

**Substantive Changes to the
Handbook for Chapter 7 Trustees
Questions and Answers – Set #1**

General

- 1) **The reference to United States Trustee sometimes seems to refer to the individual and at other times seems to include designees or staff. What is intended by a reference to the United States Trustee?**

All references to the United States Trustee include the United States Trustee's designee, unless otherwise indicated. (Handbook page 1-1) For an example of a reference to the United States Trustee as an individual, see page 2-3: "A trustee may discuss a performance review with the United States Trustee personally."

- 2) **If trustees advertise their other business activities (e.g., accounting or legal services), may they also mention that they are chapter 7 trustees?**

Although not specifically addressed in the Handbook, the Program's practice has been that trustees may mention being a chapter 7 trustee on their letterhead and business cards. Allowances and standards for advertising in other mediums are under review by the Chapter 7 Subcommittee. They will make a recommendation to the Director on this issue.

Bonding

- 3) **The following sentence from the 1992 Handbook no longer appears in the 1998 edition: "Appropriate portions of the bond premium may be recovered as an administrative expense in estates with assets subject to its protection." May trustees still allocate bond premiums to their chapter 7 asset cases?**

Yes.

- 4) **Blanket bonds usually cover no-asset cases as well as asset cases. In some regions, they also may cover operating chapter 7 cases and chapter 11 cases. How should the trustee allocate the bond premium?**

The trustee may allocate the entire blanket bond premium to the estates with assets covered by the bond. This includes all chapter 7 asset cases and chapter 11 cases covered by the bond. The allocation methodology is determined by the United States Trustee, but the allocations are normally based on the funds on hand at a particular date. As a matter of course, when the trustee receives a chapter 7 operating case or a chapter 11 case, the trustee should confirm with the bonding company and United States Trustee, in writing,

that the bond covers the case(s). Some blanket bonds specifically exclude these types of cases. (See Handbook pages 5-2 and 8-15.)

Environmental Issues

- 5) **On page 6-14, under Environmental Issues, the Handbook imposes a duty on the trustee to give immediate consideration to abandoning property of no value to the estate under § 554(a) which may be hazardous to the health and safety of the general public after taking all precautions possible in view of the assets available to the trustee and after consultation with the appropriate federal, state, and local authorities. Is it acceptable for the trustee to serve the appropriate environmental protection agencies with the notice, rather than consulting with them prior to filing the notice of abandonment?**

No. Consultation is advised to ensure adequate notice and appropriate consideration of public policy issues. A notation of the consultation in the estate file is recommended.

§ 341(a) Meetings

- 6) **On page 7-2, under A. Conducting the Meeting, the Handbook states that the trustee may not administer the oath to debtors collectively. If the trustee established on the record that the debtor has been administered the oath, can the trustee still swear in the debtors collectively?**

No. (See Handbook page 7-3.)

- 7) **Group oaths are conducted in one district, however, each debtor when examined is asked if he or she was present when the oath was administered and if they responded affirmatively. Is this okay?**

No.

- 8) **According to A. Conducting the Meeting on page 7-2, the trustee must establish on the record that the debtor acknowledges his awareness of the provisions of § 341(d). Is it sufficient if the trustee establishes the debtor's awareness of these items by a questionnaire?**

No. Section 341(d) requires the trustee to orally examine a debtor.

- 9) **Appendix A lists sample § 341(a) meeting questions. Ten of the questions are required. Is it necessary for the trustee to orally ask each of the required questions**

so that they are recorded on the § 341(a) meeting tape?

Yes.

10) When is it appropriate to conclude a chapter 7 § 341(a) meeting after a trustee election? (Handbook page 4-1)

It may be appropriate to conclude a § 341(a) meeting after a trustee election if both the interim trustee and the elected trustee are provided an opportunity to question the debtor and neither they nor any other party attending the meeting request that the meeting be continued.

11) What should a trustee do if not all general partners consent to the petition of a partnership debtor? (Handbook page 6-3)

The trustee should advise the United States Trustee if all general partners do not consent to the petition. Such a petition is an involuntary petition, see § 303(b)(3) and FRBP 1004. The appointment of a trustee would be inappropriate absent a motion and court order. The United States Trustee will take action to address any inappropriate trustee appointment.

12) Who may represent corporate and partnership debtors at § 341(a) meetings?

In accordance with the definition of “debtor” under Rule 9001(5), a corporate debtor includes, if designated by the court, any or all of its officers, members of its board of directors or trustees or of a similar controlling body, a controlling stockholder or member, or any other person in control, and a partnership debtor includes any or all of its general partners or, if designated by the court, any other person in control. Any of these individuals, so designated, may represent a corporate or partnership debtor at the §341(a) meeting.