U.S. Department of Justice

Executive Office for United States Trustees

Office of Research and Planning *Washington, D.C.*

THE U.S. TRUSTEE'S ROLE IN CHAPTER 11 BANKRUPTCY CASES

The United States Trustee Program is a component of the Department of Justice that works to ensure the integrity of the bankruptcy system and intervenes in bankruptcy cases to uphold the bankruptcy laws.

The Program consists of an Executive Office for U.S. Trustees in Washington, D.C., as well as 21 regional U.S. Trustee Offices and 94 field offices that operate in all federal judicial districts except those located in Alabama and North Carolina.

Generally, the duties of the U.S. Trustee in a Chapter 11 bankruptcy case are set forth in 28 U.S.C. § 586. They include the following:

- **First Day Orders.** Reviewing the debtor's requests for emergency orders early in a bankruptcy case, and ensuring that the requested relief is tailored to the circumstances. For example, debtors may seek immediate court approval to retain professionals, obtain emergency financing, and pay certain suppliers. These requests may affect the rights of creditors and alter their ability to negotiate the terms of the debtor's reorganization later in the case.

- **Official Committees.** Determining what official committees should be established to serve in the case; appointing committee members; and engaging in oversight of committee actions. Each committee upholds the interests of the creditor group it represents, such as unsecured creditors, bond holders, or equity security holders. A committee usually has seven to 15 members, representing different subgroups of the creditor group. U.S. Trustee oversight includes organizing the committee and supervising the professionals, such as attorneys and accountants, who are employed by the committee..

- **Reorganization Plans, Disclosure Statements.** Reviewing reorganization plans and disclosure statements filed by parties in the case to make sure they provide adequate and accurate information.

- **Ensuring Compliance.** Ensuring that all required reports, schedules, and fees are timely filed, and that the debtor manages money and assets consistent with the Bankruptcy Code and with its fiduciary duty to creditors. Required documents include the debtor's monthly operating reports, tax returns, schedules of income and expenses, and proof of insurance. These documents allow parties to monitor the debtor's progress toward reorganization.

- **Preventing Delay.** Taking action to prevent undue delay by, for example, filing a motion to dismiss the case, to convert the case to a Chapter 7 liquidation, or to appoint a Chapter 11 trustee.

- **Professional Employment.** Reviewing and, if appropriate, objecting to applications filed by professionals seeking employment in the case, payment of compensation, and/or reimbursement of expenses. Professionals who serve in the case--and receive payment from the bankruptcy estate--might include attorneys, accountants, auctioneers, investment advisors, "turnaround specialists," and real estate brokers. The U.S. Trustee might object to employment of a law firm on the ground that the firm has a conflict of interest arising from its work for other clients. The U.S. Trustee might also challenge the reasonableness of professional fees billed in a case, such as charges for drafting a failed reorganization plan after financial information clearly showed that the plan would not be feasible.

- **Fraud.** Investigating criminal, fraudulent, or abusive conduct for possible civil or criminal prosecution. The U.S. Trustee pursues civil (non-criminal) penalties, and refers cases of apparent criminal fraud to the U.S. Attorney for investigation and criminal prosecution.

Contact: Jane Limprecht, Public Information Officer
Executive Office for United States Trustees
(202) 305-7411

January 2002