

BANKRUPTCY BY THE NUMBERS

BY: ED FLYNN Executive Office for United States Trustees¹ Edward.Flynn@usdoj.gov
GORDON BERMANT Burke, Virginia Gordon.bermant@verizon.net
SUZANNE HAZARD Executive Office for United States Trustees

CHAPTER 7 ASSET CASES:

The United States Trustee Program (USTP) has collected statistics on the distributions to creditors, professionals, and trustees in chapter 7 asset cases since 1993. In 2000, the USTP and chapter 7 trustees implemented a new data collection format ("Form 4") for the chapter 7 asset cases filed or converted to chapter 7 on or after July 1, 1999. This change significantly increased the amount of data collected and has improved the accuracy and usefulness of the data. In this article we give a brief overview of the most recent asset case statistics. In June 2001 the Executive Office for U.S. Trustees issued a detailed report on chapter 7 asset cases closed between calendar years 1994 and 2000. This report can be found at: www.usdoj.gov/ust/statistics/stats-new/statisticreports.htm.

During the year ended June 30, 2002, there were 1,026,901 Chapter 7 cases closed nationwide.² About 96% of chapter 7 cases are closed without any funds collected and distributed to creditors by the assigned trustee.³ However, there were 37,518 "asset" cases closed during the year in which the assigned trustee collected and distributed funds. Total disbursements in these cases amounted to \$1.45 billion. This is consistent with disbursements in prior years, which have been between \$1.25 billion and \$1.74 billion each year since 1994. Total disbursements in chapter 7 cases closed since 1994 have been well over \$12 billion. The following chart shows amounts disbursed by category for cases closed during the year ended June 30, 2002.

ASSET CASES CLOSED – YEAR ENDED JUNE 30, 2002		
TOTAL ASSET CASES CLOSED	37,518	PERCENT OF TOTAL DISBURSEMENTS
TOTAL DISBURSEMENTS	\$1,453,254,984	
TRUSTEE COMPENSATION	\$85,492,924	5.9%
TRUSTEE ATTORNEY FEES	\$52,886,928	3.6%
OUTSIDE ATTORNEY FEES	\$123,538,163	8.5%
OTHER PROF. FEES & EXPENSES	\$66,155,213	4.6%
ADMINISTRATIVE COSTS	\$141,798,508	9.8%
PRIOR CHAPTER COSTS	\$64,855,525	4.5%
TO SECURED CREDITORS	\$366,867,659	25.2%
TO PRIORITY CREDITORS	\$97,852,164	6.7%
TO GENERAL UNSECURED CREDITORS	\$364,155,620	25.1%
OTHER DISBURSEMENTS	\$89,652,280	6.2%

¹All views expressed in this article are those of the authors and do not necessarily represent the views of the Executive Office for U.S. Trustees or the Department of Justice.

²This article does not include any cases from North Carolina and Alabama, which are served by Bankruptcy Administrators.

³Chapter 7 trustees are private individuals appointed by the U.S. Trustee to represent the interests of the estate. A trustee is appointed in every chapter 7 case, and there are currently about 1,200 active chapter 7 trustees nationwide.

Of the more than \$1.4 billion disbursed, 57% was paid to pre-petition creditors. The remaining funds were used for paying the case trustees, attorney and other professional fees and expenses, administrative and prior chapter costs, and other payments such as surplus funds returned to debtors, non-estate funds paid to debtors or third parties, and debtor exemptions.

For the year ended June 30, 2002, Form 4 data was collected for 25,950 asset cases. Total disbursements in the Form 4 cases amounted to \$391 million dollars. This is about 69% of the cases and 27% of the total distributions in all chapter 7 asset cases closed that year⁴. The following chart shows a more detailed breakdown of certain categories of disbursements to creditors for the Form 4 cases closed during the year. (Payments to general unsecured creditors are not shown on this chart, because Form 4 does not provide any greater detail on them than the prior reporting form.)

