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Executive Office for United States Trustees

Office of Research and Planning

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PRESS RELEASE

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NEW MEDIATION PROCESS AVAILABLE TO RESOLVE BUDGET DISPUTES BETWEEN UNITED STATES TRUSTEES, CH. 13 TRUSTEES

WASHINGTON, D.C.--Effective June 1, a new voluntary mediation process will be available to resolve budget disputes between United States Trustees and Chapter 13 standing trustees. The process uses "co-mediation"--mediation by two-member panels consisting of a United States Trustee and a Chapter 13 trustee--to arrive at a neutral resolution of the dispute. Prospective panel members will receive co-mediation training May 29-30 from CDR Associates of Boulder, Colo.

"Voluntary informal dispute resolution provides a 'win-win' solution for United States Trustees and Chapter 13 trustees," according to Linda Stanley, United States Trustee for Northern California and Nevada, who helped develop the mediation process. "In addition, training together will help the United States Trustees and the standing trustees work together and see the others' way of perceiving issues and addressing problems."

The Bankruptcy Code permits a Chapter 13 trustee to take a certain percentage of debtors' payments in order to pay trustee compensation and actual and necessary expenses. United States Trustees review the budgets submitted by Chapter 13 trustees to determine what is actual and necessary for the Chapter 13 operation. In the course of this review, a United States Trustee may question items such as office space leasing costs, salary increases for the trustees' employees, or large computer purchases.

The administrative review procedure that took effect by rule Nov. 3, 1997, does not address budget disputes. It applies only to a United States Trustee's decision to suspend or terminate case assignments to a Chapter 7 or Chapter 13 trustee.

Working together, the United States Trustee Program and the National Association for Chapter Thirteen Trustees developed the

informal dispute resolution process to provide a quick and low-cost method for resolving budget disputes. The process is intended to be used before the commencement of legal or formal administrative proceedings. It is optional and non-binding for both the United States Trustee and the Chapter 13 standing trustee.

According to the process developed by the Program and the NACTT, upon the request of either the United States Trustee or the Chapter 13 trustee a two-member panel will be named, consisting of one United States Trustee and one Chapter 13 trustee from outside the relevant region. (Alternatively, the parties may opt for a one-member panel.)

The Chapter 13 trustee panel member will be selected by the Program's Assistant Director for Review and Oversight from among three trustees named by the disputing Chapter 13 trustee. The United States Trustee panel member will be selected by the NACTT's Chair of the Informal Budget Dispute Resolution Process Committee from among three United States Trustees named by the disputing United States Trustee. All prospective panel members must be selected from the roster of qualified Chapter 13 trustees and United States Trustees who have received mediation training and have agreed to serve as mediators.

The panel members and the parties will schedule a dispute resolution conference, which may take place via telephone conference or in-person meeting. After the conference, the panel members will have 30 days to attempt to mediate the dispute, unless both parties agree to an extension.

If the parties resolve the dispute, the panel will help them write a description of the resolution. The written resolution will be included in the United States Trustee's proposed budget submission to the Director of the Executive Office for United States Trustees. This budget submission will conclude the dispute resolution process.

If the parties cannot resolve the dispute, the panel may issue a non-binding joint written recommendation, which the parties may accept, reject, or use as the basis for further negotiation between themselves. In this case, the issuance of the panel recommendation will conclude the dispute resolution process.

Informal dispute resolution expenses that are approved by the panel--such as telephone or travel costs--will be paid by the Chapter 13 trustee from the trustee's expense funds, subject to

the United States Trustee's approval as reasonable and necessary.

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