to the following statement from the National Association of Chapter 13 Trustees?**

> **The National Association of Chapter 13 Trustees [sic] spent a long and arduous effort to develop a curriculum covering education for chapter 13 debtors. Establishing a non-profit organization, created by trustees to provide this education program was a mission of the trustees and led to the establishment of the Trustee's Education Network (TEN). With a permanent director, the EOUST was integral in incorporating trustee involvement in the development of the curriculum for this program and encouraging its use by trustees. No effort has been made by the EOUST to further this process.**

The Trustees' Education Network (TEN) is a non-profit corporation which develops and delivers financial education courses to chapter 13 debtors. TEN was formed by chapter 13 trustees in 1998, and a majority of its board consists of trustees appointed by the National Association of Chapter 13 Trustees (NACTT).

The Program has supported debtor education in chapter 13 for many years, and that support continues under the current Acting Director. With the passage of the new debtor education requirement, the Program has strongly encouraged chapter 13 trustees to apply for approval as providers of instructional courses in financial management. To date, all 76 chapter 13 trustees who have applied have been approved, and the majority of those trustees contract with TEN to provide the course. Additionally, the Program consulted with TEN on the development of our statutorily mandated debtor education curriculum, and it is one of the three courses included in the Program's evaluation of the effectiveness of consumer education programs.

The Program has an active liaison process with the NACTT and has closely collaborated on matters of mutual interest, including debtor education, for many years. The NACTT has not raised a concern with us about the Program's support of TEN.

CHAPTER 11 BUSINESS CASES

1. **With respect to chapter 11 cases, how many site visits were conducted last year? What were the outcomes of these visits?**

The Program does not collect data on the number of site visits in chapter 11 cases. While visits of debtors' businesses have been conducted by United States Trustees in the past, until the BAPCPA became effective on October 17, 2005, debtors had no obligation to permit such visits. Now, small business debtors must allow United States Trustees to inspect their business premises, books, and records. Furthermore, United States Trustees are expressly authorized to make such site visits in small business cases when they determine it is appropriate and advisable.

While bankruptcy case filings have generally been down since the effective date of the BAPCPA, we anticipate that as small business filings occur our offices will take appropriate advantage of their right to make site visits to aid in their oversight of such debtors. The United States Trustees conduct initial debtor interviews in all small business cases. At the interview, which is usually held at the office of the United States Trustee, debtors are required to produce tax returns and other books and records as requested by the United States Trustee. Failure by a debtor to cooperate during the initial debtor interview or to produce requested books and records, or any other conduct or information that raises the suspicion of the United States Trustee, may trigger a site visit.

2. **In 2002, the President issued an executive order creating the President's Corporate Fraud Task Force. What role, if any, does the Program play in connection with this Task Force?**

The Program works through the Office of the Deputy Attorney General on matters involving the Corporate Fraud Task Force. Among other things, the Program ensures that the Task Force is informed as appropriate on bankruptcy developments in cases involving criminal, securities, or other investigations under the purview of the Task Force.

3. **How does the Program interface with United States Attorneys in pursuing corporate fraud and criminal matters?**

The Program has extensive interaction with the various United States Attorneys' offices in combating bankruptcy fraud and abuse, including corporate fraud and other non-bankruptcy violations. In addition to the 744 criminal referrals made in FY 2005, the Program also assisted prosecutors and agents with over 300 bankruptcy-related investigations and prosecutions that were unconnected to our referrals.

The majority of Program field offices participate in bankruptcy fraud working groups that are headed by United States Attorneys' offices and typically have members from the Federal Bureau of Investigation, the U.S. Postal Inspection Service, the Internal Revenue Service's Criminal Investigation, the Department of Housing and Urban Development's Office of Inspector General, and other federal law enforcement agencies. Program personnel also work

with Assistant U.S. Attorneys as members of the National Bankruptcy Fraud Working Group sponsored by the Department of Justice, and are regularly involved in national and local training programs on fraud. Moreover, the Program has approximately 25 attorneys serving as Special Assistant U.S. Attorneys to assist in the investigation and prosecution of bankruptcy crimes.

To further solidify relationships with prosecutors and law enforcement, 18 U.S.C. § 158, which was enacted as part of the BAPCPA, requires every United States Attorney office to designate a prosecutor and every FBI field office an agent who will assume primary responsibility for bankruptcy fraud cases. This provision has been fully effectuated and should serve to strengthen existing working groups by formalizing points of contact and provide a foundation for establishing working groups where currently none exist.

QUESTIONS SUBMITTED BY THE HONORABLE JERROLD NADLER

CREDIT COUNSELING AND FINANCIAL MANAGEMENT TRAINING

Under the provisions of BAPCPA, all individual debtors must participate in crediting counseling before filing a petition, and in a personal financial management class before being eligible for a discharge. We have received reports from more than on district that debtors who are Limited English Language Proficient (LEP) have been unable to obtain language appropriate counseling. More troubling, we understand that the Program has maintained the position that a LEP debtor is required to complete credit counseling under 11 U.S.C. 109(h), even if language appropriate counseling is not available in the district. In at least one instance, we understand that the Program is contesting a bankruptcy court's waiver of the counseling requirement given because the court found that credit counseling was not available to a debtor who could not speak English. We understand that the Program has pursued this action against a Creole speaking debtor even though the Program refused a request to provide an interpreter for the debtor. *In re: Jean Raoul Petit-Louis* (S.D. FL.)(2006).

As you are no doubt aware, Congress specifically provided in BAPCPA that the required pre-petition counseling "shall not apply with respect to a debtor who resides in a district for which the United States trustee . . . determines that the approved nonprofit budget and credit counseling agencies for such district are not reasonably able to provide adequate services to the additional individuals who would otherwise seek credit counseling from such agencies . . .." 11 U.S.C. 109(h)(2)(A).

1. **What is the Program's policy with respect to the credit counseling and debtor education requirements as applied to LEP debtors?**

In general, all individuals who file for bankruptcy relief are required to obtain credit counseling from a United States Trustee-approved credit counseling agency prior to filing a petition, and all individual debtors filing under chapters 7 and 13 must participate in a debtor education course with an approved provider in order to receive a discharge of their debts in bankruptcy. There are narrowly-defined statutory exceptions to these requirements. Under 11

U.S.C. §§ 109(h)(2), 727(a)(11), and 1328(g)(2), the United States Trustee may determine that approved agencies are not reasonably able to provide adequate services to a district and may waive the credit counseling and debtor education requirements for all individuals who reside in that district. In addition, debtors who show that they are incapacitated, disabled, or on active military duty in a military combat zone may qualify under 11 U.S.C. § 109(h)(4) for a complete waiver of the credit counseling and debtor education requirements. Finally, debtors may qualify for a deferral of the credit counseling requirement of up to 45 days after the filing of the bankruptcy petition if they demonstrate that exigent circumstances prevented them from obtaining the counseling prior to filing and that an approved agency could not provide counseling within five days of the debtor's first request for counseling. 11 U.S.C. § 109(h)(3)(A).

In consideration of the importance of the credit counseling and debtor education requirements and the limited statutory exceptions to them, the Program has taken steps to expand the availability of counseling to prospective debtors, including individuals who have limited English proficiency (LEP). The Program has surveyed approved credit counseling agencies and debtor education providers to identify the types of language services that are available to LEP individuals, and this information is posted on the Program's Internet site. A number of the approved agencies and providers have taken steps to make their services available in languages other than English. The Program also encourages individuals to obtain interpreter assistance from relatives, friends, and community volunteers. The Program will continue to explore ways to expand the availability of non-English-speaking credit counseling agencies and debtor education providers.

2. **Is it the position of the Program that approved nonprofit budget and credit counseling agencies that are unable to provide language appropriate counseling are "reasonably able to provide adequate services to individuals who would otherwise seek credit counseling from such agencies . . ."?**

11 U.S.C. § 109(h)(2)(A) states that the credit counseling requirement of (h)(1) does not apply "with respect to a debtor who resides <u>in a district</u> for which the United States Trustee . . . determines that the approved nonprofit budget and credit counseling agencies for <u>such district</u> are not reasonably able to provide adequate services . . ." (emphases added). The Program has interpreted this section to mean that the United States Trustee may not waive credit counseling for particular individuals; a waiver may only be granted for an entire district if the credit counseling agencies are unable to provide adequate services to the district as a whole.

When making a determination under section 109(h)(2), the United States Trustee must look to the provisions in section 111 that set forth certain minimum qualifications that an agency must satisfy. These minimum qualifications do not include the capacity to offer services in any particular language.

3. **What steps has the program taken to ensure that these required services are available to LEP debtors?**

In order to facilitate matching consumers with approved providers that offer language services, the Program recently compiled data on additional languages offered by every credit counseling agency and posted the information on its Internet site. The Program also permits individuals with limited English proficiency to have relatives, friends, and community volunteers act as interpreters.

4. **How many budget and credit counseling agencies, currently approved by the Program, are able to provide the services required under 109(h)(1) in languages other than English? Please specify.**

Currently, 54 credit counseling agencies offer service in at least one of 30 different languages (other than English) in various judicial districts throughout the country. This includes two national providers who offer Spanish at 143 "in person" locations, as well as on the telephone. In addition, at least two other national providers will arrange for translation services in over 150 languages using a tele-interpreter service at no cost to the consumer.

5. **What steps has the Program taken to assist LEP debtors in locating and obtaining language appropriate budget and credit counseling?**

To facilitate matching consumers with approved agencies that provide language services, the Program recently compiled data on additional languages offered by every credit counseling agency, and this information is posted on our Internet site. The Program also assists individuals on a case-by-case basis in obtaining counseling services in their primary language. For example, upon learning of an Ohio debtor's request for a deferral of the pre-petition counseling requirement because he was unable to obtain counseling in Bosnian, the Program worked to match the debtor with an approved credit counseling agency in his district that could provide services in his native language. Furthermore, the Program encourages LEP individuals to have relatives, friends, and community volunteers act as interpreters.

6. **What steps has the Program taken to ensure compliance with Executive Order 13166?**

Executive Order 13166 provides that federally funded and federally assisted programs and activities shall take steps to improve access for persons who are limited in their English proficiency. Regardless of the application of the Executive Order to credit counseling agencies, the Program endeavors to ensure meaningful access to their services by LEP individuals.

To date, the Program has approved 151 credit counseling agencies and 263 debtor education providers that together provide services in approximately 30 different languages. This is in addition to two of the largest national credit counseling and debtor education providers that offer a tele-interpreter service in over 150 languages free of charge to their customers.

Customers may use the service to receive counseling over the phone via an interpreter who is able to translate counseling or education sessions in the individual's native language. The Program has surveyed all approved credit counseling agencies and debtor education providers regarding the various language services they provide, and this information is available on our Internet site to assist LEP individuals in finding services that meet their specific needs. The Program also permits individuals to use relatives, friends, and community volunteers as translators.

7. **What steps has the Program taken to ensure that debtors with disabilities are able to comply with the requirements of 109(h)(1)?**

In the applications for approval as a credit counseling agency and a debtor education provider, applicants are required to certify that they are in compliance with all State and federal laws. Further, 11 U.S.C. § 109(h)(4) allows a court to grant a permanent waiver from the credit counseling and debtor education requirements of section 109(h)(1) if the debtor can show that he or she is disabled. Program attorneys have informed debtors' counsel that this permanent waiver is available and, on occasion, have filed notices of no opposition in cases where it was evident that the debtor was disabled. For example, in a chapter 7 case in the District of Minnesota, husband and wife debtors filed a motion seeking waiver of the credit counseling requirement for the husband pursuant to 11 U.S.C. § 109(h)(4), claiming that, due to a stroke and symptoms caused by Parkinson's disease, he was incapable of obtaining the required credit counseling and debtor education. After reviewing the motions and supporting affidavits, the United States Trustee submitted a statement of no opposition. The court granted the debtors' request for a waiver without conducting a hearing.

8. **If no budget and credit counseling agencies are able to provide services in a manner that is accessible to debtors with disabilities, does the Program believe that such debtors are entitled to a waiver under 109(h)(2)(A)?**

As discussed in an earlier response above, 11 U.S.C. § 109(h)(2)(A) grants the United States Trustee authority to waive the credit counseling requirement only for an entire district; it does not grant authority to waive credit counseling for particular individuals. Debtors who are unable to obtain credit counseling because of a disability may seek a permanent waiver under section 109(h)(4).

MEANS TEST

There appears to be a discrepancy between the Allowable Living Expenses on the U.S. Trustee Program web-site and those available on the Internal Revenue service web-site. The U.S. Trustee web-site states, "The IRS expense figures posted on this Web site are for use in completing bankruptcy forms. They are not for us in computing taxes or for any other tax administration purposes. Expense information for tax purposes can be found on the IRS Web site." The allowed expenses listed on the U.S. Trustee web-site are generally much lower than those listed on the IRS site. For example, the housing allowances for Menominee County, WI, are:

	U.S.T. (non-mortgage/ mortgage)	I.R.S.
Family of two or fewer:	**$362/$399**	**$725**
Family of three:	**$384/$496**	**$1,030**
Family of four or more:	**$422/$539**	**$981**

Section 707(b)(2)(A)(ii)(I) states that "(t)he debtor's monthly expenses *shall be* the debtor's applicable monthly expense amounts specified under the National Standards and Local Standards, and the debtor's actual monthly expenses for the categories specified as Other Necessary Expenses issued by the Internal Revenue Service for an area in which the debtor resides . . .." (Emphasis added).

