U.S. Department of Justice

Executive Office for United States Trustees

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

PRESS RELEASE

For Immediate Release
January 3, 2002

PERSONAL BANKRUPTCY FILERS WILL BE REQUIRED TO SHOW PROOF OF I.D., BASED ON RESULTS OF PILOT STUDY

WASHINGTON, D.C.–Every individual filing a personal bankruptcy case under Chapter 7 or Chapter 13 will soon be required to show proof of identification, based upon the findings of a six-month pilot program conducted by the United States Trustee Program.

The new requirement will start to be phased in across the country in January 2002, it was announced today by Martha Davis, Acting Director of the Executive Office for United States Trustees (EOUST). The EOUST is the Washington, D.C., office of the U.S. Trustee Program, a Justice Department component that works to ensure the integrity of the bankruptcy system and intervenes in court to enforce the bankruptcy laws.

The Debtor Identification Pilot Program ran in 18 judicial districts for the first half of 2001. According to a report issued by the EOUST, the pilot program found inaccurate names or social security numbers (SSN) in 1,225 Chapter 7 and Chapter 13 cases–about one percent of the pilot cases. Just over 80 percent of the inaccuracies were due to typographical errors such as transposition of digits in an SSN, but the rest involved questionable names, questionable identity documents, or possible misuse or falsification of SSNs.

The 22-page report plus appendices were posted on the U.S. Trustee Program's website at http://www.usdoj.gov/ust/otherinitiatives/debtorid/report.html on Dec. 28, 2001.

Expanding the report's findings nationwide, the EOUST estimates that nearly 13,000 of the Chapter 7 and Chapter 13 personal bankruptcy cases filed during the year ending June 30, 2001, may have contained identity and SSN errors. Further, there may be more than 15,000 identity and SSN errors in 2002 if filings rise as predicted and debtors' identities are not verified.

During the pilot project, participating U.S. Trustee offices took enforcement actions to correct the bankruptcy court record, and to pursue civil and criminal remedies where further investigation suggested the intentional use of an inaccurate name or SSN. The U.S. Trustees' actions included efforts to help innocent victims whose credit reports could be affected by a bankruptcy filer’s inadvertent or intentional use of the victim’s name or SSN.

“The pilot program was successful in confirming each consumer debtor’s identity and social security number, ensuring a more accurate court record, and protecting the credit reports of innocent persons from being affected by the use of incorrect social security numbers in bankruptcy,” Davis concluded in the report. “More importantly, the pilot demonstrates that there are a significant number of problems regarding misidentified debtors and incorrect social security numbers but that most of these problems can be addressed by implementing relatively simple procedures.”

Combating Identity Fraud and Protecting Victims

“A primary goal of the pilot project was to determine whether instances of misidentified bankruptcy filers and incorrect SSNs were widespread, and to ascertain how often such instances constituted intentional identity fraud,” Davis noted.

As with identity fraud in general, reports of identity theft in bankruptcy are on the rise. On Nov. 15, 2001, the U.S. Attorney for the Northern District of Illinois announced charges of identity theft in bankruptcy against four defendants; on Oct. 31, 2001, the U.S. Attorney for the Central District of California included eight identity theft defendants among those charged with bankruptcy crimes in 2001.

A common reason for intentionally filing for bankruptcy under a false name or SSN is to obtain the protection of the “automatic stay” to delay foreclosure or eviction, without placing a bankruptcy on one’s own record. Another reason to file for bankruptcy under a false name or SSN is to evade payment of, and to discharge, debts incurred under the false name or SSN.

The EOUST report cites a number of cases of apparent identity fraud or misuse of SSNs. In one case, a bankruptcy filer stated that for 12 years he used a purchased SSN on his payroll deduction forms, tax forms, medicaid benefit application, and credit applications, as well as on his bankruptcy petition. The purchased SSN matched the correct SSN of an innocent third party, interfering with her attempts to refinance her home loan and to complete a rollover of her 401(k) plan. Moreover, the U.S. Trustee’s office discovered yet another name associated with the same SSN, suggesting that the SSN may have been sold to more than one person.

Other instances cited in the report include a bankruptcy filer’s long-time use of his son’s SSN without the son’s knowledge, and an apparent “fractional interest” scheme in which the bankruptcy filer transferred real estate interests to fictitious individuals and then filed for bankruptcy under the fictitious names to delay foreclosure on the properties.

Aside from fraud, innocent mistakes on a bankruptcy petition can also create problems of misidentified debtors or cause a bankruptcy filing to be reported on the wrong person’s credit record. The debtor identity pilot program explored various procedures designed to ensure that the bankruptcy court record is corrected in case of error and the appropriate parties notified. To assist innocent victims whose credit reports could be affected by the use of an incorrect name or SSN on a bankruptcy petition, the EOUST and the pilot offices worked with a national credit reporting trade association and representatives of three major credit reporting agencies to establish protocols and national points of contact for reporting errors.

Required Documents

The identification procedures tested during the pilot program will start to be implemented in all judicial districts in January 2002. Actual implementation dates may vary by judicial district.

Individuals filing for personal bankruptcy under Chapter 7 or Chapter 13 will be required to provide proof of identity and SSN when they appear at the statutorily mandated Section 341 meeting of creditors to discuss their financial obligations.

Permissible forms of identification include a valid state driver's license, government-issued picture identification card, U.S. passport, or legal resident alien card. Proof of SSN may be provided through documents such as a driver's license, Social Security card, current W-2 Form, or payroll check stub. Other forms of identification or proof of SSN may be accepted in the discretion of the U.S. Trustee or the private trustee appointed to administer the case.

Summary of Pilot Program Findings

The study involved 127,590 consumer Chapter 7 and Chapter 13 cases filed in 18 judicial districts from January 1, 2001, through June 30, 2001–accounting for about 17 percent of cases filed nationwide during that period.

The study found 1,229 debtor identification and SSN problems in 1,225 cases, or about one percent of the pilot cases filed.

Of the 1,229 problems, 1006 (81.9 percent) were due to typographical errors such as transposition of digits in an SSN, but 191 (15.5 percent) involved questionable names or identity documents, and 32 (2.6 percent) involved possible misuse or falsification of SSNs.

The participating U.S. Trustee offices took action in 1,122 cases and achieved 1,039 favorable outcomes, including 875 amended (corrected) bankruptcy petitions filed by debtors or their counsel, 22 bankruptcy cases dismissed, and one Chapter 13 reorganization plan denied. Some matters were still pending at the end of the pilot program's reporting period.

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