



U.S. Department of Justice

Executive Office for United States Trustees

PRESS RELEASE

For Immediate Release

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NATIONWIDE SETTLEMENT BETWEEN U. S. TRUSTEES AND CAPITAL ONE BANK (USA) N.A. ADDRESSES MONIES IMPROPERLY COLLECTED IN BANKRUPTCY CASES

WASHINGTON, D.C.—The U.S. Trustee Program (USTP or Program) announced today that it has entered into a settlement agreement with Capital One Bank (USA) N.A. (Capital One) that, if approved by the United States Bankruptcy Court for the District of Massachusetts, will resolve USTP allegations that Capital One sought to collect debts that had been discharged in prior bankruptcy cases.

Under the settlement, an independent auditor will examine approximately 650,000 Capital One customer accounts to ensure that any monies improperly received by Capital One have been or are immediately returned to debtors or their bankruptcy estates. The auditor will also approve reimbursement to debtors and trustees for actual out-of-pocket costs and expenses, including attorneys' fees incurred to contest erroneous claims. Capital One filed approximately 5,600 proofs of claim seeking payment of debts that had been discharged in prior bankruptcy cases.

Though the agreement is binding on Capital One and offices of the United States Trustee across the country, it does not bind or prejudice the rights and claims of third parties.

Background

Today the USTP filed a complaint in the United States Bankruptcy Court for the District of Massachusetts alleging that Capital One filed approximately 5,600 proofs of claim seeking payment of debts that had been discharged in prior bankruptcy cases. Capital One has acknowledged that chapter 13 bankruptcy estates paid the company approximately \$340,000 to which it was not entitled. Capital One reports that it has returned most of the improperly obtained payments, and has withdrawn, or is seeking to withdraw, all erroneously filed proofs of claim.

In a settlement of the USTP's complaint, Capital One has agreed to hire an independent auditor, chosen by the court and paid for by Capital One, who will supervise the conduct of an audit to ensure all improperly received funds are returned to affected debtors and their estates. The audit will identify and verify each case in which Capital One erroneously filed a proof of claim against discharged debt. The auditor will review all proofs of claim filed between January 1, 2005, and the two years following the date of the consent decree to be entered by the Bankruptcy Court. The settlement requires that the audit period be extended if more than 100 erroneous claims are found in one year.

The settlement remains subject to the review and approval of the United States Bankruptcy Court for the District of Massachusetts.

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