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UNITED STATES TRUSTEE PROGRAM
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Annual Report of Significant Accomplishments
Fiscal Year 2007



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Message from the Director

The United States Trustee Program made great progress in Fiscal Year (FY) 2007 in effectively integrating the duties imposed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA) into its daily operations. The Program successfully conducts the means test, scrutinizes and approves pre-bankruptcy credit counseling agencies and post-bankruptcy debtor educators, and supervises the audits of consumer cases, while also carrying out its many other responsibilities critical to protecting the integrity of the bankruptcy system.

In FY 2007, the Program initiated more than 74,000 civil enforcement and related actions, including actions not requiring court resolution, against debtors, creditors, attorneys, and others who violate the Bankruptcy Code or who seek unjustified fees or other relief. The total monetary impact of these actions was more than \$865 million in debts not discharged, disgorgement of fees, fines, penalties, and other relief.

Throughout this report, you will find examples of our civil and criminal enforcement activities. I am particularly proud of our efforts to protect debtor homeowners. For many years the Program has pursued enforcement remedies against those who prey on financially distressed homeowners. These wrongdoers include non-attorney bankruptcy petition preparers who endanger homeowners by giving legal advice that is both illegal and wrong, and foreclosure rescue operators who use the bankruptcy system to perpetrate fraud against consumers desperate to save their homes.

The Program also focuses significant resources on increasing the accountability of chapter 11 debtor companies' senior management and the bankruptcy professionals who are employed in chapter 11 cases. In FY 2007, these efforts included objecting to the payment of bonuses for debtor companies' senior executives utilizing a new provision enacted in the BAPCPA, and objecting to the fees and expenses of professionals who are compensated from bankruptcy estate funds.

Finally, FY 2007 was notable for the number of reports issued by and about the Program. As directed by Congress in the BAPCPA, the Program issued reports on the impact of the use of Internal Revenue Standards with respect to the means test and on the effect of a new definition of "household goods" on the avoidance of security interests. The Government Accountability Office examined the Program's implementation of the BAPCPA's pre-bankruptcy credit counseling requirement and published its report in FY 2007. These reports contribute to public understanding about the functioning of the bankruptcy system and help make the system more transparent.

These and many other activities would not be possible without the diligence and hard work of dedicated professionals in the Program and bankruptcy community. Please accept my invitation to learn more about the Program by reading our *Fiscal Year 2007 Annual Report of Significant Accomplishments*.



Clifford J. White III, Director, Executive Office for United States Trustees

Protecting the Integrity of the Bankruptcy System

The U.S. Trustee Program is the litigating component of the Department of Justice that is responsible for overseeing the nation's bankruptcy system. The Program's mission is to promote the integrity and efficiency of the bankruptcy system by enforcing bankruptcy laws; supervising private trustees; and ensuring that those involved in the process, including debtors, creditors, attorneys, and other professionals, fulfill their legal obligations. To carry out its mission, the Program has standing to participate in every bankruptcy case within its jurisdiction. (By statute, the Program does not have jurisdiction in Alabama and North Carolina.)

Organization and Administration

The Program is managed by an Executive Office in Washington, D.C., which is led by a Director. Twenty-one regions are managed by United States Trustees, and 95 field offices are supervised by Assistant U.S. Trustees. The geographic jurisdiction of each region is determined by statute. At the conclusion of FY 2007, the Program employed approximately 1,300 attorneys, financial analysts, paralegals, and support staff. More than 91 percent of the Program's employees were located in the field.

The Program is funded through user fees paid by bankruptcy debtors. All revenues are deposited into the United States Trustee System Fund and remain available for expenditure, as specified in appropriations acts. Deposits to the U.S. Trustee System Fund consist of filing fees, chapter 11 quarterly fees, and interest on investments and other miscellaneous revenue. In FY 2007, Congress appropriated \$223,152,000 for the Program.

U.S. Trustee Program Nationwide Office Locator

Executive Office for U.S. Trustees

Washington, D.C.

Regional and Field Offices (by State)

Alaska

Anchorage

Arizona

Phoenix

Arkansas

Little Rock

California

Fresno

Los Angeles

Oakland

Riverside

Sacramento

San Diego

San Francisco

San Jose

Santa Ana

Woodland Hills

Colorado

Denver

Connecticut

New Haven

Delaware

Wilmington

Florida

Miami

Orlando

Tallahassee

Tampa

Georgia

Atlanta

Macon

Savannah

Hawaii

Honolulu

Idaho

Boise

Illinois

Chicago

Peoria

Indiana

Indianapolis

South Bend

Iowa

Cedar Rapids

Des Moines

Kansas

Wichita

Kentucky

Lexington

Louisville

Louisiana

New Orleans

Shreveport

Maine

Portland

Maryland

Baltimore

Greenbelt

Massachusetts

Boston

Worcester

Michigan

Detroit

Grand Rapids

Minnesota

Minneapolis

Mississippi

Jackson

Missouri

Kansas City

St. Louis

Montana

Great Falls

Nebraska

Omaha

Nevada

Las Vegas

Reno

New Hampshire

Manchester

New Jersey

Newark

New Mexico

Albuquerque

New York

Albany

Brooklyn

Buffalo

Central Islip

New York City

Rochester

Utica

Ohio

Cincinnati

Cleveland

Columbus

Oklahoma

Oklahoma City

Tulsa

Oregon

Eugene

Portland

Pennsylvania

Harrisburg

Philadelphia

Pittsburgh

Puerto Rico

San Juan

Rhode Island

Providence

South Carolina

Columbia

South Dakota

Sioux Falls

Tennessee

Chattanooga

Memphis

Nashville

Texas

Austin

Corpus Christi

Dallas

Houston

San Antonio

Tyler

Utah

Salt Lake City

Virginia

Alexandria

Norfolk

Richmond

Roanoke

Washington

Seattle

Spokane

West Virginia

Charleston

Wisconsin

Madison

Milwaukee

Wyoming

Cheyenne

Please visit our web site
at www.usdoj.gov/ust
for office phone numbers
and addresses.

Bankruptcy Code

A bankruptcy case is a proceeding brought under federal law to discharge or reorganize the financial obligations of an individual or an entity. The federal Bankruptcy Code appears in Title 11 of the United States Code, beginning at 11 U.S.C. § 101. A bankruptcy case is filed under either chapter 7, 9, 11, 12, 13, or 15 of the Bankruptcy Code.

Chapter 7 bankruptcy is a liquidation proceeding available to consumers and businesses. The assets of a debtor that are not exempt from creditors are collected and reduced to money, and the proceeds are distributed to creditors in accordance with a priority scheme established by the Bankruptcy Code. A consumer debtor receives a release from debt, except for certain debts that are excepted from discharge by the Bankruptcy Code.

Chapter 9 provides for the reorganization of municipalities.

Chapter 11 provides a procedure by which an individual or a business can reorganize debts while continuing to operate. The vast majority of chapter 11 cases are filed by businesses. The debtor, often with participation from creditors, creates a plan of reorganization under which it proposes to repay part or all of its debts.

Chapter 12 allows family farmers or fisher persons to file for bankruptcy, reorganize their business affairs, repay all or part of their debts, and continue operating.

Chapter 13 is used by individual consumers to reorganize their financial affairs under a repayment plan that must be completed within three to five years. To be eligible for chapter 13 relief, a consumer must have regular income and may not have more than a specified amount of debt.

Chapter 15, a new chapter added to the Bankruptcy Code by the BACPCA, covers insolvency cases involving debtors, assets, claimants, and other parties in interest that are located in more than one country.

Bankruptcy Filings

During FY 2007, 801,269 bankruptcy cases were filed nationwide, with 758,673 cases filed in the 88 judicial districts covered by the Program.