1. Please explain this discrepancy.

The Program has found no discrepancy between the Allowable Living Expenses available on the Program's Internet site and the Allowable Living Expenses available on the Internal Revenue Service's Internet site. It appears that several of the numbers indicated in the question above have been transposed. Additionally, based upon the treatment of housing expenses under the means test, the allowed expenses for housing on the Program's Internet site are presented in a two-component format – one allowance for mortgage/rent expense and one allowance for non-mortgage expense. The sum of the two components for housing expense allowances on our Internet site is identical to the aggregate amount that appears on the IRS's site for the corresponding state and territory.

For your reference, attached as Exhibit 1 are the figures printed from the Program's Internet site for the housing allowances for Menominee County, Wisconsin, as well as the figures from the IRS's site for that county. When the Program's numbers are added together, they equal the amount posted on the IRS's Internet site.

2. **Please provide the Program's current guidance for dismissal under 11 U.S.C. 707(b)(2) and (3).**

The United States Trustee reviews the form prepared by a debtor to calculate the means test (Official Form B22A), along with the petition, schedules, statement, and other documentation, to make an independent determination regarding whether a presumption of abuse arises and whether there may be fraud or other abuse.

For cases where income is above the State median income, the United States Trustee will conduct a review of the Official Form B22A filed by the debtor, the schedules and Statement of Financial Affairs, and any other available material to determine whether there should be a presumption of abuse under § 707(b)(2) and whether there also exists separate grounds for dismissal under § 707(b)(3) for "bad faith" or under a "totality of the circumstances" analysis.

In every case where the United States Trustee determines that the presumption should arise, the United States Trustee files either a motion to dismiss or a statement indicating why filing a motion is not appropriate. The clearest examples of when a motion is not appropriate are a serious medical condition or active duty in the Armed Forces. Other examples are for victims of natural disasters, a situation that supports an expense adjustment as a "special circumstance," or for a debtor who has experienced a post-petition change in status that supports an income adjustment, such as seasonal employment or disability.

As in all enforcement areas, field personnel have been advised that they need to exercise sound judgment regarding section 707(b) issues and analyze such issues in the context of the relevant case facts and circumstances.

3. **Please provide a break-down of all motions the Program has brought under the new 707(b) by type, number, district, and disposition.**

Between October 17, 2005, and March 31, 2006, the Program filed 84 motions under the new 11 U.S.C. § 707(b). A summary listing of the motions, broken down by type and district with disposition information as of March 31, 2006, is attached as Exhibit 2.

TRAVEL

1. **Please provide travel records for the Director of the Executive Office for each of the last four years. Please document all expenses paid for by the government. Include payments, if any, for expenses incurred by, or for the benefit of, any person traveling with the Director who was not, at the time, an employee of the United States Government.**

Attached as Exhibit 3 are travel records for fiscal years 2003, 2004, 2005, and 2006 (through April), for the former Director and the current Acting Director of the Program which identify all expenses paid by the government. There were no payments for expenses incurred by,

or for the benefit of, any non-employee who may have traveled with the Director or Acting Director. The records have been compiled in reverse chronological order by fiscal year, and have been redacted to exclude Social Security numbers, home addresses, and credit card numbers.

Travel expenses of the former Director and the current Acting Director were reimbursed in accordance with General Services Administration and Department of Justice regulations and policies for temporary duty travel. Reimbursable travel expenses generally include: airfare; lodging and lodging tax where a facility does not accept a tax-exempt form; meals and incidental expenses; taxicabs and public transportation; parking; rental cars; gasoline; tolls; mileage for the use of a personal vehicle; telephone calls; and other business expenses such as faxes and copies.

Federal employees use contract airfares negotiated by the General Services Administration or, on occasion, non-contract carriers if there is a savings to the government, no contract fare exists, or the contract carrier is not available at times necessary to accomplish the purpose of the travel. Lodging is generally reimbursed at the GSA allowable per diem rate, although Department travel policy permits employees to seek reimbursement for actual subsistence expenses above the per diem when they are unable to obtain lodging within the allowance and certain criteria are satisfied.

EMERGENCIES AND NATURAL DISASTERS

Following Hurricane Katrina, your office notified the Chairman of the Judiciary Committee that it would not seek to enforce some of the more cumbersome sections of the BAPCPA against debtors affected by Hurricane Katrina.

1. **What is the current status of the policy?**

The Program's current policy remains in effect and has been applied to assist debtors affected by Hurricane Katrina. For instance, the United States Trustee will not file enforcement motions against debtors who cannot produce required documents due to this natural disaster, if they are otherwise eligible for bankruptcy relief; the United States Trustee will exercise flexibility and provide alternative means for a debtor to attend the mandatory meeting of creditors if the debtor cannot appear personally to testify under oath in the district where the case is filed; and the United States Trustee will not raise or support venue objections in cases in which the debtor was displaced, unless the filing constitutes a systemic abuse or presents extraordinary circumstances. Further, the United States Trustee will consider the loss of income, increases in expenses, and other adverse effects of Katrina to constitute "special circumstances" when determining whether to file an enforcement motion on grounds of presumed abuse when a debtor's initial completion of the means test indicates abuse.

For small businesses, the United States Trustee will refrain from filing enforcement motions when the failure to perform mandated duties is a result of the effects of Hurricane Katrina. Further, with regard to credit counseling and debtor education, the United States

Trustee has waived the requirements under 11 U.S.C. §§ 109(h)(2), 727(a)(11), 1141(d)(3)(C), and 1328(g)(2) for those districts which were most severely affected by Katrina, namely the Eastern, Middle, and Western Districts of Louisiana and the Southern District of Mississippi. These waivers will be reviewed by the Program this summer, pursuant to 11 U.S.C. §§ 109(h)(2)(B) and 1328(g)(3), to determine whether the requirements should continue to be waived.

2. **Please list all actions the Program has taken or declined to take as a result of this action.**

The United States Trustee for Region 5, pursuant to 11 U.S.C. §§ 109(h)(2), 727(a)(11), 1141(d)(3)(C), and 1328(g)(2), waived the credit counseling and debtor education requirements for the Eastern, Middle, and Western Districts of Louisiana and the Southern District of Mississippi. Program attorneys have not objected to a debtor's lack of documents and have not sought denials of discharge where a debtor's failure was due to a natural disaster. In addition, declination statements were filed pursuant to section 704(b)(2) in four cases where the United States Trustee determined that a motion to dismiss was not appropriate due to the effects of Hurricane Katrina upon the debtors' financial condition.

3. **Please provide the Committee with all written and oral communications from the Executive Office implementing this policy.**

Attached as Exhibit 4 are copies of policy statements issued by the Executive Office with regard to Hurricane Katrina and natural disasters. These documents are marked Limited Official Use and are provided for the sole and limited purpose of responding to this Congressional inquiry. These policies have been reinforced in various discussions, meetings, and internal guidance.

4. **Please provide the Committee with any information concerning any instances in which creditors have taken actions under the Code that the Program has declined to take as a result of this policy.**

The Program does not maintain information on actions taken by creditors.

5. **Please explain how the Program will implement this policy in the future with respect to debtors affected by Hurricane Katrina and by future natural disasters or emergencies.**

The Program will continue to implement this policy on an on-going basis for all natural disasters and, to the extent any information or experiences warrant, will modify the policy accordingly. With regard to its application to Hurricane Katrina, pursuant to 11 U.S.C. §§ 109(h)(2)(B) and 1328(g)(3), the policy will be reviewed this summer to determine whether the credit counseling and debtor education requirements of the BAPCPA should continue to be waived.

6. **Please provide the Committee with any lessons that may be derived from the Program's experience in dealing with the post-Katrina emergency.**

The Program discovered that its current policy of flexibility in the face of a natural disaster has been quite effective, and that flexibility has not compromised the Program's mission of promoting integrity and efficiency in the nation's bankruptcy system.

BENEFITS AND COMPENSATION

1. **What steps has the Program taken to protect the pension and benefit rights of employees in chapter 11 cases?**

Other than under 11 U.S.C. § 1114 of the Bankruptcy Code, which addresses the appointment of a committee of retired persons whenever a debtor seeks to modify or not pay the medical, accident, disability, or death benefits of retirees, the United States Trustees do not have an express statutory mandate with respect to the protection of pension and benefits rights of employees in chapter 11 cases. The United States Trustees' principal role with respect to employee benefits in chapter 11 cases is to facilitate the involvement of employees and their representatives as creditors and parties in interest. As a general matter, where there is significant creditor interest and activity in a case, the presence of competing interests serves to ensure that the significant issues in a case are raised and resolved by the parties themselves.

In support of this objective, the United States Trustee often appoints labor unions to sit on creditors' committees when it appears that labor and employment matters will be at issue in the case and will give rise to a significant claim. Similarly, when it appears that termination or transfer of a pension plan guaranteed by the Pension Benefit Guarantee Corporation (PBGC) may be an issue, the PBGC may be appointed to the creditors' committee.

Even in cases where the debtor does not have an employee pension plan or where employees do not belong to a labor union, the United States Trustee acts to protect employee benefits. Employees are usually creditors to the extent of their unpaid wages and benefits since the last payroll. Typically, in such cases, the United States Trustee supports the customary practice by which the debtor secures a court order for prompt payment of employee wages and benefits to the maximum priority amount provided under the Bankruptcy Code without waiting until a plan is confirmed. Recently, the United States Trustee made special efforts to accommodate a debtor attempting to pay its United States employees located overseas who would have otherwise been precluded payment.

In small cases especially, the United States Trustee pays close attention to whether the debtor is timely paying its employees the wages and benefits they earn post-petition. When a debtor fails to do so, the United States Trustee often moves to appoint a chapter 11 trustee or to convert the case to chapter 7.

The United States Trustee's most direct statutory mandate regarding pensions and employee benefits arises under section 1114 of the Bankruptcy Code. In the BAPCPA, Congress amended this section to require the United States Trustee to appoint, upon direction of the court, a committee of retired persons whenever a debtor seeks to modify or not pay the medical, accident, disability, or death benefits of retirees. Before the BAPCPA, the committee was appointed by the court, in some instances from a list provided by the United States Trustee.

The United States Trustee has not had occasion to appoint a section 1114 committee since enactment of the BAPCPA, but anticipates that when the need arises it will apply the same criteria as when selecting other committees. The United States Trustee seeks committee members with knowledge of the issues and process, who understand their fiduciary duties, who are able to devote the substantial time required to adequately perform their role, and whose claims, characteristics, and interests are representative of the various types of claims and interests represented by the committee.

Lastly, the United States Trustee will make referrals for criminal prosecution when it discovers evidence that management of debtors has misappropriated employee funds. For instance, the United States Trustee has made criminal referrals when pension funds and health insurance funds have been mishandled or dissipated.

2. **What steps has the Program taken to ensure that insiders and other top management do not receive inordinate or unwarranted compensation, bonuses, or other benefits either pre- or post-petition?**

Prior to the BAPCPA, the United States Trustees frequently opposed excessively generous severance packages, key employee retention plans, success bonuses, and similar arrangements for the benefit of insiders on the general ground that they were improper, non-ordinary course transfers unsupported by the debtor's business judgment.

The BAPCPA added to the Bankruptcy Code new provisions intended to curtail these types of compensation. For instance, the new 11 U.S.C. § 503(c)(1) prohibits retention payments that, among other criteria, exceed 10 times the mean retention payment given to non-insiders; new § 503(c)(2) prohibits severance payments that, among other criteria, exceed 10 times the mean severance payment to non-insiders; and new § 503(c)(3) prohibits payments not justified by the facts and circumstances of the case.

Examples of actions taken by the U.S. Trustee Program under new section 503(c) follow.

- In the face of the United States Trustee's opposition, a group of liquidating debtors (*In re FLYi, Inc., et al.*, 05-20011 (MFW), Bankr. Del.) abandoned their effort to pay a handful of insiders retention payments that exceeded the caps under section 503(c)(1).

- Notwithstanding the United States Trustee's opposition, one liquidating debtor (*In re Nobex Corporation*, 05-20050 (MFW), Bankr. Del.) prevailed after the court agreed with the debtor that bonuses payable to two insiders upon the sale of the business (which increased with the sale price) were not intended to induce the insiders to remain with the business until conclusion of a sale and, therefore, were not subject to the section 503(c)(1) cap. The court found that the payments were for performance and, therefore, akin to ordinary compensation evaluated under the equivalent of a business judgment standard.

- Notwithstanding the United States Trustee's opposition, a debtor *(In re Curative Health Services, Inc.*, 06-10552 (SMB), Bankr. S.D.N.Y.) effectively was able to make a post-petition retention payment to its CEO in excess of the section 503(c)(1) cap by obtaining, for the insider's benefit, a pre-petition letter of credit. The letter of credit was secured by assets of the debtor.

- The United States Trustee successfully urged the bankruptcy court to reject the efforts of a group of debtors to obtain approval as part of their first day motions of employee severance and retention plans that may have included insiders *(In re Silicon Graphics. Inc., et al.*, 06-10977 (ALG), Bankr. S.D.N.Y.).

3. **Do you believe that there have been instances in the last two years in which courts have approved inappropriate compensation, bonuses, or benefits of any kind for insiders or other top management in a chapter 11 case? Please specify.**

As noted above, the United States Trustee historically has opposed overly generous compensation for insiders that could not be justified under the business judgment rule. Similarly, the United States Trustee has opposed provisions of plans of reorganization that provide non-debtors with releases, exculpation, and indemnification. The Program does not maintain aggregate statistics regarding the total number of cases in which we filed objections to executive compensation and, therefore, cannot provide specifics.

4. **What changes to the Code do you believe would assist the Program in preventing such compensation or benefits packages from being approved?**

At this time, we have no specific proposals.

5. **What changes in the Code do you believe would assist the Program in protecting the pension and benefit rights of employees?**

At this time, we have no specific proposals.