Figure 2.1. Total Bankruptcy Filings Nationwide

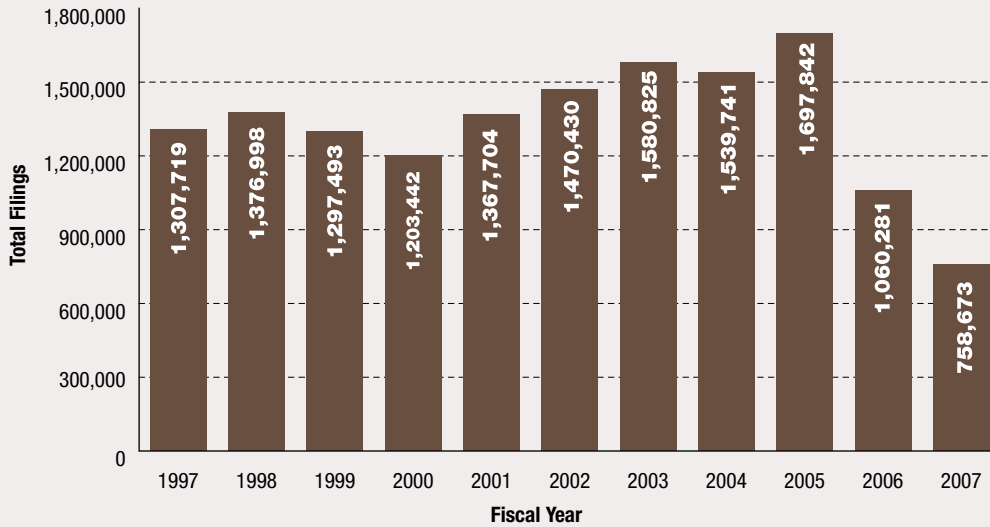
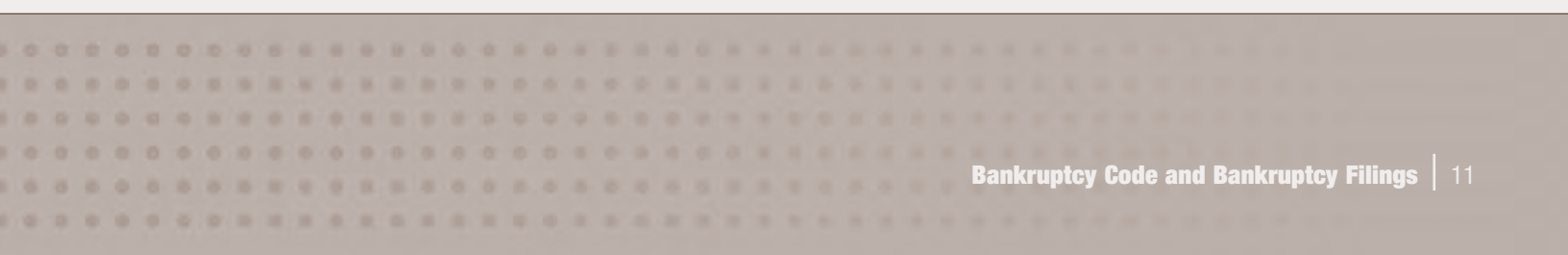


Table 2.1. Nationwide Bankruptcy Filings by Chapter

Bankruptcy Chapter	Filings in Districts Covered by USTP	Filings Nationwide
All Chapters	758,673	801,269
Chapter 7	467,453	484,162
Chapter 9	7	7
Chapter 11	5,658	5,888
Chapter 12	345	361
Chapter 13	285,161	310,802
Chapter 15	49	49

The mix of chapter 7 and chapter 13 cases changed in the cases filed after the BAPCPA's effective date. Pre-BAPCPA, over 70 percent of cases were filed as chapter 7 liquidations and about 27 percent were filed as chapter 13 repayment plans. In FY 2007, just over 60 percent of bankruptcy cases were filed under chapter 7 and nearly 39 percent were filed under chapter 13. All other cases totaled less than 1 percent of filings.



Combating Fraud and Abuse

U.S. Trustees engage in civil enforcement activity to combat fraud and abuse by debtors, creditors, non-attorney bankruptcy petition preparers, attorneys, and others. Civil enforcement activity consists of formal actions and informal inquiries designed to address abuses. Formal actions before the bankruptcy court include various enforcement motions, such as motions to dismiss the case or to disgorge fees, as well as complaints seeking the denial or revocation of a discharge. Informal actions include written and verbal inquiries made to debtors and their counsel, creditors, and bankruptcy petition preparers regarding issues such as means test calculations or missing assets, documents, or information. The amounts of moneys reflected as not discharged represent funds potentially available for distribution to creditors due to formal actions or successful informal inquiries. The Program’s primary civil enforcement activities are described in this chapter.

Throughout this chapter, in charts describing U.S. Trustee actions, the numbers of actions filed and actions decided during FY 2007 are not identical, because some actions were filed before the reporting period, some actions were decided afterward, and some actions were withdrawn by the U.S. Trustee.

Denial of Discharge

U.S. Trustees may file complaints to deny or revoke the bankruptcy discharge under 11 U.S.C. § 727 if the debtor engaged in improper conduct such as concealing assets, withholding information on the debtor’s bankruptcy papers, destroying property to hinder or defraud a creditor or trustee, knowingly making a false oath, or refusing to obey a court order.

Table 3.1. Denial or Revocation of Discharge under § 727

Actions & Inquiries	FY 2007
Filed	1,639
Decided	1,427
Success Rate	98.8%
Inquiries	3,598
Amount Not Discharged	\$326,926,816

In an example of a successful action to deny discharge, the Bankruptcy Court for the Western District of Washington ruled in favor of the Seattle office and denied a debtor’s discharge of almost \$420,000 in unsecured debt. When the debtor filed bankruptcy, he failed to disclose six bank accounts, a stock brokerage account, stock in four companies

in which he had invested approximately \$150,000, an 800-bottle wine collection worth approximately \$50,000, an interest in a trust, and pre-bankruptcy gifts to family and friends. The court found the debtor intentionally and fraudulently concealed assets, and intentionally and fraudulently testified regarding the existence of the assets.

Dismissal of Case

Dismissal for Abuse

U.S. Trustees may file motions to dismiss for abuse under section 707(b) if the application of the “means test” calculation shows that the debtor’s chapter 7 filing is presumed abusive, and the debtor demonstrates no special circumstances to rebut that presumption. In addition, the U.S. Trustee may seek dismissal under section 707(b) if the case would be abusive considering the “totality of the circumstances of the debtor’s financial situation” or under a “bad faith” analysis.

Table 3.2. Dismissal for Abuse under § 707(b)

Actions & Inquiries	FY 2007
Filed	4,835
Decided	2,874
Success Rate	95.1%
Inquiries	40,130
Amount Not Discharged	\$315,674,039

As an example, debtors in the District of Maryland converted their case to chapter 13 after the Baltimore office investigated their financial circumstances and sought dismissal for abuse under the totality of the circumstances. The case conversion prevented the chapter 7 discharge of \$249,759 in unsecured debt, including \$83,324 in credit card charges. Among other expenses, the debtors listed a total of over \$700 per month in payments for storing and maintaining their boat and for a vehicle that was paid off shortly after the bankruptcy filing. After deducting unreasonable expenses, the debtors had more than \$1,100 in monthly disposable income from which to repay their creditors.

Bad faith was at issue when the Cleveland office obtained case dismissal against debtors in the Northern District of Ohio who, before filing bankruptcy, bought a house and financed the purchase of a new \$24,000 car. The debtors made several false statements on their mortgage loan application, including stating that their monthly income was \$13,000 when it was actually \$6,500. The court found the debtors made their purchases on the eve of bankruptcy and acted in bad faith. Dismissal prevented the chapter 7 discharge of \$158,514 in unsecured debt.

Dismissal for Cause

U.S. Trustees may file motions to dismiss under section 707(a) for cause, such as the debtor’s failure to file required documents.

Debtor Identification Issues

U.S. Trustees take action against debtors’ intentional use of false names or Social Security numbers. False filings may occur, for example, in an effort to avoid Bankruptcy Code restrictions on refiling bankruptcy within a particular time period, or to discharge debts that were falsely incurred by using the identity of another individual.

Table 3.3. Debtor Identification

Actions & Inquiries	FY 2007
Filed	43
Decided	30
Success Rate	96.7%
Problems Identified	1,633
Petitions Amended or Forms B21 (Statement of Social Security Number) Filed	1,403

The Bankruptcy Court for the Central District of California dismissed for bad faith the case of a debtor who had used another person’s Social Security number to obtain credit cards, car loans, and employment. The false SSN came to light because the pay stubs attached to the debtor’s petition listed a number not assigned to her. When questioned at her section 341 meeting of creditors, the debtor testified that she bought the SSN for \$10. An investigation by the U.S. Trustee’s Santa Ana office revealed the number actually belonged to an individual living in New York. The debtor’s case was dismissed with prejudice, preventing her from subsequently refiling bankruptcy to discharge the debts scheduled in this case.

Abusive Conduct by Creditors

U.S. Trustees investigate and bring enforcement actions against creditors to address multi-jurisdictional or systemic abuses that are harmful the integrity of the bankruptcy system. Examples of creditor abuses include false or inaccurate proofs of claim, abusive or deficient legal practices, violations of the provisions that govern debtors’ reaffirmations of dischargeable debts, and violations of the automatic stay or the discharge injunction.

When U.S. Trustees conduct inquiries or take actions to address creditor abuse, they are not seeking to fulfill the role of private trustees or debtors’ counsel who review proofs of claims and engage in two-party disputes. U.S. Trustees will raise issues and take action in appropriate cases, however, to protect the public’s interest in the integrity of the bankruptcy system.

Table 3.4. Abusive Conduct by Creditors

Actions & Inquiries	FY 2007
Filed	57
Decided	44
Success Rate	93.2%
Inquiries	44

In one case, the Houston office participated in sanctions proceedings involving improper conduct by attorneys for a national mortgage servicer. The Bankruptcy Court for the Southern District of Texas imposed a \$75,000 sanction on the attorneys after determining they violated Bankruptcy Rule 9011 by prosecuting a “grossly erroneous” objection to the confirmation of a chapter 13 debtor’s plan.

Violations by Bankruptcy Petition Preparers

U.S. Trustees bring actions under 11 U.S.C. § 110 against non-attorney bankruptcy petition preparers who violate the Bankruptcy Code by, for example, falsely advertising “legal” services, charging excessive fees, collecting clients’ payments for court filing fees, or engaging in unfair, deceptive, or fraudulent conduct.

Table 3.5. Bankruptcy Petition Preparers under § 110

Actions & Inquiries	FY 2007
Filed	245
Decided	194
Success Rate	98.5%
Inquiries	470
Fines Imposed	\$443,227
Fees Recovered	\$129,505
Injunctions	89

Special Update on Abusive Conduct by Creditors

Protecting consumer debtors is an important objective of the Program's civil and criminal enforcement efforts. One of the basic principles of our nation's bankruptcy system is that honest but unfortunate debtors deserve a fresh start. Those who prey upon debtors for their own financial gain undermine that principle.

While creditor abuse is often best addressed by the private case trustees who object to claims, or by debtors' lawyers who dispute loan agreement terms, the Program's focus appropriately has been on systemic, multi-jurisdictional abuse that puts the integrity of the bankruptcy system as a whole at risk. In those cases, it is important for the Program to take direct enforcement action.

With the acceleration of problems with sub-prime and other mortgages and a growing number of foreclosures, the Program's job of protecting debtor homeowners, in particular, became ever more important toward the end of FY 2007. This supplement provides a brief discussion of some of the types of abusive creditor conduct the Program has addressed. A more comprehensive report of the Program's work in this important area will be included in next year's Annual Report.

Fraudulent Schemes Targeting Homeowners

Among the most egregious mortgage-related schemes the Program encounters are those perpetrated upon consumers facing foreclosure on their homes. Debtors are vulnerable to a wide variety of fraudulent schemes or other improper conduct, and there are two fact patterns uncovered most frequently by U.S. Trustees.

Bankruptcy Petition Preparers

Instead of going to a lawyer, some distressed homeowners seek a less expensive alternative and retain the services of a non-attorney bankruptcy petition preparer. Though many petition preparers perform a legitimate service by providing and typing bankruptcy forms at a modest cost, there are others who provide advice that is both illegal and catastrophically wrong. By way of example, an out-of-state bankruptcy petition preparer sent mailings to several Pittsburgh area homeowners who were facing foreclosure that guaranteed the petition preparer could help the residents keep their homes. The petition preparer provided the homeowners with skeletal chapter 13 petitions to file simply to stay foreclosure. The cases were ultimately dismissed and the homeowners again faced the possibility of losing their homes. Following a complaint filed by the U.S. Trustee, the Bankruptcy Court for the Western District of Pennsylvania imposed sanctions and an injunction against the petition preparer.

Foreclosure Rescue Operators

Another frequent fact pattern involves foreclosure rescue operators who use the bankruptcy system to victimize distressed homeowners. The perpetrators of this fraud promise to assist the victims in saving their homes from foreclosure. There are several variations of the scheme, but generally the perpetrator entices distressed homeowners

either to make mortgage payments through them or to transfer the deed to them. The perpetrator then files a bankruptcy petition to delay foreclosure and continues to collect payments from the unsuspecting homeowners. Usually, the perpetrators do not forward the mortgage payments to the mortgage companies and the homeowners ultimately lose their homes.

In a case in Arizona in August 2007, a foreclosure rescue operator was sentenced to 33 months in prison, fined \$5,000, and ordered to pay \$86,409 in restitution, based on his guilty plea to two counts of false declaration in bankruptcy. The operator sought out individuals who were losing their homes to foreclosure and prevailed upon them to transfer their homes to him to avoid having a foreclosure on their credit reports. To stay foreclosure, he filed bankruptcy petitions in the homeowners' names without their knowledge. While the cases were pending, he collected rental income on the properties. When alerted to the scam, the U.S. Trustee took action to remove the bankruptcy filing from the debtors' records and worked closely with the U.S. Attorney on the criminal prosecution.

Mortgage Servicer Violations in Bankruptcy Cases

The Program has been engaged in significant litigation involving national mortgage servicing firms. The majority of this litigation involves homeowners who are behind on their mortgage payments and file for relief under chapter 13 of the Bankruptcy Code. Under chapter 13, debtors with sufficient regular income can keep their homes by paying arrearages over three to five years and making future mortgage payments on time.

The Program has investigated complaints against mortgage servicers for filing inaccurate papers in court claiming that debtors owe more money than they actually owe or tacking on charges that are undisclosed and impermissible under the terms of a loan contract. In the most extreme cases, a debtor makes all payments required in chapter 13 and, after emerging from bankruptcy, is hit with a new bill for previously undisclosed charges. If this new bill is not paid, then the lender can foreclose on the property and the entire chapter 13 process will have been for naught.

Currently, the Program has numerous pending court actions and is investigating scores of additional mortgage servicer abuse cases. These cases may be resource intensive and raise novel and complex issues of law. In one case, the Program completed seven days of trial, examined 22 witnesses, and reviewed thousands of pages of documents. The Program has had to defend its standing and authority to seek sanctions. One lender has suggested that as long as it cures every defective filing after a debtor, trustee, or U.S. Trustee files an action, it is immune from civil sanctions. The Program takes a contrary view and will continue to enforce the law to ensure debtors are not abused by those who seek to profit unfairly at their expense.

For example, the Bankruptcy Court for the Western District of Pennsylvania entered a default judgment against a bankruptcy petition preparer after the Pittsburgh office filed an adversary proceeding seeking fines, fee disgorgement, and an injunction. The out-of-state petition preparer contacted Pittsburgh-area residents who were facing foreclosure by mailing a postcard that guaranteed the preparer could help them keep their homes. In exchange for fees ranging from \$250 to \$2,100, the petition preparer provided the homeowners with chapter 13 petitions to file in order to delay foreclosure. The required bankruptcy paperwork was not filed, and the debtors’ bankruptcy cases were ultimately dismissed. The court fined the petition preparer \$72,000, ordered the disgorgement of \$8,200 in fees, and permanently enjoined the preparer from preparing bankruptcy documents, offering legal advice, or otherwise engaging in the unauthorized practice of law in the judicial district.

Improper Conduct by Attorneys

U.S. Trustees initiate actions against attorneys who engage in unethical conduct or provide substandard representation. Actions include asking courts to prohibit an attorney from appearing in bankruptcy cases, referring cases to state court disciplinary counsel or other regulatory bodies to pursue disciplinary proceedings, requesting reduction or disgorgement of attorneys’ fees, and seeking sanctions. U.S. Trustees also enforce the Bankruptcy Code’s provisions that govern “debt relief agencies.” Among other things, those provisions require attorneys to make certain disclosures to clients who are consumer debtors.

Table 3.6. Attorney Fee Disgorgements under § 329

Actions & Inquiries	FY 2007
Filed	465
Decided	399
Success Rate	92.5%
Inquiries	1,158
Amount Disgorged	\$1,955,356

Table 3.7. Other Attorney Misconduct

Actions & Inquiries	FY 2007
Motions for Sanctions Filed	66
Decided	61
Success Rate	91.8%
Inquiries	227
Sanctions	\$50,351
Referrals to State Bar	19
Disciplinary Rulings Issued	3

In one case, the Bankruptcy Court for the District of Rhode Island approved an order in which a debtor’s attorney consented to a 36-month suspension from the practice of bankruptcy law and agreed to disgorge fees to three former clients. The order resulted from an investigation by the Providence office into numerous complaints that the attorney engaged in professional malfeasance when handling consumer bankruptcy cases.

Report on Use of IRS Standards for Means Testing

The BAPCPA required the EOUST Director to report to Congress on the impact of the utilization of Internal Revenue Service National and Local Standards (IRS Standards) for certain categories of expenses with regard to the “means test” in 11 U.S.C. § 707(b). The means test is a calculation used to determine, among other things, whether a chapter 7 case is subject to dismissal for “presumed abuse.” In addition, for chapter 13 debtors with income above the applicable state median, reasonable expenses are determined in accordance with the means test provisions of chapter 7.

For assistance in preparing the report, the EOUST contracted with the RAND Corporation. The Program released the final report in July 2007. It is posted on the Program’s Web site at http://www.usdoj.gov/ust/eo/public_affairs/reports_studies/index.htm.