BANKRUPTCY CRIMES

1. **Please provide the number, type, and disposition of all criminal referrals made by the Program in each of the last five years. Please provide this information by district.**

The chart below provides the number of criminal referrals made by the Program over the past five fiscal years. In addition to the 744 formal referrals made in FY 2005, the Program also assisted law enforcement and prosecutors in investigating and prosecuting an additional 300 bankruptcy-related matters separate from USTP referrals.

USTP BANKRUPTCY-RELATED CRIMINAL REFERRALS BY FISCAL YEAR				
FY 2001	**FY 2002**	**FY 2003**	**FY 2004**	**FY 2005**
1,059	939	817	660	744

Prior to FY 2005, the Program did not have a comprehensive database for collecting the full range of data related to its criminal referrals. Effective in FY 2005, however, all 95 USTP offices began reporting criminal referral information using a new Criminal Enforcement Tracking System (CETS). CETS provides comprehensive data and allows for the analysis of criminal referral activity, including case disposition information, in a more reliable and accessible electronic format. With the implementation of CETS, the criminal referrals reported for FY 2005 will serve as the benchmark for all subsequent reporting years.

The chart below is based upon Program records and provides the outcome data for the 744 criminal referrals made by the Program in FY 2005. As of May 2006, the data reflects that 53 referrals from FY 2005 have resulted in formal criminal charges being brought, 25 of which have not yet been resolved by plea, trial, or other disposition. As suggested above, the Program does not have complete and reliable outcome/disposition information on criminal referrals made prior to 2005. Thus, the chart below only shows outcome/disposition information for referrals made in 2005 that resulted from referrals made prior to 2005.

OUTCOME/DISPOSITION OF FY 2005 REFERRALS	NUMBER OF CASES
Prosecution Declined by U.S. Attorney's Office	251
Administratively Closed	3
With Investigative Agency	49
Under Review in U.S. Attorney's Office	388
Formal Charges Filed (Case Still Active)	25
Formal Charges Filed (Case Closed)	28 *
– *At least one guilty plea or conviction*	25
– *At least one pre-trial diversion*	2
– *At least one acquittal*	0
– *At least one dismissal*	2
* One case had more than one defendant and thus more than one outcome.	

The chart below reflects the types of allegations contained in the 744 criminal referrals made in FY 2005. It is possible that one referral may contain multiple allegations.

FY 2005 U.S. TRUSTEE PROGRAM CRIMINAL REFERRALS BY ALLEGATION

[NOTE: Each referral may contain multiple allegations.]

Type of Case	Number Reported	Percent of Total
Perjury/False Statement	418	56.2%
False Oaths/False Statements [18 U.S.C. §152 (2) & (3)]	392	52.7%
Concealment of Assets	347	46.6%
Bankruptcy Fraud Scheme [18 U.S.C. § 157]	313	42.1%
ID Theft/Use of False/Multiple SSNs	142	19.1%
Concealment/ Destruction/Withholding of Documents	104	14.0%

[18 U.S.C. § 152 (8) & (9)]		
Tax Fraud [26 U.S.C. § 7201, et seq.]	95	12.8%
Forged Documents	78	10.5%
Mortgage/Real Estate Fraud	61	8.2%
Serial Filer	57	7.7%
Embezzlement [18 U.S.C. § 153]	35	4.7%
Credit Card Fraud/Bust-Outs	34	4.6%
False Claim [18 U.S.C. § 152(4)]	30	4.0%
Post-Petition Receipt of Property [18 U.S.C. § 152(5)]	28	3.8%
Corporate Fraud	19	2.6%
Sarbanes-Oxley [18 U.S.C. § 1519]	18	2.4%
Corporate Bust-Outs / Bleed-Outs	17	2.3%
Investor Fraud	15	2.0%
Professional Fraud	14	1.9%
Disregard of Bankruptcy Law/Rule by Bankruptcy Petition Preparer [18 U.S.C. § 156]	3	.4%
Bribery [18 U.S.C. § 152 (6)]	2	.3%
Fee Agreement/Cases Under Title 11 [18 U.S.C. § 155]	2	.3%
Health Care Fraud	2	.3%
Other	171	23.0%

Attached as Exhibit 5 is a summary listing of the Program's FY 2005 criminal referrals, broken down by office and allegation. Exhibit 6 provides a summary of the outcomes of FY 2005 referrals by office. Data in our CETS system is maintained by office. Some offices cover multiple judicial districts and some districts are covered by more than one office.

ENFORCEMENT ACTIONS

1. **Please provide a list of all enforcement actions the Program has taken in each of the last five years: against illegal petition preparers, against creditors who have filed false or undocumented claims, against creditors who have filed fraudulent or baseless objections to discharge, or against creditors who have attempted illegally to coerce or enforce reaffirmation agreements.**

Attached as Exhibit 7 is a listing of the number of formal and informal actions taken by the Program in each of the last five fiscal years with respect to petition preparer misconduct and attorney misconduct. The exhibit also includes data in the area of creditor misconduct; however, since the Program did not begin tracking such actions until fiscal year 2006, only six months of data is reported. In addition to cases brought by the Program, private trustees may also initiate actions against bankruptcy petition preparers or creditors who violate the law. However, the Program does not track trustee actions.

EXHIBIT 1

Bankruptcy Allowable Living Expenses

(Cases Filed on or After February 13, 2006)

Local Housing and Utilities Standards*

WISCONSIN

	Family Size and Expense Type					
	1 or 2 Person		3 Person		4 or More Persons	
	Non-Mortgage	Mortgage/ Rent	Non-Mortgage	Mortgage/ Rent	Non-Mortgage	Mortgage/ Rent
Adams County	$355	$476	$418	$559	$481	$643
Ashland County	$355	$417	$417	$491	$480	$564
Barron County	$351	$465	$413	$547	$474	$630
Bayfield County	$357	$422	$420	$496	$484	$569
Brown County	$366	$732	$431	$861	$495	$991
Buffalo County	$355	$504	$418	$593	$481	$681
Burnett County	$344	$474	$405	$558	$465	$642
Calumet County	$374	$714	$440	$840	$506	$967
Chippewa County	$360	$531	$424	$624	$487	$718
Clark County	$367	$398	$432	$468	$497	$538
Columbia County	$378	$697	$444	$821	$511	$943
Crawford County	$342	$446	$402	$525	$463	$603
Dane County	$431	$679	$507	$1034	$583	$1190
Dodge County	$408	$638	$480	$750	$552	$863
Door County	$372	$587	$438	$690	$503	$794
Douglas County	$337	$477	$397	$561	$456	$646
Dunn County	$415	$549	$488	$646	$561	$743
Eau Claire County	$375	$802	$441	$708	$507	$815
Florence County	$351	$472	$413	$555	$474	$640
Fond du Lac County	$376	$618	$442	$727	$506	$836
Forest County	$334	$377	$393	$443	$452	$510
Grant County	$350	$476	$411	$561	$473	$645
Green County	$403	$621	$474	$730	$545	$840
Green Lake County	$376	$535	$442	$630	$508	$725
Iowa County	$395	$587	$465	$690	$535	$793
Iron County	$344	$415	$405	$488	$465	$562
Jackson County	$375	$454	$441	$534	$507	$614
Jefferson County	$405	$744	$476	$876	$548	$1007
Juneau County	$355	$448	$418	$526	$481	$605
Kenosha County	$373	$797	$439	$938	$504	$1079
Kewaunee County	$374	$568	$440	$668	$506	$769
La Crosse County	$360	$641	$424	$754	$487	$868
Lafayette County	$382	$447	$449	$526	$516	$605
Langlade County	$345	$415	$406	$488	$467	$561
Lincoln County	$367	$542	$432	$638	$497	$733
Manitowoc County	$349	$577	$410	$679	$472	$780
Marathon County	$372	$608	$438	$715	$503	$823

Marinette County	$335	$480	$394	$565	$453	$650
Marquette County	$359	$516	$423	$607	$486	$698
Menominee County	$326	$398	$384	$468	$442	$539
Milwaukee County	$342	$712	$402	$838	$463	$963
Monroe County	$362	$499	$426	$587	$490	$675
Oconto County	$343	$576	$403	$678	$464	$779
Oneida County	$341	$552	$401	$649	$461	$747
Outagamie County	$375	$702	$441	$826	$507	$950
Ozaukee County	$432	$1008	$508	$1186	$585	$1364
Pepin County	$381	$460	$448	$541	$515	$622
Pierce County	$424	$739	$499	$869	$573	$1001
Polk County	$378	$573	$444	$675	$511	$776
Portage County	$353	$628	$415	$739	$477	$850
Price County	$365	$454	$430	$534	$494	$614
Racine County	$375	$718	$441	$845	$508	$971
Richland County	$369	$470	$434	$553	$499	$636
Rock County	$373	$639	$439	$751	$505	$864
Rusk County	$339	$381	$399	$449	$459	$516
Sauk County	$393	$633	$463	$745	$532	$857
Sawyer County	$334	$417	$393	$491	$452	$565
Shawano County	$346	$507	$407	$597	$468	$686
Sheboygan County	$362	$676	$426	$795	$490	$914
St. Croix County	$412	$822	$485	$967	$557	$1113
Taylor County	$390	$475	$459	$558	$528	$642
Trempealeau County	$360	$475	$424	$558	$487	$642
Vernon County	$368	$448	$433	$527	$498	$606
Vilas County	$339	$505	$399	$594	$459	$683
Walworth County	$392	$790	$462	$929	$531	$1069
Washburn County	$365	$451	$430	$530	$494	$610
Washington County	$383	$894	$450	$1052	$516	$1210
Waukesha County	$408	$981	$481	$1153	$553	$1326
Waupaca County	$352	$579	$414	$681	$476	$783
Waushara County	$354	$481	$416	$566	$478	$651
Winnebago County	$360	$660	$424	$776	$487	$893
Wood County	$341	$527	$401	$620	$461	$713

*** Note:** The IRS expense figures posted on this Web site are for use in completing bankruptcy forms. They are not for use in computing taxes or for any other tax administration purpose. Expense information for tax purposes can be found on the IRS Web site.

Last Update: ***Monday, January 23, 2006 12:00 PM***
U.S. Trustee Program/Department of Justice
usdoj/ust/smm

Wisconsin - Housing and Utilities Allowable Living Expenses

***Disclaimer:** IRS Allowable Expenses are intended for use in calculating repayment of delinquent taxes. Expense information for use in bankruptcy calculations can be found on the website for the* U.S. Trustee Program.

Collection Financial Standards
Financial Analysis - Local Standards: Housing and Utilities (effective 2/1/2006)

Maximum Monthly Allowance

County	Family of 2 or less	Family of 3	Family of 4 or more
Adams County	831	977	1,124
Ashland County	772	908	1,044
Barron County	816	960	1,104
Bayfield County	779	916	1,053
Brown County	1,098	1,292	1,486
Buffalo County	859	1,011	1,162
Burnett County	818	963	1,107
Calumet County	1,088	1,280	1,473
Chippewa County	891	1,048	1,205
Clark County	765	900	1,035
Columbia County	1,075	1,265	1,454
Crawford County	788	927	1,066
Dane County	1,310	1,541	1,773
Dodge County	1,046	1,230	1,415
Door County	959	1,128	1,297
Douglas County	814	958	1,102
Dunn County	964	1,134	1,304
Eau Claire County	977	1,149	1,322
Florence County	823	968	1,114
Fond du Lac County	994	1,169	1,344
Forest County	711	836	962
Grant County	826	972	1,118
Green County	1,024	1,204	1,385
Green Lake County	911	1,072	1,233
Iowa County	982	1,155	1,328
Iron County	759	893	1,027
Jackson County	829	975	1,121
Jefferson County	1,149	1,352	1,555
Juneau County	803	944	1,086
Kenosha County	1,170	1,377	1,583
Kewaunee County	942	1,108	1,275
La Crosse County	1,001	1,178	1,355
Lafayette County	829	975	1,121
Langlade County	760	894	1,028
Lincoln County	909	1,070	1,230
Manitowoc County	926	1,089	1,252
Marathon County	980	1,153	1,326
Marinette County	815	959	1,103
Marquette County	875	1,030	1,184
Menominee County	725	853	981
Milwaukee County	1,054	1,240	1,426
Monroe County	861	1,013	1,165
Oconto County	919	1,081	1,243
Oneida County	893	1,050	1,208
Outagamie County	1,077	1,267	1,457
Ozaukee County	1,440	1,694	1,949

County	Family of 2 or less	Family of 3	Family of 4 or more
Pepin County	841	989	1,137
Pierce County	1,163	1,368	1,574
Polk County	951	1,119	1,287
Portage County	981	1,154	1,327
Price County	819	964	1,108
Racine County	1,093	1,286	1,479
Richland County	839	987	1,135
Rock County	1,012	1,190	1,369
Rusk County	720	848	975
Sauk County	1,026	1,208	1,389
Sawyer County	751	884	1,017
Shawano County	853	1,004	1,154
Sheboygan County	1,038	1,221	1,404
St. Croix County	1,234	1,452	1,670
Taylor County	865	1,017	1,170
Trempealeau County	835	982	1,129
Vernon County	816	960	1,104
Vilas County	844	993	1,142
Walworth County	1,182	1,391	1,600
Washburn County	816	960	1,104
Washington County	1,277	1,502	1,728
Waukesha County	1,389	1,634	1,879
Waupaca County	931	1,095	1,259
Waushara County	835	982	1,129
Winnebago County	1,020	1,200	1,380
Wood County	868	1,021	1,174

EXHIBIT 2

Motions Filed Under 707(b)(2)(A) and 707(b)(3) - 10/17/05 through 03/31/06

by District (with Outcome)