Key findings of the report were that the IRS Standards affect a relatively small proportion of bankruptcy filers, and that they generally allow debtors to deduct expenses in an amount above their actual expenses, with the greatest advantage realized by above-median chapter 13 debtors with incomes just above the median. The report found that the IRS Standards apply to approximately 8 percent of chapter 7 filers and 27 percent of chapter 13 filers. The proportion of affected filers varies by state, ranging from 2 percent to 19 percent for chapter 7 filers, and from 13 percent to 66 percent for chapter 13 filers. The standards allow above-median chapter 13 debtors, on average, \$490 in expenses above the amount debtors report they actually spend.

As income rises, the differential becomes smaller. Thus, the IRS Standards have a progressive impact on above-median debtors, such that those with lower above-median income are treated more favorably than those with higher above-median income.

Debtor Audits

The BAPCPA authorizes the Program to contract with independent firms to perform audits of consumer chapter 7 and chapter 13 cases. The purpose of the audits is to determine the accuracy, veracity, and completeness of petitions, schedules, and other information required to be provided by the debtor. Pursuant to the BAPCPA, the Program designates for “random audit” a specified uniform percentage of consumer bankruptcy cases within each judicial district, and designates for “exception audit” additional cases in which the debtor’s income or expenses deviate from a statistical norm of the district in which the case is filed.

The audit firm compares selected items on the debtor’s originally filed bankruptcy papers with documents produced by the debtor at the audit firm’s request. The audit firm also conducts independent research to look for unreported assets and to verify market values. Debtors are provided an opportunity to explain any potential material misstatement before it is identified in a report of audit. After the audit is completed, the audit firm files with the court a report in which any material misstatement by the debtor is identified. The bankruptcy court notifies creditors of each case with a reported material misstatement, and U.S. Trustees determine whether an action, including formal enforcement, is appropriate.

For example, in the Eastern District of California, an audit revealed that a debtor under-reported several bank and financial accounts, and failed to disclose pre-petition transfers to insiders and creditors. Based on these facts, the Sacramento office filed a complaint against the debtor, who agreed to forgo the discharge of \$4.2 million in unsecured debt rather than proceed to trial.

If the audit firm cannot complete the audit because the debtor did not produce requested documents or the case was dismissed before the audit was completed, it files a report of no audit. U.S. Trustees also may take an appropriate enforcement action related to the filing of a report of no audit.

In FY 2007, the Program selected 4,095 cases for audit, 3,949 audits were completed, 3,582 reports of audit were filed, and 367 reports of no audit were filed.

In 1,061 of the reports of audit, or 30 percent, at least one material misstatement was reported. Misstatements were found more frequently in the exception audits than in the random audits, with 38 percent of exception audits reporting at least one material misstatement compared with 27 percent of random audits. In addition, the frequency of material misstatements varied among judicial districts. In districts with 10 or more

audits, the proportion of audits with material misstatements ranged from 9 percent to 55 percent.

Table 3.8. Debtor Audit Reports

Category	Total	Random	Exception
Cases Designated for Audit	4,095	3,161	934
Cases with Reports Filed	3,949	3,016	933
–Report of Audit Filed	3,582	2,729	853
–No Material Misstatement	2,521	1,989	532
–At Least One Material Misstatement	1,061	740	321
–Report of No Audit Filed	367	287	80

Annually, the Attorney General is required to report the results of the audits, including material misstatements of income or expenditures by judicial district. This report is posted at http://www.usdoj.gov/ust/eo/public_affairs/reports_studies/index.htm.

Pursuing Bankruptcy-Related Crimes

U.S. Trustees work in partnership with other law enforcement agencies to pursue bankruptcy-related crimes. Federal law requires that U.S. Trustees refer suspected criminal activity to the U.S. Attorneys' offices for prosecution. Program staff identify instances of suspected criminal behavior and assist U.S. Attorneys in prosecuting criminal cases.

The Program's criminal enforcement activities are coordinated by its Criminal Enforcement Unit (CrEU). The CrEU provides extensive training to Program staff, private trustees, and federal law enforcement personnel. In FY 2007, four veteran career prosecutors within the CrEU, plus approximately 25 attorneys in field offices across the country, were designated as Special Assistant U.S. Attorneys and were available to assist in the prosecution of bankruptcy crimes.

In addition, the Program participates in bankruptcy fraud working groups with members of U.S. Attorneys' offices and law enforcement agencies. Working group members collaborate to investigate and prosecute bankruptcy fraud and related criminal conduct.

The Program also reviews all citizen reports of suspected criminal bankruptcy fraud. An Internet-based e-mail "hotline" for reporting suspected bankruptcy fraud became operational in FY 2007. The hotline address is USTP.Bankruptcy.Fraud@usdoj.gov.

Criminal Referrals

The Program made 1,163 bankruptcy and bankruptcy-related criminal referrals in FY 2007. Each referral may contain multiple allegations. The most common allegations in referrals made during FY 2007 involved false oaths or statements, followed by concealment of assets, bankruptcy fraud schemes, perjury or false statements, and identity theft or use of false/multiple Social Security numbers.

Table 4.1. Criminal Referrals by Type of Allegation

Type of Allegation	Number of Referrals	Percentage of Total Referrals
False Oath/False Statement	545	46.9%
Concealment of Assets	483	41.5%
Bankruptcy Fraud Scheme	275	23.6%
Perjury/False Statement	271	23.3%
Identity Theft/Use of Multiple Social Security Numbers	195	16.8%
Tax Fraud	147	12.6%
Mortgage/Real Estate Fraud	86	7.4%
Concealment of Documents	67	5.8%
Bank Fraud	60	5.2%
Forged Documents	57	4.9%
Mail/Wire Fraud	57	4.9%

Note: Total percentages do not add up to 100 percent, because referrals may contain more than one type of allegation and this chart does not show allegations representing less than 4.0 percent of total referrals.

Since FY 2006, Congress has required the EOUST Director to submit an annual report on the criminal referrals made by the Program, the outcomes of those referrals, and the Program’s efforts to prevent bankruptcy fraud and abuse.

Varied Conduct

As shown by the data on criminal referrals, bankruptcy-related crimes encompass a range of illegal conduct by debtors and by those who exploit debtors. The following are examples of criminal convictions, guilty pleas, and sentences that occurred in FY 2007.

Concealment of Assets, False Declaration

A husband and wife who filed bankruptcy in the District of Minnesota were convicted on eight counts and nine counts, respectively, including concealment of assets, false declaration in bankruptcy, and money laundering. The husband and wife were each sentenced to 41 months in prison and fined \$250,000. In their bankruptcy case, the husband did not disclose his interest in an Individual Retirement Account (IRA) valued at more than \$200,000, and substantially understated the value of the debtors’ house. When the chapter 7 trustee discovered the IRA, the husband liquidated the account

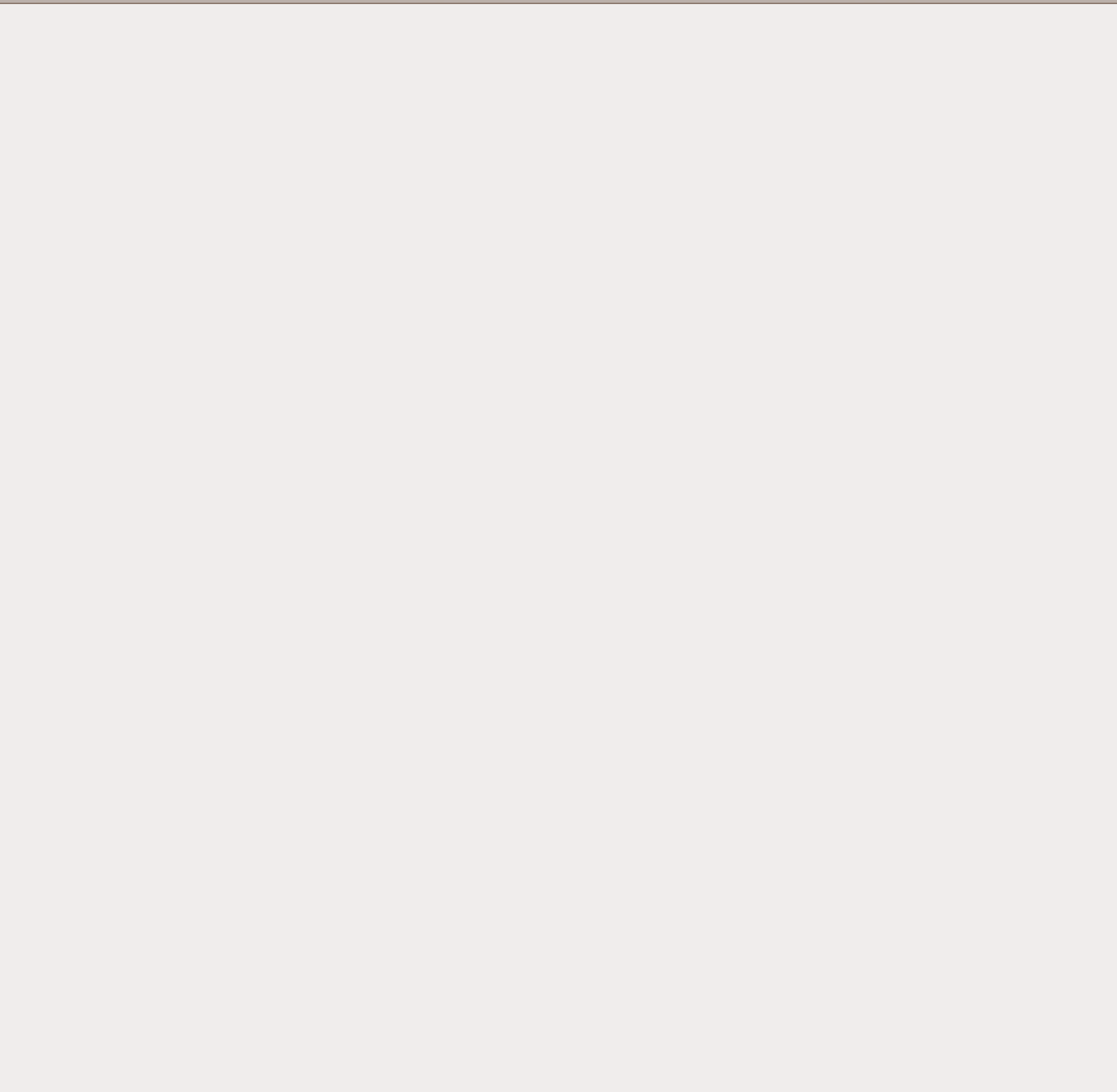
and concealed the cash from the trustee. After the debtors' house burned down, the trustee learned the true value of the debtors' interest in the home. Thereafter, without the knowledge of the trustee, the couple received a check for insurance proceeds. They cashed the check, which was property of their bankruptcy estate, and carried \$244,535 in currency out of the bank. The Minneapolis office referred the case and assisted in the investigation, and the CrEU helped with the preparation of the criminal indictment.

Mortgage/Housing Fraud

The operator of a "foreclosure rescue" scheme was sentenced in the Northern District of Illinois to more than 11 years in prison and ordered to pay \$187,604 in restitution, after pleading guilty to wire fraud and false declaration in bankruptcy. The scheme operator preyed on homeowners facing foreclosure by making representations that his company and its team of experts could stop foreclosure and eliminate all of a homeowner's mortgage debt in two years. He falsely represented to some victims that mortgage debt was illegal and that mortgage companies would forgive the victims' debt when faced with lawsuits and persuasive arguments. The scheme operator charged the homeowners a large retainer as well as monthly payments, but essentially did nothing except file serial bankruptcy petitions to delay foreclosure. The Chicago office referred the matter and the Regional Criminal Fraud Coordinator served as a Special Assistant U.S. Attorney to help prosecute the case.

Identity Theft

A woman who filed four bankruptcy cases using three different names pleaded guilty in the Central District of California to making false statements in bankruptcy. Between 2002 and 2004, the woman filed bankruptcy twice in her name, once in her father's name using the father's Social Security number, and once in her mother's name using the mother's Social Security number. In one or more of the cases, she made false statements regarding her income and her prior bankruptcy filings, and failed to disclose ownership of a new automobile. The woman also stole \$58,200 in federal dependency and indemnity compensation benefit payments intended for another beneficiary by diverting the payments to her post office box, endorsing them in the beneficiary's name, and cashing them at a check cashing business. The Los Angeles office and the Regional Criminal Fraud Coordinator provided substantial assistance with the case.



U.S. Trustees' Duties

U.S. Trustees perform many duties in chapter 11 cases to help ensure that cases move as expeditiously as possible, parties comply with Bankruptcy Code requirements, and the interests of all parties, as well as the public interest, are taken into account. Some of the U.S. Trustee's primary responsibilities are described in this chapter.

Throughout this chapter, in charts describing actions by the U.S. Trustee, the numbers of actions filed and actions decided during FY 2007 are not identical, because some actions were filed before the reporting period, some actions were decided afterward, and some actions were withdrawn by the U.S. Trustee.

Employment of Professionals

U.S. Trustees monitor and, when appropriate, object to the employment of professionals such as attorneys, accountants, turnaround specialists, and others who are paid from bankruptcy estate funds. U.S. Trustees review these professionals' applications for employment, to ensure compliance with Bankruptcy Code prohibitions against conflicts of interest.

Table 5.1. Employment of Professionals under §§ 327 & 1103

Actions & Inquiries	FY 2007
Filed	485
Decided	371
Success Rate	88.7%
Inquiries	551

In a representative case involving the employment of bankruptcy professionals, the Bankruptcy Court for the Northern District of California disqualified counsel for a chapter 11 debtor due to a conflict of interest after the U.S. Trustee's San Jose office objected to counsel's continued employment. The law firm served as debtor's counsel for approximately four years and collected over \$4 million in fees. Well into the case, three major creditors threatened to sue the law firm based on work the firm had performed for the debtor pre-bankruptcy in a financial transaction involving the creditors. The law firm was required to immediately disclose the creditors' threat by filing a statement with the bankruptcy court, but failed to do so until the U.S. Trustee filed a motion to disqualify the firm.

Appointment of Trustees and Examiners

U.S. Trustees seek appointment of a trustee, upon court order, if certain statutory conditions are met. The U.S. Trustee may move for the appointment of a trustee, and the court shall order that appointment, if cause exists or if the appointment is in the best interest of creditors, equity holders, and others with an interest in the estate. “Cause” includes fraud, dishonesty, incompetence, or gross mismanagement of the affairs of the debtor by current management. In addition, the Bankruptcy Code requires the U.S. Trustee to seek a trustee’s appointment based upon reasonable grounds to suspect that the debtor’s board or top management participated in actual fraud, dishonesty, or criminal conduct in the management of the debtor or its public financial reporting.

Alternatively, U.S. Trustees may seek the appointment of an examiner, upon court order, to conduct such an investigation of the debtor as is appropriate, including an investigation of any allegations of fraud, dishonesty, incompetence, misconduct, mismanagement, or irregularity in the management of the debtor’s affairs.

Table 5.2. Appointment of Trustee or Examiner under § 1104

Actions & Inquiries	FY 2007
Filed	108
Decided	87
Success Rate	95.4%
Inquiries	51

In the case of a sub-prime mortgage lender that filed chapter 11 bankruptcy, the U.S. Trustee’s Wilmington office filed a motion for the appointment of a trustee, arguing there was actual fraud, dishonesty, or criminal conduct in the management of the debtor or its public financial reporting. The motion cited the debtor’s admitted inability to stand behind financial filings it made with the Securities and Exchange Commission, and substantial issues about its internal financial controls. The court granted alternative relief by ordering the U.S. Trustee to appoint an examiner to investigate the circumstances surrounding the debtor’s inaccurate public financial filings.

Compensation of Bankruptcy Professionals

U.S. Trustees monitor and, when appropriate, object to payment of the fees and expenses of professionals such as attorneys, accountants, turnaround specialists, and others who are compensated from bankruptcy estate funds. The Bankruptcy Code permits reasonable compensation for actual, necessary services rendered by professionals, as well as reimbursement for actual, necessary expenses.

Table 5.3. Professional Fee Requests under § 330

Actions & Inquiries	FY 2007
Filed	581
Decided	488
Success Rate	91.0%
Inquiries	735
Fees Reduced/Withdrawn	\$46,861,929

The case of a chapter 11 debtor airline illustrates the Program's role in the review of professional compensation. The debtor's counsel was paid \$35.5 million. The law firm requested an additional \$3.5 million bonus, due to "exceptional results achieved, the quality of work performed, and the efficiency with which the services were rendered." The U.S. Trustee's New York office, along with the flight attendants' union and a former member of an ad hoc claims holders' committee, objected to the success fee. The U.S. Trustee argued that debtor's counsel was well compensated at market rates and provided no specific evidence of exceptional results not adequately compensated by such rates. The court denied the success fee.

Compensation of Debtor's Management

Under 11 U.S.C. § 503(c), enacted in the BAPCPA, debtor companies are restricted in their ability to pay bonuses to senior executives through "key employee retention plans" (KERPs). Where appropriate, U.S. Trustees file objections to KERPs and, alternatively, persuade debtors to modify their compensation schemes to avoid objections. Between the enactment of section 503(c) and September 2007, U.S. Trustees filed more than 50 objections to executive compensation plans.

In a case in the District of Massachusetts, the debtor, having failed to rehabilitate its business in a previous chapter 11 case, filed a new petition and immediately sought court approval of substantial bonuses for top management and others. The bonuses were payable upon the debtor's completion of an asset sale that had already been negotiated. Unsecured creditors were to receive nothing in the case, and most

employees lost their jobs. The Worcester office objected to the excessive bonuses and the debtor withdrew the bonus proposal.