District	707(b)(2)(A) Presumed Abuse							707(b)(3) Bad Faith/Totality of Circumstances						
			OUTCOME							OUTCOME				
	Filed	Pending	Voluntarily Converted to Chapter 13	Voluntarily Dismissed	Dismissed by Court After Hearing	Withdrawn	Denied	Filed	Pending	Voluntarily Converted to Chapter 13	Voluntarily Dismissed	Dismissed by Court After Hearing	Withdrawn	Denied
Arizona	4	3		1				1	1					
Arkansas	1	1						1		1				
California Central	1		1											
Colorado	3	1	2											
Florida Middle	5		3	2										
Georgia Middle								1	1					
Georgia Northern	11	5	4	1			1							
Georgia Southern	1	1												
Illinois Northern	2	1			1									
Iowa Southern	6		1	1		4		3	2		1			
Kentucky Western	1	1						1	1					
Maine	1					1								
Michigan Eastern	4	2			1	1		6	4				2	
Michigan Western	2	1	1					1	1					
Minnesota	5		3	1		1								
Mississippi Northern	1	1						1		1				
Nebraska	1				1			1					1	
New York Western	1		1											
Ohio Northern	7	5	1		1			5	4		1			
Ohio Southern	4	4												
Oklahoma Northern	1	1						1	1					
Pennsylvania Middle	1	1						1		1				
Pennsylvania Western	1	1												
South Carolina	1		1											
South Dakota	1		1											
Tennessee Middle	4	1	3					1		1				
Tennessee Western								1				1		
Texas Eastern	2	1	1											
Texas Northern	3	1		2										
Texas Western	3	2			1									
Utah	2	2						1	1					
Virginia Western	1	1												
Washington Western								2	1				1	
West Virginia Northern	2	1	1											
Wisconsin Western	1	1												
Total	84	39	24	8	5	7	1	28	17	4	2	1	4	0

EXHIBIT 4

U.S. Department of Justice

Executive Office for United States Trustees

Office of the General Counsel

20 Massachusetts Avenue, NW, Suite 8100
Washington, D.C. 20530

Voice - (202) 307-1399
Fax - (202) 307-2397

October 4, 2005

MEMORANDUM

TO: United States Trustees
Assistant United States Trustees

FROM: Roberta A. DeAngelis
Acting General Counsel

SUBJECT: Flexibility of Bankruptcy Deadlines and Other Requirements in Response to Natural Disasters

In response to questions that have arisen concerning the application of certain provisions of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA) to cases filed by victims of Hurricane Katrina and other natural disasters, the following guidance is provided.

1. Means Test

Under the means test, the chapter 7 filing of a debtor with above-median income will be presumed abusive if the debtor's current monthly income exceeds, by certain amounts, monthly expenses calculated in accordance with § 707(b)(2)(A). Under § 707(b)(2)(B), a debtor may rebut the presumption of abuse by demonstrating "special circumstances" that "justify additional expenses or adjustments of current monthly income for which there is no reasonable alternative."

In deciding whether to file an enforcement motion based upon the means test, the United States Trustee should consider a major decline in anticipated income, a major increase in anticipated expenses, and other adverse impacts of a natural disaster to be special circumstances for purposes of rebutting the presumption. If the United States Trustee reasonably believes that a debtor likely would be able to rebut the presumption of abuse by establishing special circumstances arising from a natural disaster, then the United States Trustee should decline to file a § 707(b) motion and instead file a brief statement articulating why a motion to dismiss under § 707(b) is not appropriate under the circumstances.

2. Individual Debtor Document Filing Requirements

Most of a debtor's filing requirements are found in § 521 of the Code, and most of these requirements can be varied by the bankruptcy court. Section 521(a)(1)(B) generally requires the filing of schedules of assets and liabilities, current income and expenses, the statement of financial affairs, copies of pay stubs, and statements of monthly net income and anticipated changes in income and expenses. Because this subsection is prefaced with the words "unless the court orders otherwise," the court clearly has discretion to provide exceptions to these filing requirements.

The U.S. Trustee can and should refrain from filing motions to compel or to dismiss cases in which debtors show that, as a result of a natural disaster, they do not have the information necessary to complete schedules and do not have copies of the required documents. Section 521(i) states that an individual debtor's chapter 7 or chapter 13 case will *automatically* be dismissed if all information required under § 521(a)(1) is not filed within 45 days after the date of the filing of the petition. United States Trustees should, therefore, advise debtors' attorneys who are seeking relief from the filing requirements that this relief can be granted only by the bankruptcy court. If a debtor affected by a natural disaster seeks such relief, United States Trustees should not object, so long as it appears that the debtor and the debtor's attorney are making their best efforts to provide as much information to the court as is reasonable under the circumstances.

3. Chapter 11 "Small Business Case" Deadlines

Section 1121(e)(1) establishes a 180-day exclusivity period for small business debtors to file a plan. There are two exceptions to the 180-day rule. First, under § 1121(e)(1)(A), the period can be "extended as provided by this subsection, after notice and a hearing." This cross-references to § 1121(e)(3), which provides that the time period may be extended "only if the debtor . . . demonstrates by a preponderance of the evidence that it is more likely than not that the court will confirm a plan within a reasonable period of time." The order must establish a new deadline and must be signed before the expiration of the existing deadline.

If a small business debtor impacted by a natural disaster seeks relief from this deadline pursuant to § 1121(e)(3), the United States Trustee should not oppose the relief if the debtor needs additional time to file a disclosure statement and confirm a plan due to the impact of a natural disaster. Furthermore, United States Trustees generally should not object to requests seeking longer than usual extensions under these circumstances. United States Trustees should determine a "reasonable" time in light of the exigencies created by the natural disaster. Because § 1121(e)(3) also governs extensions under § 1129(e), the same rationale could be used to provide needed extensions of time for a small business affected by a natural disaster to obtain confirmation of its chapter 11 plan.

4. Small Business Cases – Duties of Debtors in Possession

Section 1116 establishes duties of debtors in possession in small business cases. Subsection (2) requires a small business debtor to attend an initial debtor interview, the § 341 meeting, and other meetings called by the United States Trustee. Subsection (3) requires a small business debtor to timely file all schedules and statements of financial affairs. Both of these subsections permit the court to vary the requirements upon a finding of "extraordinary and compelling circumstances." United States Trustees should consider the impact of a natural disaster in determining "extraordinary and compelling circumstances" and in deciding whether to file an enforcement motion.

Section 1112 governs conversion or dismissal. The BAPCPA changed the permissive "may" convert or dismiss in § 1112(b)(1) to a mandatory "shall" convert or dismiss. Subsection (b)(1) permits the court to refrain from converting or dismissing a case upon a finding of unusual circumstances specifically identified that establish that the requested conversion or dismissal is not in the best interest of creditors and the estate. The United States Trustee should not file a motion under § 1112 if the grounds for filing the motion are attributable to a natural disaster and there are reasonable prospects for reorganization.

5. Section 341 Meeting Attendance

If a natural disaster causes long-term dislocation, situations may arise where debtors will be unable personally to attend meetings of creditors under § 341 of the Code. The *Chapter 7 Trustee Handbook* has long provided alternative means for debtors to attend § 341 meetings in extenuating circumstances. United States Trustees should advise trustees to accept dislocation by a natural disaster as an extenuating circumstance. United States Trustees should be flexible and reasonable in making alternative appearance arrangements for a dislocated debtor by arranging for the § 341 meeting to take place at a local office of the United States Trustee near the debtor's temporary residence or by allowing the debtor to appear telephonically, for example. Care should be taken, however, to assure that debtors provide the personal identification information required by Interim Rule 4002(b)(1) to the person administering the oath.

Conclusion

Compliance with this guidance will be greatly appreciated. If any of these issues arise in a case in your district, please identify the issue and consult with the Office of the General Counsel before taking action.

Guidance on venue issues that may arise as a result of natural disasters is being provided separately. In addition, the credit counseling requirement for individual debtors for cases filed in the Eastern, Western, and Middle Districts of Louisiana and in the Southern District of Mississippi have been waived. Guidance on the applicability of the debtor education requirement to cases filed in those districts will be forthcoming at the appropriate time.

U.S. Department of Justice

Executive Office for United States Trustees

Office of the General Counsel

20 Massachusetts Avenue, NW, Suite 8100
Washington, D.C. 20530

Voice - (202) 307-1399
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October 4, 2005

MEMORANDUM

TO: United States Trustees
Assistant United States Trustees

FROM: Roberta A. DeAngelis
Acting General Counsel

SUBJECT: Venue Issues Arising from Debtors Displaced by Hurricane Katrina

The effects of Hurricane Katrina impact the judicial system in numerous ways, one of which focuses on the issue of venue for bankruptcy cases filed by debtors who have been displaced. Some of those debtors evacuated to contiguous or nearby districts affected by the storm; others were evacuated to more remote locations. This memorandum provides guidance concerning cases filed by such displaced persons in an improper venue.

The United States Trustee generally has raised venue objections only in extraordinary cases evincing systemic abuse or in which parties are seeking to abuse the bankruptcy process. Accordingly, the United States Trustee should **not** file objections to venue selections by victims of Hurricane Katrina, except under extraordinary circumstances and upon express approval of the General Counsel. The following background and analysis of venue is provided for your further information and edification.

Venue for bankruptcy cases is derived from 28 U.S.C. § 1408 which provides, in relevant part, that:

> . . . a case under title 11 may be commenced in the district court for the district—
>
> (1) in which the domicile, residence, principal place of business in the United States, or principal assets in the United States, of the person or entity that is the subject of such case have been located

> for the one hundred and eighty days immediately preceding such commencement, or for a longer portion of such one-hundred-and-eighty-day period than the domicile, residence, or principal place of business, in the United States, or principal assets in the United States, of such person were located in any other district; or . . .

The Supreme Court has held that venue is a personal privilege, the objection to which may be waived if not timely raised. *Leroy v. Great Western United Corp.*, 443 U.S. 173, 180 (1979); *Neirbo Co. v. Bethlehem Ship Builders Corp.*, 308 U.S. 165, 167-168 (1939). *See, Hunt v. Bankers Trust Co.*, 199 F.2d 1060, 1068 (5th Cir. 1986). We will continue to examine cases for instances of fraud and abuse as we meet our civil enforcement obligations, and we will object to instances of systemic abuse, such as cases filed in an improper venue for the convenience of debtor's counsel only.

Courts facing an objection to improper venue generally have followed one of two positions. The majority rule holds that a bankruptcy court may not retain a case filed in an improper venue, where venue has been challenged. The court must either dismiss or transfer the case to a proper venue pursuant to 28 U.S.C. § 1406(a).[1] For a representative view of cases following the majority view, see the following: *In re Sorrells*, 218 B.R. 580 (10th Cir. BAP 1998); In *re Micci*, 188 B.R. 697 (S.D. Fla. 1995); *In re Columbia Western, Inc.*, 183 B.R. 660 (Bankr. Mass. 1995); *In re Washington, Perito & Dubuc*, 154 B.R. 853 (Bankr. S.D.N.Y. 1993); *In re Great Lakes Hotel Associates*, 154 B.R. 667 (E.D. Va. 1992); *In re Petrie*, 142 B.R. 404 (Bankr. D. Nev. 1992); *In re Sporting Club*, 132 B.R. 792 (Bankr. S.D. 1989); *ICMR, Inc. v. Tri-City Foods, Inc.*, 100 B.R. 51 (D. Kan. 1989).

The minority view, in contrast, holds that a bankruptcy court may retain a case filed in an improper venue pursuant to 28 U.S.C § 1412 if such retention is "in the interest of justice or for the convenience of the parties."[2] Courts which have followed the minority view include the

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[1] 28 U.S.C. § 1406(a) provides with respect to cure or waiver of defects that:

> The district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the best interest of justice, transfer such case to any district or division in which it could have been brought.

[2] 28 U.S.C. § 1412 provides with respect to change of venue that:

> A district court may transfer a case or proceeding under title 11 to a district court for another district, in the interest of justice or for the convenience of the parties.

following: *In re Lazaro*, 128 B.R. 168 (Bankr. W.D. Tex. 1991); *In re Leonard*, 55 B.R. 106, 108-09 (Bankr. D.C. 1985); and *In re Boeckman*, 54 B.R. 110 (Bankr. S.D. 1985).

The United States Trustee Program follows the majority rule. During the past year, the Program successfully litigated the issue of whether a bankruptcy court has discretion to retain a case filed in an improperly venue, arguing against such retention. *See, e.g., In re Swinney v. Turner*, 309 B.R. 638 (M.D. Ga. 2004) (affirming decision of bankruptcy court that it was not authorized to retain a case filed in an improper venue). The Program also litigated similar cases in Memphis, Tennessee. *See, e.g., In re Brazzel*, 321 B.R. 893 (W.D. Tenn. 2004). These cases arose not because of any emergency on the part of the debtors, but rather because the attorney representing the debtors chose to file the petitions in a district where the attorney was located and licensed rather than in a proper venue. Such instances of abuse should continue to be pursued by our field offices and, in pursuing objections to improper venue, the majority view should be espoused.

By way of further information, I want to advise you that recently Congress passed and the President signed the "Federal Judiciary Emergency Special Sessions Act of 2005." The purpose of that legislation was to authorize Federal circuit, district, and bankruptcy courts to conduct special sessions outside their respective boundaries in times of emergency. The United States Bankruptcy Court for the Eastern District of Louisiana has commenced operations from the offices of the United States Bankruptcy Court for the Middle District of Louisiana. (http://www.laeb.uscourts.gov.) Further, the United States District Court for the Eastern District of Louisiana has issued an order that allows emergency filings in Baton Rouge (the Middle District) and in Lafayette (the Western District). (http://www.laed.uscourts.gov/). Documents filed in these alternate locations will be deemed filed in the Eastern District, thereby resulting in proper venue.

If you have any questions, please do not hesitate to contact me.

cc: EOUST Senior Staff

Press Release

U.S. Department of Justice

Executive Office for United States Trustees

PRESS RELEASE

For Immediate Release
October 5, 2005

U.S. TRUSTEE PROGRAM ANNOUNCES ENFORCEMENT GUIDELINES FOR BANKRUPTCY DEBTORS AFFECTED BY NATURAL DISASTERS

WASHINGTON, D.C.-The United States Trustee Program today announced it has issued bankruptcy enforcement guidelines that take into account the hardships experienced by victims of recent hurricanes in the Gulf Coast region.

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA), which takes effect on October 17, 2005, contains various new requirements for parties to a bankruptcy proceeding. The Program announced it is taking the following steps to address the impact of current law and the BAPCPA upon victims of natural disaster.

Document Requirements -Under current law and the BAPCPA, debtors provide documents such as payment advices and statements of income. U.S. Trustees will not file enforcement motions against debtors who cannot produce documents due to natural disasters, if they are otherwise eligible for bankruptcy relief.

Means Test - Under the BAPCPA, individual debtors undergo a "means test" to determine whether they are eligible for Chapter 7 relief or whether Chapter 7 relief is presumed abusive. Generally speaking, the BAPCPA permits a debtor to rebut that presumption of abuse by showing "special circumstances." In determining whether to file an enforcement motion on grounds of presumed abuse, the Program will consider income loss, expense increase, and other adverse effects of a natural disaster to constitute "special circumstances."

Attendance at Creditors' Meetings - U.S. Trustees will exercise flexibility and provide alternative means for a debtor to attend the mandatory meeting of creditors if, due to the adverse effects of a natural disaster, the debtor cannot appear personally and testify under oath in the district where the case is filed.

Venue - U.S. Trustees will not raise or support venue objections in cases in which the debtor was displaced due to a natural disaster, unless the filing constitutes a systemic abuse or presents extraordinary circumstances.

Small Business Chapter 11 Bankruptcies -U.S. Trustees will not take enforcement actions against Chapter 11 small business debtors who, as a result of a natural disaster, cannot reasonably be expected to perform statutory duties such as attending an initial debtor interview and filing financial reports. U.S. Trustees will not seek conversion or dismissal of a small business Chapter 11 case if the grounds for filing the case are attributable to a natural disaster and there are reasonable prospects for reorganization. U.S. Trustees will not oppose reasonable and necessary extensions of time to file a disclosure statement and confirm a reorganization plan, if a small business debtor cannot comply with the deadlines because of a natural disaster.

The BAPCPA requires individual debtors to undergo credit counseling before filing for bankruptcy. The BAPCPA authorizes U.S. Trustees to approve credit counseling agencies according to criteria set forth in the law. On October 4, 2005, the Program announced a temporary waiver of the statutory requirements for credit counseling for bankruptcy filers in Louisiana and the Southern District of Mississippi due to the effects of Hurricane Katrina.

The U.S. Trustee Program is the component of the Justice Department that promotes integrity and efficiency in the nation's bankruptcy system by enforcing bankruptcy laws, providing oversight of private trustees, and maintaining operational excellence. The Program has 21 regions and 95 field offices. Under federal law, the Program is not responsible for overseeing bankruptcy cases filed in Alabama or North Carolina.

Press Contact: Jane Limprecht

Executive Office for U.S. Trustees

(202) 305-7411

[End]

Last Update: November 15, 2005 6:10 PM
U.S. Trustee Program/Department of Justice
usdoj/ust/smm

Press Release

U.S. Department of Justice

Executive Office for United States Trustees

PRESS RELEASE

For Immediate Release
October 4, 2005

U.S. TRUSTEE PROGRAM ANNOUNCES APPROVAL OF CREDIT COUNSELING AGENCIES FOR BANKRUPTCY FILERS AND WAIVER OF CREDIT COUNSELING REQUIREMENT IN AREAS AFFECTED BY HURRICANE KATRINA

WASHINGTON, D.C.-The United States Trustee Program today announced a temporary waiver of the statutory requirements for credit counseling for bankruptcy filers in Louisiana and the Southern District of Mississippi due to the effects of Hurricane Katrina. The Program also announced approval of 41 credit counseling agencies for bankruptcy filers. There are approved credit counseling agencies serving all federal judicial districts for which the United States Trustee Program is responsible.

The list of approved credit counseling agencies is posted on the Program's web site at www.usdoj.gov/ust. More credit counseling agencies will be addad to the list as they are approved by United States Trustees.

Under the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA"), individual debtors who file bankruptcy on or after October 17, 2005, must undergo credit counseling within six months before they file bankruptcy. The BAPCPA authorizes United States Trustees to approve credit counseling agencies according to criteria set forth in the law.

The BAPCPA permits United States Trustees to waive the credit counseling requirement within a judicial district where approved credit counseling agencies are not reasonably able to provide adequate services to bankruptcy filers. The United States Trustee for Region 5 made this determination with respect to the Eastern, Middle, and Western Districts of Louisiana, and the Southern District of Mississippi.

The U.S. Trustee Program is the component of the Justice Department that promotes integrity and efficiency in the nation's bankruptcy system by enforcing bankruptcy laws, providing oversight of private trustees, and maintaining operational excellence. The Program has 21 regions and 95 field offices. The Program is not responsible for overseeing bankruptcy cases filed in Alabama or North Carolina.

Press Contact: Jane Limprecht

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[End]

Last Update: November 15, 2005 6:09 PM
U.S. Trustee Program/Department of Justice
usdoj/ust/smm

Press Release

U.S. Department of Justice

Executive Office for United States Trustees

PRESS RELEASE

For Immediate Release
October 7, 2005

U.S. TRUSTEE PROGRAM ANNOUNCES APPROVAL OF

DEBTOR EDUCATION COURSE PROVIDERS FOR BANKRUPTCY FILERS

AND WAIVER OF DEBTOR EDUCATION REQUIREMENT

IN AREAS AFFECTED BY HURRICANE KATRINA

WASHINGTON, D.C.-The United States Trustee Program today announced a temporary waiver of the statutory requirement for an instructional course in personal financial management, often called "debtor education," for bankruptcy filers in Louisiana and the Southern District of Mississippi due to the effects of Hurricane Katrina. The Program also announced approval of 41 providers of debtor education courses for bankruptcy filers. There are approved debtor education course providers serving all federal judicial districts for which the United States Trustee Program is responsible.

The list of approved debtor education course providers is posted on the United States Trustee Program's website at www.usdoj.gov/ust. More debtor education course providers will be added to the list as they are approved by the United States Trustees.

Under the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA), in order to receive a discharge of debt, an individual debtor who files bankruptcy on or after October 17, 2005 must complete an instructional course in personal financial management after filing bankruptcy. The BAPCPA authorizes the United States Trustees to approve such course providers according to criteria set forth in the law.

The BAPCPA permits the United States Trustees to waive the debtor education requirement within a judicial district where approved debtor education courses are not adequate to serve bankruptcy filers. The United States Trustee for Region 5 made this determination with respect to the Eastern, Middle, and Western Districts of Louisiana, and the Southern District of Mississippi.

The U.S. Trustee Program is the component of the Justice Department that promotes integrity and efficiency in the nation's bankruptcy system by enforcing bankruptcy laws, providing oversight of private trustees, and maintaining operational excellence. The Program has 21 regions and 95 field offices. The Program is not responsible for overseeing bankruptcy cases filed in Alabama or North Carolina.

Press Contact: Jane Limprecht

Executive Office for U.S. Trustees

(202) 305-7411

[End]

Last Update: November 15, 2005 6:11 PM
U.S. Trustee Program/Department of Justice
usdoj/ust/smm

EXHIBIT 5

USTP FY 2005 Criminal Referrals by Office and Allegation

[NOTE: Each referral may identify one or multiple allegations.]

Region: 01 City: Boston District(s): Massachusetts

7 Number of Referrals

Allegations

- 5 Perjury/ False Statement
- 4 False Oaths/False Statements [18 USC 152 (2) & (3)]
- 3 Concealment of Assets
- 4 Bankruptcy Fraud Scheme [18 USC 157]
- 1 ID Theft/Use of False/ Multiple SSNs
- 1 Tax Fraud [26 USC 7201, et seq.]
- 2 Credit Card Fraud/ Bust-Outs
- 2 Other

Region: 01 City: Worcester District(s): Massachusetts

8 Number of Referrals

Allegations

- 2 Perjury/ False Statement
- 1 False Oaths/False Statements [18 USC 152 (2) & (3)]
- 3 Concealment of Assets
- 3 Bankruptcy Fraud Scheme [18 USC 157]
- 1 ID Theft/Use of False/ Multiple SSNs
- 1 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
- 4 Forged Documents
- 2 Mortgage/Real Estate Fraud
- 1 Credit Card Fraud/ Bust-Outs
- 2 Corporate Fraud
- 2 Corporate Bust-Outs / Bleed-Outs
- 1 Bribery [18 USC 152 (6)]

Region: 01 City: Manchester District(s): New Hampshire

6 Number of Referrals

Allegations

- 1 Perjury/ False Statement
- 1 False Oaths/False Statements [18 USC 152 (2) & (3)]
- 2 Concealment of Assets
- 3 Bankruptcy Fraud Scheme [18 USC 157]
- 1 ID Theft/Use of False/ Multiple SSNs
- 1 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
- 1 Tax Fraud [26 USC 7201, et seq.]
- 2 Mortgage/Real Estate Fraud

Region: 01 City: Providence District(s): Rhode Island

2 Number of Referrals

Allegations

- 1 Perjury/ False Statement
- 1 False Oaths/False Statements [18 USC 152 (2) & (3)]
- 1 Concealment of Assets
- 2 Bankruptcy Fraud Scheme [18 USC 157]
- 2 Other

Region: 02 **City:** Albany **District(s):** Northern New York; Southern New York; Vermont

2 **Number of Referrals**

Allegations

2 Perjury/ False Statement

1 False Oaths/False Statements [18 USC 152 (2) & (3)]

2 Concealment of Assets

1 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]

Region: 02 **City:** Rochester **District(s):** Western New York

6 **Number of Referrals**

Allegations

2 Perjury/ False Statement

2 False Oaths/False Statements [18 USC 152 (2) & (3)]

2 Concealment of Assets

3 Bankruptcy Fraud Scheme [18 USC 157]

3 Tax Fraud [26 USC 7201, et seq.]

1 Other

Region: 02 **City:** New Haven **District(s):** Connecticut

6 **Number of Referrals**

Allegations

6 Perjury/ False Statement

5 False Oaths/False Statements [18 USC 152 (2) & (3)]

6 Concealment of Assets

3 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]

1 Mortgage/Real Estate Fraud

1 Embezzlement [18 USC 153]

Region: 02 **City:** Utica **District(s):** Northern New York

2 **Number of Referrals**

Allegations

2 Perjury/ False Statement

2 False Oaths/False Statements [18 USC 152 (2) & (3)]

2 Concealment of Assets

1 Bankruptcy Fraud Scheme [18 USC 157]

1 ID Theft/Use of False/ Multiple SSNs

1 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]

1 Tax Fraud [26 USC 7201, et seq.]

1 Credit Card Fraud/ Bust-Outs

1 False Claim [18 USC 152(4)]

Region: 02 **City:** Brooklyn **District(s):** Eastern New York

5 **Number of Referrals**

Allegations

3 Perjury/ False Statement

1 False Oaths/False Statements [18 USC 152 (2) & (3)]

3 Bankruptcy Fraud Scheme [18 USC 157]

3 ID Theft/Use of False/ Multiple SSNs

1 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]

4 Serial Filer

Region: 03 **City:** Newark **District(s):** New Jersey

14 **Number of Referrals**

Allegations

2 Concealment of Assets
7 ID Theft/Use of False/ Multiple SSNs
2 Tax Fraud [26 USC 7201, et seq.]
2 Credit Card Fraud/ Bust-Outs
1 Corporate Fraud
1 Corporate Bust-Outs / Bleed-Outs
1 Professional Fraud
1 Fee Agreement/Cases Under Title 11 [18 USC 155]
1 Other

Region: 03 **City:** Philadelphia **District(s):** Eastern Pennsylvania

18 **Number of Referrals**

Allegations

3 False Oaths/False Statements [18 USC 152 (2) & (3)]
7 Concealment of Assets
6 Bankruptcy Fraud Scheme [18 USC 157]
8 ID Theft/Use of False/ Multiple SSNs
3 Forged Documents
4 Serial Filer
1 Embezzlement [18 USC 153]
3 Other

Region: 03 **City:** Harrisburg **District(s):** Middle Pennsylvania

1 **Number of Referrals**

Allegations

1 Mortgage/Real Estate Fraud

Region: 03 **City:** Pittsburgh **District(s):** Western Pennsylvania

10 **Number of Referrals**

Allegations

5 Perjury/ False Statement
5 False Oaths/False Statements [18 USC 152 (2) & (3)]
2 Concealment of Assets
9 Bankruptcy Fraud Scheme [18 USC 157]
3 ID Theft/Use of False/ Multiple SSNs
1 Tax Fraud [26 USC 7201, et seq.]
1 Forged Documents
4 Serial Filer
3 Embezzlement [18 USC 153]
2 Other

Region: 03 **City:** Wilmington **District(s):** Delaware

11 **Number of Referrals**

Allegations

6 Perjury/ False Statement
3 Concealment of Assets
2 Bankruptcy Fraud Scheme [18 USC 157]
1 ID Theft/Use of False/ Multiple SSNs
2 Tax Fraud [26 USC 7201, et seq.]
2 Forged Documents
1 Embezzlement [18 USC 153]
1 Investor Fraud
2 Professional Fraud
2 Other