Motions to Convert or Dismiss

When there appears to be little likelihood of a successful reorganization or the debtor fails to exercise its fiduciary obligations and/or comply with the law, U.S. Trustees seek to have a chapter 11 case converted to a chapter 7 liquidation case or dismissed entirely.

Table 5.4. Case Conversion or Dismissal under § 1112

Actions & Inquiries	FY 2007
Filed	2,289
Decided	1,873
Success Rate	97.1%
Inquiries	1,012

The Brooklyn office sought dismissal of a chapter 11 case due to the debtor's failure to provide proof of insurance, cooperate with the U.S. Trustee, meet disclosure and financial reporting deficiencies, and otherwise demonstrate an ability to reorganize. On the petition date, the debtor owned an apartment building that had more than 1,400 uncorrected housing code violations and was about to be sold through a Department of Housing and Urban Development (HUD) regulatory foreclosure. The U.S. Trustee's motion to dismiss the bankruptcy case was supported by HUD, the City of New York, and an informal committee of tenants. The Bankruptcy Court for the Eastern District of New York dismissed the case with a six-month bar to refile bankruptcy, allowing HUD to proceed with the foreclosure and transfer the property to a responsible owner who would correct the housing code violations.

Objections to Disclosure Statements

U.S. Trustees object to disclosure statements filed by parties to a case, if the disclosure statements do not provide adequate information and meet statutory requirements.

Table 5.5. Disclosure Statements under § 1125

Actions & Inquiries	FY 2007
Filed	405
Decided	318
Success Rate	97.8%
Inquiries	226

Objections to Plan Confirmation

U.S. Trustees object to confirmation of proposed plans of reorganization, if the proposed plans do not meet statutory requirements.

Table 5.6. Plan Confirmations under § 1129

Actions & Inquiries	FY 2007
Filed	241
Decided	153
Success Rate	92.2%
Inquiries	142

Private Trustees

The Program appoints and supervises approximately 1,400 private trustees, who are not government employees, to administer bankruptcy estates and distribute payments to creditors in cases filed under chapters 7, 12, and 13. The Program trains trustees and evaluates their performance, reviews their financial operations, ensures the effective administration of estate assets, and intervenes to investigate and recover the loss of estate assets when embezzlement, mismanagement, or other improper activity is suspected or alleged.

Case Administration

In FY 2007, trustees administering chapter 7 cases closed 84,000 asset cases, generating \$2.86 billion in funds. Trustees administering chapter 13 cases collected more than \$5.3 billion in FY 2007, averaging over \$28 million per trustee. Trustees administering chapter 12 cases collected \$32.8 million, averaging more than \$729,000 per trustee.

Figure 6.1: Chapter 7 Asset Cases Closed

Fiscal Years 1997–2007

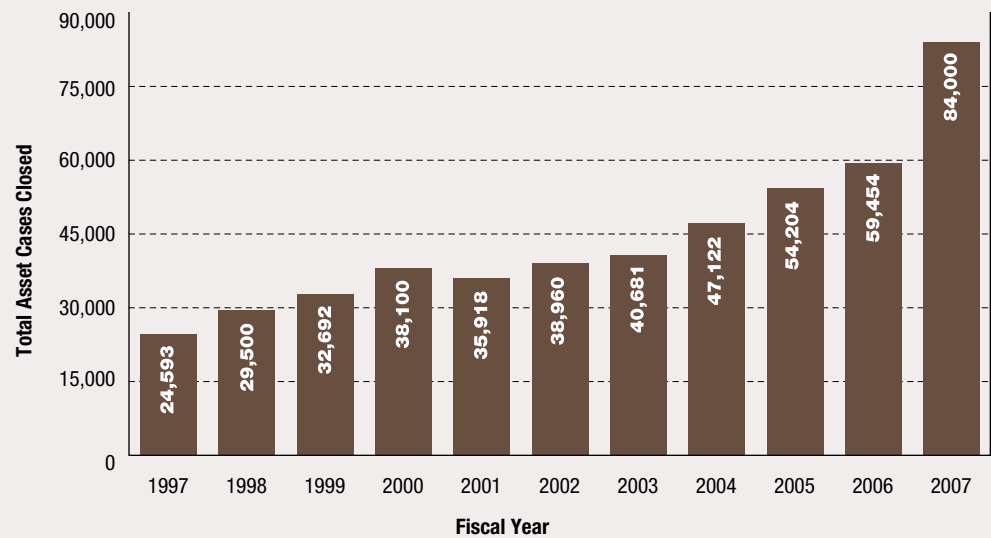
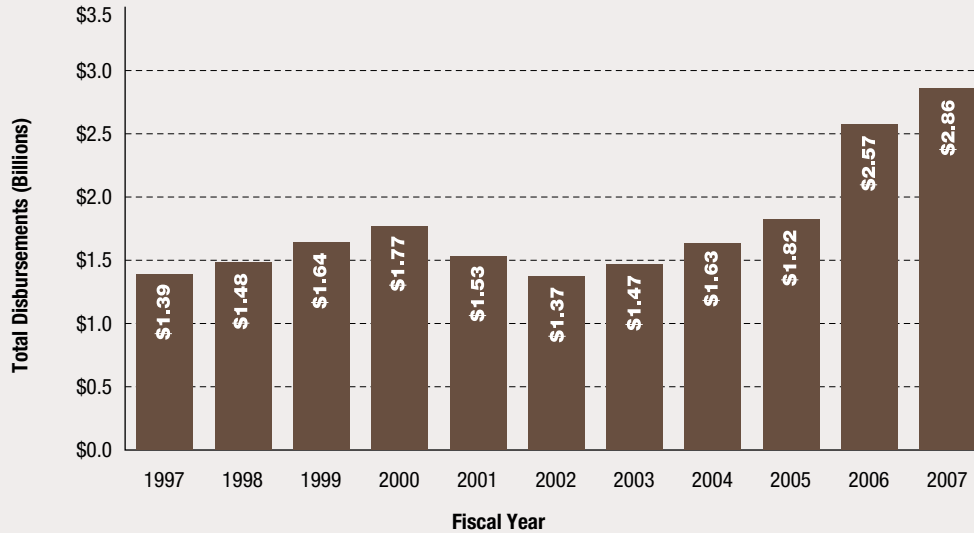


Figure 6.2: Total Disbursements in Chapter 7 Cases

Fiscal Years 1997–2007

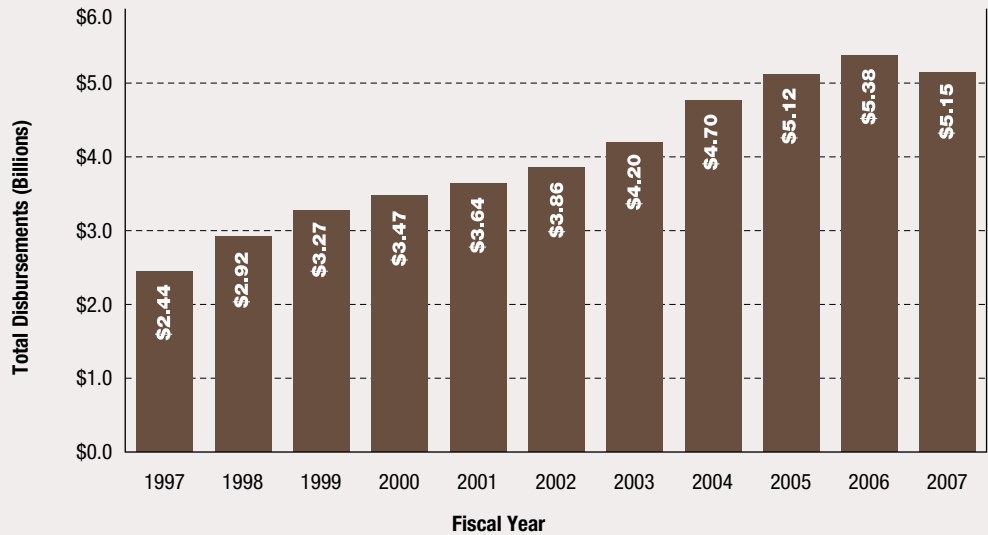


In chapter 7 cases, Program staff review trustees' final reports before funds are distributed to creditors, and review final accounts after distribution is complete. Program staff reviewed 168,000 such reports in FY 2007. In addition, chapter 7 trustees receive performance reviews at least every other year. These reviews focus on numerous facets of a trustee's work, including the conduct of section 341 meetings of creditors, the pursuit of assets, case administration, and the supervision of professionals. In FY 2007, Program staff prepared approximately 550 performance reviews of chapter 7 trustees.

In chapter 13 cases, Program staff review monthly reports, as well as specialized reports received from trustees, to determine if cases in the aggregate are being administered efficiently and effectively. Program staff may periodically visit trustees as well, to review procedures in more detail. Chapter 13 trustees receive performance evaluations every year, and chapter 12 trustees receive performance evaluations every other year. These reviews focus on matters such as the conduct of section 341 meetings of creditors, case administration, public complaints, and reporting of information. Program staff prepared approximately 190 performance reviews of chapter 13 trustees in FY 2007.