Region: 04 **City:** Alexandria **District(s):** District of Columbia; Eastern Virginia

5 **Number of Referrals**

Allegations

3 Perjury/ False Statement
2 False Oaths/False Statements [18 USC 152 (2) & (3)]
1 Concealment of Assets
1 Bankruptcy Fraud Scheme [18 USC 157]
1 Forged Documents
1 Serial Filer
1 Professional Fraud
1 Other

Region: 04 **City:** Norfolk **District(s):** Eastern Virginia

4 **Number of Referrals**

Allegations

2 Perjury/ False Statement
3 False Oaths/False Statements [18 USC 152 (2) & (3)]
2 Bankruptcy Fraud Scheme [18 USC 157]
1 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
1 Serial Filer
1 Other

Region: 04 **City:** Baltimore **District(s):** Maryland

10 **Number of Referrals**

Allegations

5 Perjury/ False Statement
8 False Oaths/False Statements [18 USC 152 (2) & (3)]
4 Concealment of Assets
6 Bankruptcy Fraud Scheme [18 USC 157]
1 Tax Fraud [26 USC 7201, et seq.]
3 Forged Documents
1 Mortgage/Real Estate Fraud
2 Serial Filer
1 Professional Fraud
1 Other

Region: 04 **City:** Columbia **District(s):** South Carolina

7 **Number of Referrals**

Allegations

4 Perjury/ False Statement
3 False Oaths/False Statements [18 USC 152 (2) & (3)]
3 Concealment of Assets
5 Bankruptcy Fraud Scheme [18 USC 157]
1 ID Theft/Use of False/ Multiple SSNs
2 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
1 Tax Fraud [26 USC 7201, et seq.]
2 Forged Documents
1 Serial Filer
1 Corporate Fraud
1 Sarbanes-Oxley [18 USC 1519]
1 Corporate Bust-Outs / Bleed-Outs
2 Other

Region: 04 **City:** Roanoke **District(s):** Western Virginia

1 **Number of Referrals**

Allegations

1 [No allegation specified]

Region: 04 **City:** Charleston **District(s):** Northern West Virginia; Southern West Virginia

2 **Number of Referrals**

Allegations

1 Perjury/ False Statement

1 False Oaths/False Statements [18 USC 152 (2) & (3)]

2 Concealment of Assets

1 Bankruptcy Fraud Scheme [18 USC 157]

1 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]

Region: 04 **City:** Greenbelt **District(s):** Maryland

8 **Number of Referrals**

Allegations

6 Perjury/ False Statement

5 False Oaths/False Statements [18 USC 152 (2) & (3)]

4 Concealment of Assets

6 Bankruptcy Fraud Scheme [18 USC 157]

2 ID Theft/Use of False/ Multiple SSNs

1 Forged Documents

1 Serial Filer

1 Post-Petition Receipt of Property [18 USC 152 (5)]

5 Other

Region: 04 **City:** Richmond **District(s):** Eastern Virginia

5 **Number of Referrals**

Allegations

4 Perjury/ False Statement

5 False Oaths/False Statements [18 USC 152 (2) & (3)]

3 Bankruptcy Fraud Scheme [18 USC 157]

1 ID Theft/Use of False/ Multiple SSNs

4 Forged Documents

1 Mortgage/Real Estate Fraud

3 False Claim [18 USC 152(4)]

1 Investor Fraud

Region: 05 **City:** New Orleans **District(s):** Eastern Louisiana; Middle Louisiana

8 **Number of Referrals**

Allegations

5 Perjury/ False Statement

6 False Oaths/False Statements [18 USC 152 (2) & (3)]

6 Concealment of Assets

5 Bankruptcy Fraud Scheme [18 USC 157]

2 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]

1 Tax Fraud [26 USC 7201, et seq.]

1 Forged Documents

1 False Claim [18 USC 152(4)]

3 Other

Region: 05 City: Shreveport District(s): Western Louisiana

3 Number of Referrals

Allegations

1 Perjury/ False Statement
2 False Oaths/False Statements [18 USC 152 (2) & (3)]
2 Concealment of Assets
3 Bankruptcy Fraud Scheme [18 USC 157]
1 ID Theft/Use of False/ Multiple SSNs
1 Credit Card Fraud/ Bust-Outs
1 Post-Petition Receipt of Property [18 USC 152 (5)]

Region: 05 City: Jackson District(s): Northern Mississippi; Southern Mississippi

6 Number of Referrals

Allegations

3 Perjury/ False Statement
4 False Oaths/False Statements [18 USC 152 (2) & (3)]
3 Concealment of Assets
2 ID Theft/Use of False/ Multiple SSNs
1 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
1 Embezzlement [18 USC 153]
1 Post-Petition Receipt of Property [18 USC 152 (5)]
2 Other

Region: 06 City: Dallas District(s): Northern Texas

9 Number of Referrals

Allegations

5 Perjury/ False Statement
4 False Oaths/False Statements [18 USC 152 (2) & (3)]
3 Concealment of Assets
7 Bankruptcy Fraud Scheme [18 USC 157]
3 ID Theft/Use of False/ Multiple SSNs
2 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
1 Tax Fraud [26 USC 7201, et seq.]
2 Forged Documents
1 Mortgage/Real Estate Fraud
2 Serial Filer
1 Credit Card Fraud/ Bust-Outs
1 Disregard of Bankruptcy Law/Rule by Bankruptcy Petition Preparer [18 USC 156]
2 Other

Region: 06 City: Tyler District(s): Eastern Texas

8 Number of Referrals

Allegations

5 Perjury/ False Statement
4 False Oaths/False Statements [18 USC 152 (2) & (3)]
6 Concealment of Assets
5 Bankruptcy Fraud Scheme [18 USC 157]
2 ID Theft/Use of False/ Multiple SSNs
5 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
1 Tax Fraud [26 USC 7201, et seq.]
1 Forged Documents
2 Mortgage/Real Estate Fraud
1 Serial Filer
1 Credit Card Fraud/ Bust-Outs
3 Post-Petition Receipt of Property [18 USC 152 (5)]
1 Corporate Fraud
1 Investor Fraud
1 Disregard of Bankruptcy Law/Rule by Bankruptcy Petition Preparer [18 USC 156]
3 Other

Region: 07 City: Houston District(s): Southern Texas

6 Number of Referrals

Allegations

2 Perjury/ False Statement
3 False Oaths/False Statements [18 USC 152 (2) & (3)]
2 Concealment of Assets
4 Bankruptcy Fraud Scheme [18 USC 157]
1 ID Theft/Use of False/ Multiple SSNs
2 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
3 Forged Documents
1 Embezzlement [18 USC 153]
1 False Claim [18 USC 152(4)]
2 Post-Petition Receipt of Property [18 USC 152 (5)]
1 Bribery [18 USC 152 (6)]
2 Other

Region: 07 City: San Antonio District(s): Western Texas

5 Number of Referrals

Allegations

3 Perjury/ False Statement
4 False Oaths/False Statements [18 USC 152 (2) & (3)]
3 Concealment of Assets
3 Bankruptcy Fraud Scheme [18 USC 157]
1 ID Theft/Use of False/ Multiple SSNs
2 Tax Fraud [26 USC 7201, et seq.]
1 Serial Filer
3 Embezzlement [18 USC 153]
1 Sarbanes-Oxley [18 USC 1519]
3 Other

Region: 07 City: Corpus Christi District(s): Southern Texas

8 Number of Referrals

Allegations

- 1 Perjury/ False Statement
- 1 Concealment of Assets
- 1 ID Theft/Use of False/ Multiple SSNs
- 5 Tax Fraud [26 USC 7201, et seq.]
- 1 Other

Region: 07 City: Austin District(s): Western Texas

6 Number of Referrals

Allegations

- 4 Perjury/ False Statement
- 1 False Oaths/False Statements [18 USC 152 (2) & (3)]
- 2 Concealment of Assets
- 1 ID Theft/Use of False/ Multiple SSNs
- 1 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
- 1 Forged Documents
- 1 Serial Filer
- 2 Investor Fraud
- 1 Other

Region: 08 City: Memphis District(s): Western Tennessee

16 Number of Referrals

Allegations

- 6 Perjury/ False Statement
- 11 False Oaths/False Statements [18 USC 152 (2) & (3)]
- 3 Concealment of Assets
- 2 Bankruptcy Fraud Scheme [18 USC 157]
- 7 ID Theft/Use of False/ Multiple SSNs
- 2 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
- 1 Tax Fraud [26 USC 7201, et seq.]
- 2 Forged Documents
- 1 Mortgage/Real Estate Fraud
- 1 False Claim [18 USC 152(4)]
- 4 Other

Region: 08 City: Louisville District(s): Western Kentucky

6 Number of Referrals

Allegations

- 1 Perjury/ False Statement
- 3 False Oaths/False Statements [18 USC 152 (2) & (3)]
- 2 Concealment of Assets
- 2 Bankruptcy Fraud Scheme [18 USC 157]
- 1 Forged Documents
- 1 Serial Filer
- 1 Sarbanes-Oxley [18 USC 1519]
- 3 Other

Region: 08 **City:** Chattanooga **District(s):** Eastern Tennessee

5 **Number of Referrals**

Allegations

2 Perjury/ False Statement
3 False Oaths/False Statements [18 USC 152 (2) & (3)]
3 Concealment of Assets
1 Bankruptcy Fraud Scheme [18 USC 157]
2 ID Theft/Use of False/ Multiple SSNs
1 Other

Region: 08 **City:** Nashville **District(s):** Middle Tennessee

5 **Number of Referrals**

Allegations

2 Perjury/ False Statement
1 False Oaths/False Statements [18 USC 152 (2) & (3)]
2 Concealment of Assets
1 Bankruptcy Fraud Scheme [18 USC 157]
2 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
1 Embezzlement [18 USC 153]
1 Investor Fraud
1 Professional Fraud
3 Other

Region: 08 **City:** Lexington **District(s):** Eastern Kentucky

2 **Number of Referrals**

Allegations

1 Perjury/ False Statement
2 False Oaths/False Statements [18 USC 152 (2) & (3)]
2 Concealment of Assets
1 Bankruptcy Fraud Scheme [18 USC 157]
1 ID Theft/Use of False/ Multiple SSNs
1 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
1 Forged Documents
1 Health Care Fraud
1 Other

Region: 09 **City:** Cleveland **District(s):** Northern Ohio

16 **Number of Referrals**

Allegations

6 Perjury/ False Statement
4 False Oaths/False Statements [18 USC 152 (2) & (3)]
5 Concealment of Assets
3 Bankruptcy Fraud Scheme [18 USC 157]
3 Tax Fraud [26 USC 7201, et seq.]
1 Embezzlement [18 USC 153]
3 Credit Card Fraud/ Bust-Outs
1 Post-Petition Receipt of Property [18 USC 152 (5)]
1 Sarbanes-Oxley [18 USC 1519]
1 Corporate Bust-Outs / Bleed-Outs
1 Health Care Fraud
4 Other

Region: 09 **City: Columbus** **District(s): Southern Ohio**

8 Number of Referrals

Allegations

- 6 Perjury/ False Statement
- 6 False Oaths/False Statements [18 USC 152 (2) & (3)]
- 4 Concealment of Assets
- 8 Bankruptcy Fraud Scheme [18 USC 157]
- 1 ID Theft/Use of False/ Multiple SSNs
- 1 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
- 2 Forged Documents
- 2 Mortgage/Real Estate Fraud
- 1 Serial Filer
- 1 Embezzlement [18 USC 153]
- 1 False Claim [18 USC 152(4)]
- 1 Professional Fraud
- 1 Disregard of Bankruptcy Law/Rule by Bankruptcy Petition Preparer [18 USC 156]
- 1 Fee Agreement/Cases Under Title 11 [18 USC 155]
- 5 Other

Region: 09 **City: Detroit** **District(s): Eastern Michigan**

3 Number of Referrals

Allegations

- 2 Perjury/ False Statement
- 2 False Oaths/False Statements [18 USC 152 (2) & (3)]
- 1 Concealment of Assets
- 1 ID Theft/Use of False/ Multiple SSNs
- 1 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
- 2 Forged Documents
- 1 Other

Region: 09 **City: Grand Rapids** **District(s): Western Michigan**

8 Number of Referrals

Allegations

- 8 Perjury/ False Statement
- 8 False Oaths/False Statements [18 USC 152 (2) & (3)]
- 6 Concealment of Assets
- 7 Bankruptcy Fraud Scheme [18 USC 157]
- 1 ID Theft/Use of False/ Multiple SSNs
- 1 Credit Card Fraud/ Bust-Outs
- 1 Other

Region: 09 **City: Cincinnati** **District(s): Southern Ohio**

3 Number of Referrals

Allegations

- 3 Perjury/ False Statement
- 2 False Oaths/False Statements [18 USC 152 (2) & (3)]
- 3 Concealment of Assets
- 1 Bankruptcy Fraud Scheme [18 USC 157]
- 1 Mortgage/Real Estate Fraud

Region: 10 **City:** Indianapolis **District(s):** Southern Indiana

6 **Number of Referrals**

Allegations

5 Perjury/ False Statement
5 False Oaths/False Statements [18 USC 152 (2) & (3)]
4 Concealment of Assets
3 Bankruptcy Fraud Scheme [18 USC 157]
1 ID Theft/Use of False/ Multiple SSNs
1 Tax Fraud [26 USC 7201, et seq.]
2 Serial Filer
1 Credit Card Fraud/ Bust-Outs
1 Post-Petition Receipt of Property [18 USC 152 (5)]