Figure 6.3: Total Disbursements in Chapter 13 Cases

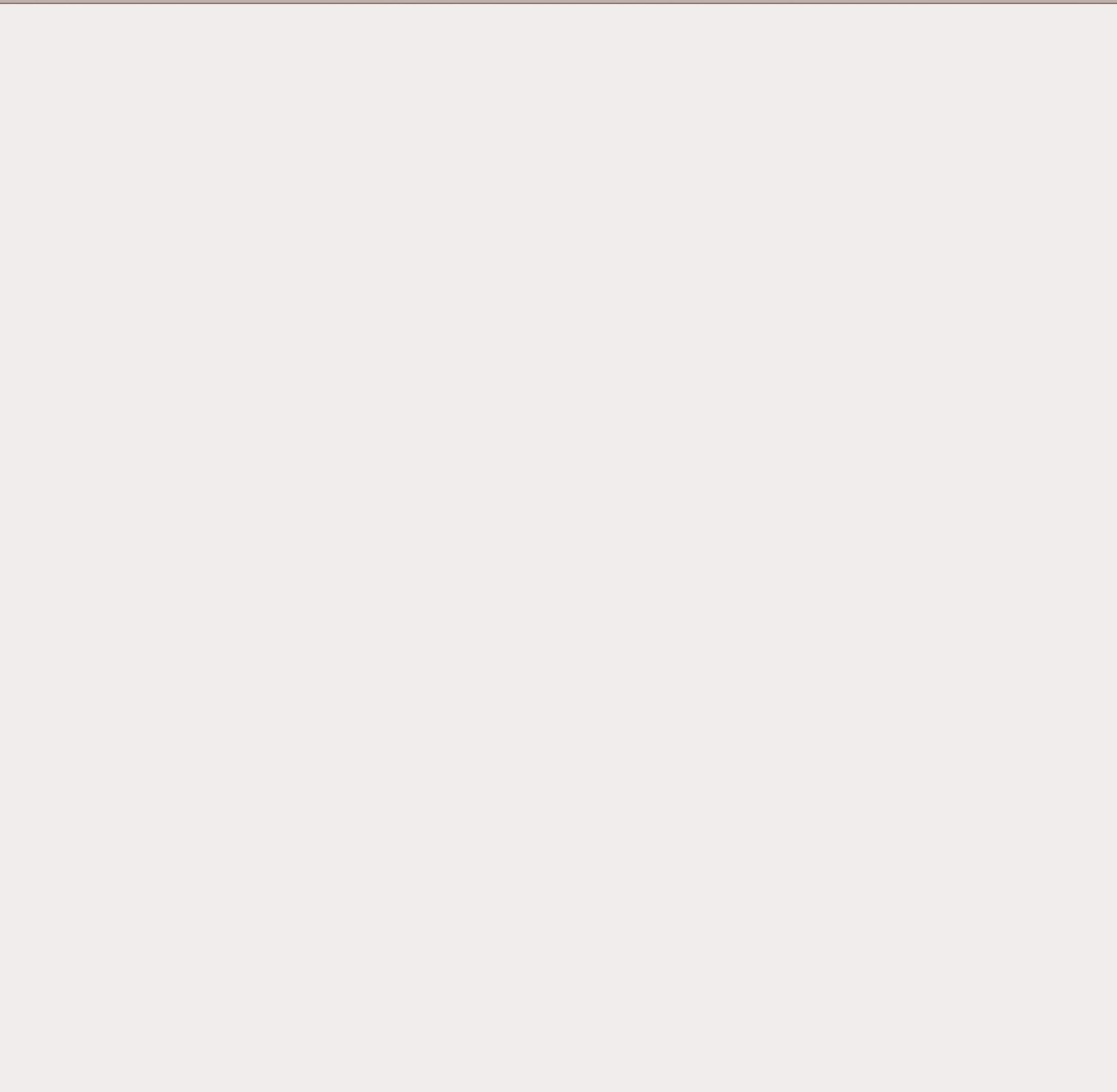
Fiscal Years 1997 – 2007



Financial Operations

Chapter 7 trustee operations are reviewed by Program staff and independent certified public accountants on a four-year cycle. During FY 2007, 302 audits and field reviews were conducted. In addition, each trustee submits an annual report covering all open asset cases. These reports are reviewed by Program staff to assure that cases are progressing toward closure and that the trustee has properly accounted for bankruptcy estate funds. Over 1,100 reports were reviewed during FY07.

Independent audit firms audit the chapter 13 trustees every year; the chapter 12 trustees are reviewed by Program staff or independent audit firms every three years. During FY 2007, 216 chapter 12 and chapter 13 trustees were audited. Program staff review the audit reports and work with the trustees to resolve any deficiencies noted. They also review the monthly reports in which trustees describe financial activity within the trust operation.



Provisions for Consumer Debtors

Under 11 U.S.C. § 111, the U.S. Trustee is responsible for approving eligible providers of pre-bankruptcy credit counseling and post-bankruptcy debtor education. Consumer debtors generally must seek credit counseling and debtor education from these providers as a condition of filing bankruptcy and receiving a discharge of debts.

An entity seeking approval as a credit counseling agency or debtor education provider must apply for approval by the Program, providing information and documents as required. Application information and materials are posted on the Program's Web site at <http://www.usdoj.gov/ust/eo/bapcpa/ccde/index.htm>.

Table 7.1. Approved Providers at Year-End

Type of Provider	Number Approved
Credit Counseling Agencies	161
Debtor Education Providers	297

In addition to reviewing and acting upon applications for approval, during FY 2007 the Program began conducting on-site reviews of approved credit counseling agencies and debtor education providers. "Quality Service Reviews" (QSRs) allow the Program to corroborate the information submitted in the application for approval, observe credit counseling and debtor education sessions, and obtain information about the operations of the credit counseling agency or debtor education provider. The Program conducted 10 QSRs in FY 2007, visiting credit counseling agencies in eight states.

The Program also investigated and resolved approximately 60 consumer complaints against approved agencies and providers. Complaints addressed acquisition of services, processing of certificates, price, quality of services, and advertising.

Government Accountability Office Report

The first comprehensive, independent evaluation of the pre-bankruptcy credit counseling requirement was issued in FY 2007, when the Government Accountability Office (GAO) published its report on the Program's implementation of section 111. The GAO concluded that the Program successfully fulfilled the statutory mandates for pre-filing credit counseling and post-filing debtor education, although the GAO noted that the effectiveness of the credit counseling requirement is not yet determined.

In summary, the GAO's findings and conclusions regarding the Program's implementation of the BAPCPA's requirements included the following:

- Under demanding deadlines, the Program developed and implemented a comprehensive, effective, and timely process for the approval of eligible credit counselors and debtor educators.
- The Program established an effective process to investigate complaints and obtain corrective actions where appropriate, and provides enhanced oversight of agencies through on-site, post-approval reviews of provider operations.
- Credit counseling and debtor education services are available to debtors in a reasonable time frame and are generally available to debtors with limited English proficiency, and the Program has taken appropriate steps to facilitate a debtor's search for an agency that can provide services in the debtor's native language.
- Debtors receive services within a reasonable time frame and at a reasonable fee, and the fee is waived for inability to pay.

The GAO report is accessible through a link on the Program's Web site at www.usdoj.gov/ust.

Planning

The Program's *Strategic Plan FY 2005-2010* reflects a commitment to maintaining a high-performance litigating component of the Department. Pursuant to the plan, the Program's primary goals are to:

- Protect the integrity of the nation's bankruptcy system.
- Promote effectiveness and efficiency within the nation's bankruptcy system.
- Maintain operational excellence that achieves desired results through continuous improvements in administration (including human resources) and services.

The strategic plan is posted on the Program's Web site at http://www.usdoj.gov/ust/eo/ust_org/mission.htm.

Evaluation

During FY 2007, the Program developed and pilot-tested a redesign of its peer evaluation of field offices. The purpose of peer evaluation is to assess field office compliance with Program standards, policies, and expected levels of performance. Its goals are to promote national uniformity, efficiency, and quality in carrying out Program priorities, and to identify creative approaches for broad dissemination across the Program's field offices.

The Program also routinely monitored key activity measures for national and regional performance.

Research

The BAPCPA directed the Program to complete several studies and to report the results to Congress. During FY 2007, the Program completed a report on the use of IRS Standards for determining expenses and the impact of that use on debtors and the bankruptcy courts. For more information on this report, see Chapter 3.

During FY 2007, the Program also completed a study on the BAPCPA's definition of household goods with respect to the avoidance of certain security interests in household goods, and the impact of that definition on debtors and the bankruptcy courts. The report found that the new definition of household goods affects only a small portion of chapter 7 debtors, and has no significant effect on debtors and the bankruptcy courts.