Region: 10 **City:** Peoria **District(s):** Central Illinois; Southern Illinois

20 **Number of Referrals**

Allegations

14 Perjury/ False Statement
4 False Oaths/False Statements [18 USC 152 (2) & (3)]
14 Concealment of Assets
2 Bankruptcy Fraud Scheme [18 USC 157]
2 ID Theft/Use of False/ Multiple SSNs
2 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
1 Tax Fraud [26 USC 7201, et seq.]
2 Mortgage/Real Estate Fraud
1 Credit Card Fraud/ Bust-Outs
1 Corporate Bust-Outs / Bleed-Outs
1 Other

Region: 10 **City:** South Bend **District(s):** Northern Indiana

5 **Number of Referrals**

Allegations

3 Concealment of Assets
1 Bankruptcy Fraud Scheme [18 USC 157]
1 ID Theft/Use of False/ Multiple SSNs
1 Tax Fraud [26 USC 7201, et seq.]
2 Other

Region: 11 **City:** Chicago **District(s):** Northern Illinois

18 **Number of Referrals**

Allegations

9 Perjury/ False Statement
14 False Oaths/False Statements [18 USC 152 (2) & (3)]
15 Concealment of Assets
10 Bankruptcy Fraud Scheme [18 USC 157]
3 ID Theft/Use of False/ Multiple SSNs
3 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
8 Tax Fraud [26 USC 7201, et seq.]
6 Mortgage/Real Estate Fraud
3 Embezzlement [18 USC 153]
1 Credit Card Fraud/ Bust-Outs
1 Post-Petition Receipt of Property [18 USC 152 (5)]
4 Corporate Fraud
3 Sarbanes-Oxley [18 USC 1519]
6 Other

Region: 11 **City:** Milwaukee **District(s):** Eastern Wisconsin

4 **Number of Referrals**

Allegations

3 Perjury/ False Statement
2 False Oaths/False Statements [18 USC 152 (2) & (3)]
2 Concealment of Assets
4 Bankruptcy Fraud Scheme [18 USC 157]
1 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
1 Forged Documents
1 Mortgage/Real Estate Fraud
1 False Claim [18 USC 152(4)]
1 Post-Petition Receipt of Property [18 USC 152 (5)]
3 Other

Region: 11 **City:** Madison **District(s):** Northern Illinois; Western Wisconsin

7 **Number of Referrals**

Allegations

5 Perjury/ False Statement
5 False Oaths/False Statements [18 USC 152 (2) & (3)]
6 Concealment of Assets
1 Bankruptcy Fraud Scheme [18 USC 157]
1 ID Theft/Use of False/ Multiple SSNs
1 Tax Fraud [26 USC 7201, et seq.]
1 Credit Card Fraud/ Bust-Outs
1 Investor Fraud
2 Other

Region: 12 **City:** Minneapolis **District(s):** Minnesota

4 **Number of Referrals**

Allegations

3 Bankruptcy Fraud Scheme [18 USC 157]
3 Credit Card Fraud/ Bust-Outs

Region: 12 **City:** Cedar Rapids **District(s):** Northern Iowa

4 **Number of Referrals**

Allegations

4 Perjury/ False Statement
3 False Oaths/False Statements [18 USC 152 (2) & (3)]
4 Concealment of Assets
2 Bankruptcy Fraud Scheme [18 USC 157]
1 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
1 Tax Fraud [26 USC 7201, et seq.]

Region: 12 **City:** Des Moines **District(s):** Southern Iowa

3 **Number of Referrals**

Allegations

1 Perjury/ False Statement
2 False Oaths/False Statements [18 USC 152 (2) & (3)]
2 Concealment of Assets
2 Bankruptcy Fraud Scheme [18 USC 157]
2 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
1 Forged Documents
1 False Claim [18 USC 152(4)]
1 Professional Fraud
1 Other

Region: 12 City: Sioux Falls District(s): North Dakota; South Dakota

1 Number of Referrals

Allegations

1 Perjury/ False Statement

1 False Oaths/False Statements [18 USC 152 (2) & (3)]

1 Concealment of Assets

Region: 13 City: Kansas City District(s): Western Missouri

6 Number of Referrals

Allegations

1 Perjury/ False Statement

2 False Oaths/False Statements [18 USC 152 (2) & (3)]

2 Concealment of Assets

2 Bankruptcy Fraud Scheme [18 USC 157]

4 Other

Region: 13 City: Little Rock District(s): Eastern Arkansas; Western Arkansas

10 Number of Referrals

Allegations

1 Perjury/ False Statement

4 False Oaths/False Statements [18 USC 152 (2) & (3)]

6 Concealment of Assets

1 ID Theft/Use of False/ Multiple SSNs

1 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]

2 Tax Fraud [26 USC 7201, et seq.]

1 Corporate Fraud

2 Other

Region: 13 City: St. Louis District(s): Eastern Missouri

8 Number of Referrals

Allegations

7 Perjury/ False Statement

4 False Oaths/False Statements [18 USC 152 (2) & (3)]

5 Concealment of Assets

1 Bankruptcy Fraud Scheme [18 USC 157]

2 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]

1 Corporate Fraud

1 Investor Fraud

Region: 13 City: Omaha District(s): Nebraska

8 Number of Referrals

Allegations

4 Perjury/ False Statement

4 False Oaths/False Statements [18 USC 152 (2) & (3)]

5 Concealment of Assets

2 Bankruptcy Fraud Scheme [18 USC 157]

4 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]

2 False Claim [18 USC 152(4)]

1 Post-Petition Receipt of Property [18 USC 152 (5)]

4 Other

Region: 14 **City: Phoenix** **District(s): Arizona**

9 Number of Referrals

Allegations

5 Perjury/ False Statement
6 False Oaths/False Statements [18 USC 152 (2) & (3)]
4 Concealment of Assets
3 Bankruptcy Fraud Scheme [18 USC 157]
3 Tax Fraud [26 USC 7201, et seq.]
3 Forged Documents
1 Credit Card Fraud/ Bust-Outs
1 False Claim [18 USC 152(4)]
4 Other

Region: 15 **City: San Diego** **District(s): Southern California**

6 Number of Referrals

Allegations

4 Perjury/ False Statement
6 False Oaths/False Statements [18 USC 152 (2) & (3)]
4 Concealment of Assets
4 Bankruptcy Fraud Scheme [18 USC 157]
2 ID Theft/Use of False/ Multiple SSNs
1 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
1 Mortgage/Real Estate Fraud
1 Serial Filer
2 False Claim [18 USC 152(4)]
1 Other

Region: 16 **City: Los Angeles** **District(s): Central California**

65 Number of Referrals

Allegations

46 Perjury/ False Statement
41 False Oaths/False Statements [18 USC 152 (2) & (3)]
27 Concealment of Assets
37 Bankruptcy Fraud Scheme [18 USC 157]
17 ID Theft/Use of False/ Multiple SSNs
4 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
7 Forged Documents
12 Mortgage/Real Estate Fraud
12 Serial Filer
1 False Claim [18 USC 152(4)]
1 Investor Fraud
1 Professional Fraud
13 Other

Region: 16 City: Santa Ana District(s): Central California

17 Number of Referrals

Allegations

16 Perjury/ False Statement
12 False Oaths/False Statements [18 USC 152 (2) & (3)]
5 Concealment of Assets
5 Bankruptcy Fraud Scheme [18 USC 157]
2 ID Theft/Use of False/ Multiple SSNs
1 Forged Documents
2 Mortgage/Real Estate Fraud
4 Serial Filer
1 Embezzlement [18 USC 153]
1 Professional Fraud
2 Other

Region: 16 City: Riverside District(s): Central California

5 Number of Referrals

Allegations

4 Perjury/ False Statement
4 False Oaths/False Statements [18 USC 152 (2) & (3)]
3 Concealment of Assets
2 Bankruptcy Fraud Scheme [18 USC 157]
1 ID Theft/Use of False/ Multiple SSNs
1 Tax Fraud [26 USC 7201, et seq.]
1 Embezzlement [18 USC 153]
1 Corporate Fraud
2 Investor Fraud
3 Other

Region: 16 City: Woodland Hills District(s): Central California

9 Number of Referrals

Allegations

6 Perjury/ False Statement
6 False Oaths/False Statements [18 USC 152 (2) & (3)]
3 Concealment of Assets
2 Bankruptcy Fraud Scheme [18 USC 157]
5 ID Theft/Use of False/ Multiple SSNs
1 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
5 Forged Documents
2 Mortgage/Real Estate Fraud
1 Credit Card Fraud/ Bust-Outs
1 Corporate Bust-Outs / Bleed-Outs
1 Other

Region: 17 City: San Francisco District(s): Northern California

4 Number of Referrals

Allegations

2 False Oaths/False Statements [18 USC 152 (2) & (3)]
4 Concealment of Assets
3 Bankruptcy Fraud Scheme [18 USC 157]
2 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
1 Post-Petition Receipt of Property [18 USC 152 (5)]

Region: 17 City: Oakland District(s): Northern California

6 Number of Referrals

Allegations

5 Perjury/ False Statement
4 False Oaths/False Statements [18 USC 152 (2) & (3)]
3 Concealment of Assets
4 Bankruptcy Fraud Scheme [18 USC 157]
1 ID Theft/Use of False/ Multiple SSNs
1 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
1 Serial Filer
3 Other

Region: 17 City: San Jose District(s): Northern California

3 Number of Referrals

Allegations

2 Perjury/ False Statement
1 False Oaths/False Statements [18 USC 152 (2) & (3)]
2 Concealment of Assets
1 Bankruptcy Fraud Scheme [18 USC 157]
1 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
1 Other

Region: 17 City: Fresno District(s): Eastern California

11 Number of Referrals

Allegations

7 Perjury/ False Statement
7 False Oaths/False Statements [18 USC 152 (2) & (3)]
4 Concealment of Assets
7 Bankruptcy Fraud Scheme [18 USC 157]
1 ID Theft/Use of False/ Multiple SSNs
1 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
1 Tax Fraud [26 USC 7201, et seq.]
5 Forged Documents
1 Mortgage/Real Estate Fraud
3 Serial Filer
1 False Claim [18 USC 152(4)]
2 Corporate Fraud
3 Sarbanes-Oxley [18 USC 1519]
1 Professional Fraud
2 Other

Region: 17 City: Sacramento District(s): Eastern California

4 Number of Referrals

Allegations

3 Perjury/ False Statement
3 False Oaths/False Statements [18 USC 152 (2) & (3)]
3 Concealment of Assets
1 Bankruptcy Fraud Scheme [18 USC 157]
1 ID Theft/Use of False/ Multiple SSNs
1 Mortgage/Real Estate Fraud
1 Serial Filer
1 Other

Region: 17 City: Las Vegas District(s): Nevada

7 Number of Referrals

Allegations

5 Perjury/ False Statement
4 False Oaths/False Statements [18 USC 152 (2) & (3)]
5 Concealment of Assets
2 Bankruptcy Fraud Scheme [18 USC 157]
6 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
2 Post-Petition Receipt of Property [18 USC 152 (5)]
1 Corporate Bust-Outs / Bleed-Outs
1 Other

Region: 17 City: Reno District(s): Nevada

4 Number of Referrals

Allegations

4 Perjury/ False Statement
2 False Oaths/False Statements [18 USC 152 (2) & (3)]
3 Concealment of Assets
1 Bankruptcy Fraud Scheme [18 USC 157]
1 ID Theft/Use of False/ Multiple SSNs
1 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
2 Forged Documents
1 Post-Petition Receipt of Property [18 USC 152 (5)]

Region: 18 City: Seattle District(s): Western Washington

4 Number of Referrals

Allegations

4 Perjury/ False Statement
3 False Oaths/False Statements [18 USC 152 (2) & (3)]
3 Concealment of Assets
3 Bankruptcy Fraud Scheme [18 USC 157]
1 ID Theft/Use of False/ Multiple SSNs
1 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
1 Forged Documents
1 Mortgage/Real Estate Fraud
1 Serial Filer
1 Post-Petition Receipt of Property [18 USC 152 (5)]
1 Corporate Bust-Outs / Bleed-Outs
2 Other

Region: 18 City: Boise District(s): Idaho; Oregon

8 Number of Referrals

Allegations

8 Perjury/ False Statement
8 False Oaths/False Statements [18 USC 152 (2) & (3)]
8 Concealment of Assets
8 Bankruptcy Fraud Scheme [18 USC 157]
1 ID Theft/Use of False/ Multiple SSNs
1 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
1 Tax Fraud [26 USC 7201, et seq.]
2 Forged Documents
1 Credit Card Fraud/ Bust-Outs
1 Corporate Fraud
3 Other

Region: 18 **City:** Great Falls **District(s):** Montana

16 **Number of Referrals**

Allegations

15 Perjury/ False Statement

15 False Oaths/False Statements [18 USC 152 (2) & (3)]

14 Concealment of Assets

15 Bankruptcy Fraud Scheme [18 USC 157]

1 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]

1 Tax Fraud [26 USC 7201, et seq.]

1 Other

Region: 18 **City:** Portland **District(s):** Oregon

2 **Number of Referrals**

Allegations

2 Perjury/ False Statement

2 False Oaths/False Statements [18 USC 152 (2) & (3)]

1 Concealment of Assets

2 Bankruptcy Fraud Scheme [18 USC 157]

1 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]

1 Sarbanes-Oxley [18 USC 1519]

1 Other

Region: 18 **City:** Eugene **District(s):** Oregon

7 **Number of Referrals**

Allegations

7 Perjury/ False Statement

7 False Oaths/False Statements [18 USC 152 (2) & (3)]

7 Concealment of Assets

2 Bankruptcy Fraud Scheme [18 USC 157]

1 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]

Region: 18 **City:** Spokane **District(s):** Eastern Washington

1 **Number of Referrals**

Allegations

1 False Oaths/False Statements [18 USC 152 (2) & (3)]

1 Forged Documents

1 Other

Region: 19 **City:** Denver **District(s):** Colorado

2 **Number of Referrals**

Allegations

1 Perjury/ False Statement

1 False Oaths/False Statements [18 USC 152 (2) & (3)]

1 Bankruptcy Fraud Scheme [18 USC 157]

1 Serial Filer

2 Other

Region: 19 **City: Salt Lake City** **District(s): Utah**

14 Number of Referrals

Allegations

- 11 Perjury/ False Statement
- 4 False Oaths/False Statements [18 USC 152 (2) & (3)]
- 3 Concealment of Assets
- 3 Bankruptcy Fraud Scheme [18 USC 157]
- 8 ID Theft/Use of False/ Multiple SSNs
- 1 Forged Documents
- 1 Mortgage/Real Estate Fraud
- 1 Serial Filer
- 1 Credit Card Fraud/ Bust-Outs
- 6 Sarbanes-Oxley [18 USC 1519]
- 7 Other

Region: 20 **City: Wichita** **District(s): Kansas**

14 Number of Referrals

Allegations

- 10 Perjury/ False Statement
- 11 False Oaths/False Statements [18 USC 152 (2) & (3)]
- 4 Concealment of Assets
- 3 Bankruptcy Fraud Scheme [18 USC 157]
- 6 ID Theft/Use of False/ Multiple SSNs
- 2 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
- 1 Forged Documents
- 1 Serial Filer
- 4 Credit Card Fraud/ Bust-Outs
- 1 Corporate Bust-Outs / Bleed-Outs
- 6 Other

Region: 20 **City: Albuquerque** **District(s): New Mexico**

6 Number of Referrals

Allegations

- 3 Perjury/ False Statement
- 3 False Oaths/False Statements [18 USC 152 (2) & (3)]
- 3 Concealment of Assets
- 2 ID Theft/Use of False/ Multiple SSNs
- 2 Tax Fraud [26 USC 7201, et seq.]
- 1 Other

Region: 20 **City: Tulsa** **District(s): Eastern Oklahoma; Northern Oklahoma**

5 Number of Referrals

Allegations

- 4 Perjury/ False Statement
- 4 False Oaths/False Statements [18 USC 152 (2) & (3)]
- 4 Concealment of Assets
- 3 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
- 2 Embezzlement [18 USC 153]
- 1 Post-Petition Receipt of Property [18 USC 152 (5)]

Region: 20 **City: Oklahoma City** **District(s): Western Oklahoma**

6 Number of Referrals

Allegations

4 Perjury/ False Statement
5 False Oaths/False Statements [18 USC 152 (2) & (3)]
3 Concealment of Assets
3 Bankruptcy Fraud Scheme [18 USC 157]
1 ID Theft/Use of False/ Multiple SSNs
2 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
1 Tax Fraud [26 USC 7201, et seq.]
1 Forged Documents
4 Other

Region: 21 **City: Atlanta** **District(s): Northern Georgia**

34 Number of Referrals

Allegations

12 Perjury/ False Statement
13 False Oaths/False Statements [18 USC 152 (2) & (3)]
8 Concealment of Assets
11 Bankruptcy Fraud Scheme [18 USC 157]
17 ID Theft/Use of False/ Multiple SSNs
4 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
1 Forged Documents
3 Mortgage/Real Estate Fraud
3 Serial Filer
1 Embezzlement [18 USC 153]
1 Credit Card Fraud/ Bust-Outs
4 False Claim [18 USC 152(4)]
9 Other

Region: 21 **City: Tampa** **District(s): Middle Florida**

10 Number of Referrals

Allegations

7 Perjury/ False Statement
8 False Oaths/False Statements [18 USC 152 (2) & (3)]
5 Concealment of Assets
3 Bankruptcy Fraud Scheme [18 USC 157]
4 ID Theft/Use of False/ Multiple SSNs
1 Tax Fraud [26 USC 7201, et seq.]
1 Forged Documents
1 Mortgage/Real Estate Fraud
1 False Claim [18 USC 152(4)]
1 Other

Region: 21 **City: Miami** **District(s): Southern Florida**

54 Number of Referrals

Allegations

14	Perjury/ False Statement
12	False Oaths/False Statements [18 USC 152 (2) & (3)]
14	Concealment of Assets
14	Bankruptcy Fraud Scheme [18 USC 157]
4	ID Theft/Use of False/ Multiple SSNs
10	Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
36	Tax Fraud [26 USC 7201, et seq.]
2	Forged Documents
2	Mortgage/Real Estate Fraud
5	Embezzlement [18 USC 153]
3	Credit Card Fraud/ Bust-Outs
3	False Claim [18 USC 152(4)]
4	Post-Petition Receipt of Property [18 USC 152 (5)]
3	Corporate Fraud
3	Corporate Bust-Outs / Bleed-Outs
2	Investor Fraud
2	Professional Fraud
7	Other

Region: 21 **City: Savannah** **District(s): Southern Georgia**

6 Number of Referrals

Allegations

3	Perjury/ False Statement
2	False Oaths/False Statements [18 USC 152 (2) & (3)]
3	Concealment of Assets
5	Bankruptcy Fraud Scheme [18 USC 157]
2	ID Theft/Use of False/ Multiple SSNs
1	Mortgage/Real Estate Fraud
1	Credit Card Fraud/ Bust-Outs
1	False Claim [18 USC 152(4)]
1	Other

Region: 21 **City: San Juan** **District(s): Puerto Rico**

19 Number of Referrals

Allegations

17	Perjury/ False Statement
15	False Oaths/False Statements [18 USC 152 (2) & (3)]
16	Concealment of Assets
16	Bankruptcy Fraud Scheme [18 USC 157]
1	ID Theft/Use of False/ Multiple SSNs
11	Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
3	Tax Fraud [26 USC 7201, et seq.]
3	Forged Documents
8	Mortgage/Real Estate Fraud
8	Embezzlement [18 USC 153]
1	Credit Card Fraud/ Bust-Outs
1	False Claim [18 USC 152(4)]
4	Post-Petition Receipt of Property [18 USC 152 (5)]
1	Corporate Fraud
1	Sarbanes-Oxley [18 USC 1519]
4	Corporate Bust-Outs / Bleed-Outs
2	Investor Fraud
1	Professional Fraud
2	Other

Region: 21 **City: Macon** **District(s): Middle Georgia**

2 Number of Referrals

Allegations

- 2 Perjury/ False Statement
- 2 False Oaths/False Statements [18 USC 152 (2) & (3)]
- 2 Concealment of Assets
- 2 Bankruptcy Fraud Scheme [18 USC 157]
- 1 Concealment / Destruction/ Withholding of Documents [18 USC 152 (8) & (9)]
- 1 Mortgage/Real Estate Fraud
- 1 False Claim [18 USC 152(4)]
- 1 Post-Petition Receipt of Property [18 USC 152 (5)]

Region: 21 **City: Tallahassee** **District(s): Northern Florida**

4 Number of Referrals

Allegations

- 4 Perjury/ False Statement
- 3 False Oaths/False Statements [18 USC 152 (2) & (3)]
- 1 Bankruptcy Fraud Scheme [18 USC 157]
- 1 Tax Fraud [26 USC 7201, et seq.]
- 1 Other

Region: 21 **City: Orlando** **District(s): Middle Florida**

5 Number of Referrals

Allegations

- 2 Perjury/ False Statement
- 2 False Oaths/False Statements [18 USC 152 (2) & (3)]
- 2 Concealment of Assets
- 3 Bankruptcy Fraud Scheme [18 USC 157]
- 2 Tax Fraud [26 USC 7201, et seq.]
- 2 Forged Documents
- 1 Serial Filer
- 2 False Claim [18 USC 152(4)]
- 2 Other

EXHIBIT 6

FY 2005 Criminal Referrals by USTP Office

Region	Office	Total Number Referred	Prosecution Declined by U.S. Attorney's Office	Closed Administratively	With Investigative Agency	Under Review in U.S. Attorney's Office	Formal Charges Filed (Case Still Active)	Formal Charges Filed (Case Closed)*	Formal Charges (Case Closed) Breakdown		
									At Least One Guilty Plea or Conviction	At Least One Pre-trial Diversion	At Least One Dismissal
01	Boston	7	5		1	1					
01	Worcester	8	1		4	2		1	1		
01	Manchester	6	1		3	2					
01	Providence	2				1		1	1		
02	Albany	2				2					
02	Rochester	6	5		1						
02	New Haven	6	2			4					
02	Utica	2				2					
02	Brooklyn	5				5					
03	Newark	14		1	2	11					
03	Philadelphia	18	13			5					
03	Harrisburg	1			1						
03	Pittsburgh	10	1			7	1	1	1		
03	Wilmington	11	10					1	1		
04	Alexandria	5	2			3					
04	Norfolk	4				4					
04	Baltimore	10	7		1	2					
04	Columbia	7	3			4					
04	Roanoke	1				1					
04	Charleston	2				2					
04	Greenbelt	8	4			2	1	1	1		
04	Richmond	5				4		1	1		
05	New Orleans	8	3			5					
05	Shreveport	3	1			1	1				
05	Jackson	6				4	2				
06	Dallas	9	1			8					
06	Tyler	8	2			6					
07	Houston	6	1			5					
07	San Antonio	5		1		4					
07	Corpus Christi	8	4		3	1					
07	Austin	6			4	2					
08	Memphis	16	10		1	5					
08	Louisville	6				6					
08	Chattanooga	5		1	2	2					
08	Nashville	5	2			3					
08	Lexington	2	1				1				

Region	Office	Total Number Referred	Prosecution Declined by U.S. Attorney's Office	Closed Administratively	With Investigative Agency	Under Review in U.S. Attorney's Office	Formal Charges Filed (Case Still Active)	Formal Charges Filed (Case Closed)*	Formal Charges (Case Closed) Breakdown		
									At Least One Guilty Plea or Conviction	At Least One Pre-trial Diversion	At Least One Dismissal
09	Cleveland	16	3		6	7					
09	Columbus	8				6	2				
09	Detroit	3	1			1		1		1	
09	Grand Rapids	8				8					
09	Cincinnati	3	1				1	1	1		
10	Indianapolis	6	2			3	1				
10	Peoria	20	7		1	11		1	1		
10	South Bend	5	1		2	2					
11	Chicago	18	2			16					
11	Milwaukee	4	1			3					
11	Madison	7	1			5	1				
12	Minneapolis	4				4					
12	Cedar Rapids	4				1		3	2	1	
12	Des Moines	3				2		1	1		
12	Sioux Falls	1						1	1		
13	Kansas City	6	4			2					
13	Little Rock	10	2		3	4	1				
13	St. Louis	8	2			3	3				
13	Omaha	8	2			5	1				
14	Phoenix	9	6			2		1	1		
15	San Diego	6	1			5					
16	Los Angeles	65	5			60					
16	Santa Ana	17				16		1	1		
16	Riverside	5	1			3		1	1		
16	Woodland Hills	9				9					
17	San Francisco	4	4								
17	Oakland	6	5			1					
17	San Jose	3	3								
17	Fresno	11	1			8	1	1			1
17	Sacramento	4				3	1				
17	Las Vegas	7	2			4	1				
17	Reno	4	3			1					
18	Seattle	4				4					
18	Boise	8	3			5					
18	Great Falls	16	3			13					
18	Portland	2					1	1	1		
18	Eugene	7	6			1					
18	Spokane	1				1					

Region	Office	Total Number Referred	Prosecution Declined by U.S. Attorney's Office	Closed Administratively	With Investigative Agency	Under Review in U.S. Attorney's Office	Formal Charges Filed (Case Still Active)	Formal Charges Filed (Case Closed)*	Formal Charges (Case Closed) Breakdown		
									At Least One Guilty Plea or Conviction	At Least One Pre-trial Diversion	At Least One Dismissal
19	Denver	2	1			1					
19	Salt Lake City	14	4		2	1	2	5*	5		1
20	Wichita	14	2			8	1	3	3		
20	Albuquerque	6	1		2	3					
20	Tulsa	5	4			1					
20	Oklahoma City	6	4		1	1					
21	Atlanta	34	21		4	9					
21	Tampa	10	2			6	1	1	1		
21	Miami	54	42		1	11					
21	Savannah	6	3		2	1					
21	San Juan	19	15			3	1				
21	Macon	2				2					
21	Tallahassee	4	1			3					
21	Orlando	5			2	3					
		744	251	3	49	388	25	28*	25	2	2

*Note: Break-out totals 29 because one case had at least one guilty plea and one dismissal

EXHIBIT 7

Petition Preparer Misconduct

FY 2001 - FY 2006 (Thru 03/31/06)

	FY 2006	FY 2005	FY 2004	FY 2003	FY 2002
Motions/Complaints Filed	159	546	894	841	1157
Inquiries Made	588	1007	1360	2404	3245

Attorney Misconduct

FY 2001 - FY 2006 (Thru 03/31/06)

	FY 2006	FY 2005	FY 2004	FY 2003	FY 2002
Motions to Disgorge Under 329	286	418	707	898	653
Other Attorney Misconduct	121	166	211	214	243
Total Formal Actions	407	584	918	1112	896
Inquiries Made Under 329	381	776	751	1265	852
Other Inquiries for Attorney Misconduct	168	326	486	571	541
Total Informal Actions	549	1102	1237	1836	1393

Creditor Misconduct

FY 2006 (Thru 03/31/06)

	Formal Actions Filed	Inquiries Made
False/Inaccurate Claims	0	2
Discharge/Stay Violation Under Section 524	0	5
Abuse of Reaffirmation Procedures	7	2