A pilot study of a personal financial management training program (debtor education) remained underway during FY 2007. The BAPCPA directed the EOUST to develop a

financial management training curriculum and materials, and to conduct a pilot study in six judicial districts. The EOUST must evaluate this newly developed curriculum and materials, and evaluate a sample of existing consumer education programs such as those provided by the credit industry, chapter 13 trustees, and consumer counseling groups.

In addition to engaging in the studies mandated by the BAPCPA, in FY 2007 the Program completed studies examining fraud, abuse, and error in the bankruptcy system, and examining current knowledge regarding how to measure the effectiveness of pre-bankruptcy credit counseling. These two studies were coordinated by the National Institute of Justice, an evaluation component of the Department, and were conducted by the RAND Corporation under contract.

Studies and reports are posted on the Program's Web site at www.usdoj.gov/ust/eo/public_affairs/reports_studies/index.htm.

Communications

To increase public knowledge about the nation's legal and bankruptcy systems, the Program engages in outreach activities such as giving speeches, publishing articles, participating in financial literacy education programs, and hosting foreign officials.

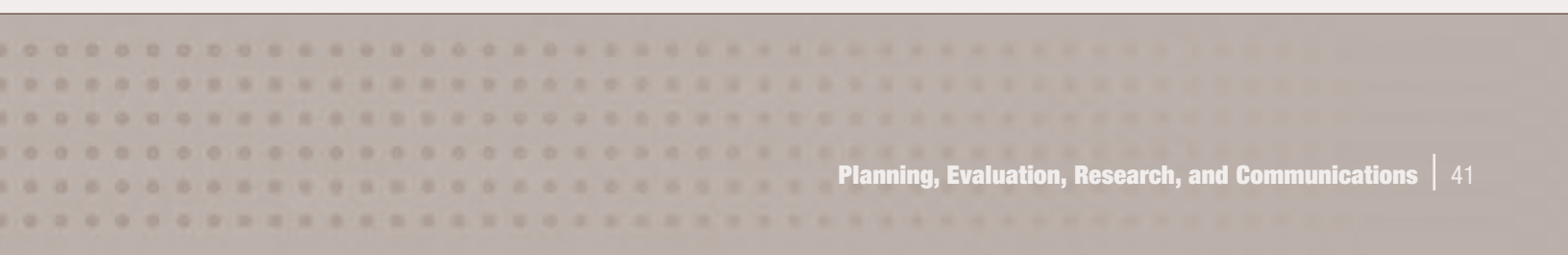
During FY 2007, EOUST Director Cliff White spoke before various groups of bankruptcy professionals. Other Program officials and employees made numerous appearances at national, regional, and local conferences, meetings, and training programs.

Program staff also coordinate with the Department's Office of Legislative Affairs (OLA) to respond to inquiries regarding bankruptcy-related legislative initiatives. Responses on behalf of the Program were prepared and submitted through OLA to requests and inquiries from Congressional committees, members of Congress, and their staffs. During FY 2007, EOUST Director White appeared before Congressional subcommittees regarding general oversight and specific bankruptcy-related topics. The Director testified before the Senate Judiciary Committee's Subcommittee on Administrative Oversight and the Courts at a hearing on oversight of the Program's implementation of BAPCPA. He testified before the House Judiciary Committee's Subcommittee on Commercial and Administrative Law at a hearing on medical debt and bankruptcy and, at the end of FY 2007, prepared to testify at an oversight hearing scheduled for October 2, 2008, before the same subcommittee.

Members of the press and the public frequently contact the Program for information on a wide range of issues, including general duties of the Program, BAPCPA implementation, civil and criminal enforcement matters, debtor audits, chapter 11 procedures, and approval of credit counseling agencies and debtor education course providers.

In addition to responding to individual inquiries, the Program maintains comprehensive materials on its Web site to aid in providing public information. Materials include:

- General information about the Program, such as contact information for the Executive Office and the Program's 95 field offices, links to the Program's regional Web sites, studies, and annual reports.
- Materials relating to pre-bankruptcy credit counseling and post-bankruptcy debtor education, including lists of approved providers in each judicial district and application materials for providers seeking U.S. Trustee approval.
- Data required for the means-testing calculation, including the IRS expense standards and Census Bureau data on state median incomes.
- Information on debtor audits, including audit procedures and standards as well as contracting procedures.



BAPCPA Implementation

In FY 2007, the Program continued its efforts to improve the efficiency of the information systems that support data collection and implementation of the BAPCPA.

For several years, the Program has worked closely with the Administrative Office of the U.S. Courts (AOUSC) and the bankruptcy courts on technology-related initiatives designed to implement the BAPCPA as efficiently as possible. During FY 2007, the Program continued to discuss the feasibility of a required data enabled forms standard, with appropriate exceptions, that would establish a framework for the electronic filing of bankruptcy forms containing “data tags.” The data tags would expedite case analysis by allowing the computer to route information automatically. The Program responded to inquiries from the AOUSC and the Judicial Conference of the United States relating to the proposed required new data enabled forms standard. The Program also gave a demonstration to the AOUSC and the Judicial Conference to explain how data tags would be used.

As an interim measure, the Program and the AOUSC also discussed expanding the process by which the Program extracts data from the court files, making additional data elements currently collected by the courts available to the Program. This would allow the Program to meet some of its statutory requirements by automating certain aspects of its means test and debtor audit review procedures.

Systems Enhancement

The Program enhanced its chapter 11 quarterly fee information collection system to facilitate the assessment of interest on delinquent chapter 11 quarterly fees, which is required by federal law. Further, it refined its automated systems for means test review, debtor audits, significant accomplishments, case management, and professional time keeping to help Program staff carry out the BAPCPA’s requirements and other Program operations.

The Program also relocated to a new network operations center and completed a life cycle upgrade of all network servers in over 100 locations.

Special Update on Data-Enabled Forms

In March 2008, the Judicial Conference Committee on the Administration of the Bankruptcy System considered the Program's request that the Judicial Conference of the United States require courts to accept, with limited exceptions, only data-enabled bankruptcy forms. As an alternative to a mandatory data-enabled form standard, the Committee did approve providing additional data elements to the Program through an expansion of the daily CM/ECF (Case Management/Electronic Case Files) data extraction process in conjunction with the release of the next CM/ECF software upgrade. Moreover, the software upgrade will include the collection of data necessary for case trustees to fill out the new uniform trustee final reports without any undue burden. Though not a complete solution, this is a significant step forward that resolves a number of immediate issues.

The AOUSC has indicated that it anticipates the CM/ECF software will be updated to provide the additional data by early September 2008. Once the upgrade is adopted by all the bankruptcy courts and the data exchange is implemented, the Program will assess the benefits to its business process to determine if its goals are being achieved or if the Program needs to revisit obtaining additional data.

National Bankruptcy Training Institute

The Program offers a variety of training designed to enhance the knowledge and skills of its employees. Most sessions are conducted at the National Bankruptcy Training Institute (NBTI), which is located at the National Advocacy Center (NAC) in Columbia, South Carolina. The NAC is a cooperative partnership of the NBTI, the United States Attorneys' Office of Legal Education, and the National District Attorneys Association. It provides continuing professional learning in state-of-the-art classrooms, computer labs, courtrooms, and television-video production studios.

During FY 2007, the NBTI hosted over 1,000 attendees from the Program, including managers, attorneys, para-professionals, and administrative and technical staff. A number of courses focused on BAPCPA updates, bankruptcy fraud, litigation and financial investigation skills for both attorneys and non-attorneys, and office automation.

The following courses were offered at the NBTI in FY 2007:

- Appellate Advocacy
- BAPCPA Update
- Chapter 13 Coordinators Conference
- Civil Litigation Skills
- Civil Litigation Skills for Non-Attorneys
- Criminal Bankruptcy Fraud
- Criminal Special Assistant U.S. Attorney Training
- Financial Investigation and Analysis
- Management Training
- Office Automation

Training for Private Trustees

In FY 2007, the Program also offered a training session for chapter 13 standing trustees at the NAC. Almost 50 trustees attended this course, which focused on legal issues under the BAPCPA, the role of trustees in civil and criminal enforcement, ethics, the trustee as manager and fiduciary, computer security, and the use of data to monitor case administration.

In addition, throughout FY 2007, most regions offered training for chapter 7 panel trustees and chapter 13 standing trustees who administer cases within the regions.

Training for Other Professionals and Groups

In addition to its training activities at the NAC, the Program offers regional and local outreach to inform and educate interested groups about the bankruptcy system and Program activities. U.S. Trustees and Program staff often speak to law enforcement agencies, bar associations, professional organizations, law schools, other government agencies, and other groups. They also partner with other bankruptcy professionals to give presentations on basic principles of financial management to high school students.