ASSET CASES CLOSED – YEAR ENDED JUNE 30, 2002 (FORM 4 CASES ONLY)	
SECURED CREDITORS (TOTAL)	\$95,355,008
[Real Estate Secured Claims]	[\$74,783,563]
[Personal Property & Intangibles]	[\$15,152,694]
[IRS & Other Government Liens]	[\$5,418,752]
PRIORITY CREDITORS - TOTAL	\$15,943,800
[507(a)(8) Governmental Unit Claims]	[\$10,706,263]
[Wages]	[\$1,931,917]
[Alimony & Child Support]	[\$1,243,738]
[Other Priority Creditors]	[\$2,061,882]
OTHER DISBURSEMENTS	[\$36,062,647]
[Exemptions]	[\$14,077,370]
[Excess Funds Paid to Debtors]	[\$17,371,979]
[Non-Estate Funds Paid to 3 rd Parties]	[\$4,613,298]

⁴ The new reporting form was generally used for the more recently filed cases that were closed during the year. These tend to involve smaller amounts of money than cases that reported via the former reporting form. Commencing July 1, 2002, Form 4 data is being collected for every chapter 7 asset case.

SIZE OF CASES: The majority of asset cases are relatively small, with 72.5 % involving less than \$10,000 in disbursements. At the other extreme were the 466 cases with more than \$500,000 in disbursements (1.2% of all asset cases)⁵ that accounted for more than one-half of the total disbursed during the year. About one-third of the largest cases closed during the year had been filed in California (99) and New York (54), even though these two states accounted for only about 10% of all asset cases closed. The following chart, which includes both Form 4 and the former reporting form cases, shows the distribution of asset cases by size.

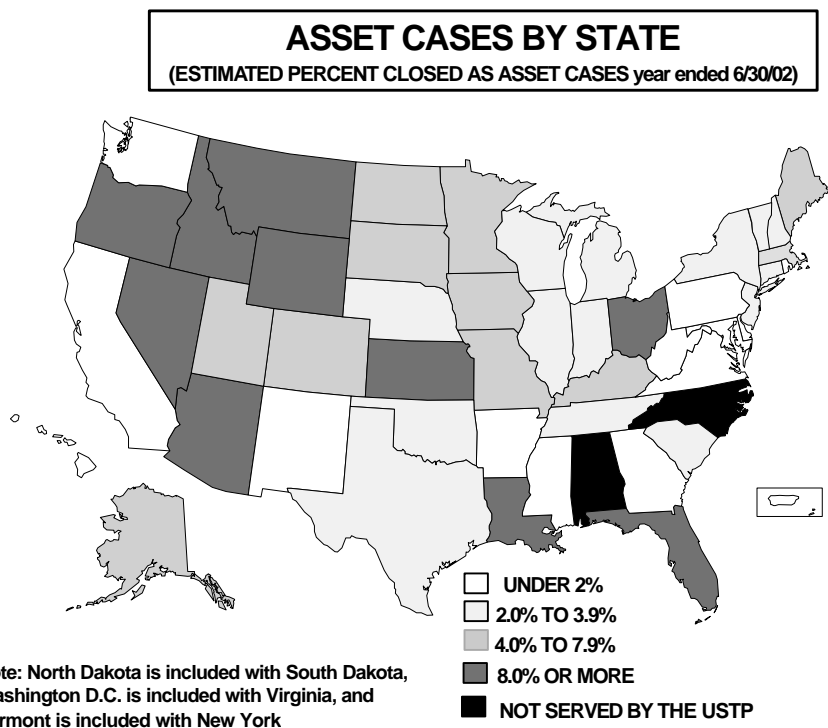
ALL ASSET CASES CLOSED – YEAR ENDED JUNE 30, 2002				
CASE SIZE	CASES CLOSED	% OF ALL ASSET CASES	TOTAL DISBURSED	% OF TOTAL DISBURSED
UNDER \$10,000	27,063	72.1%	\$92,627,278	6.4%
\$10,000 - \$24,999	4,556	12.1%	\$70,300,369	4.8%
\$25,000 - \$49,999	2,187	5.8%	\$75,831,640	5.2%
\$50,000 - \$99,999	1,506	4.0%	\$104,121,978	7.2%
\$100,000 - \$499,999	1,740	4.6%	\$368,041,316	25.3%
\$500,000 OR MORE	466	1.2%	\$742,332,403	51.1%

Of the asset cases closed during the year, 8.8% involved payments to secured creditors, 14.8% involved payments to priority creditors, and 85.9% included at least some payments to general unsecured creditors. Payments to pre-petition creditors were in the 50%-60% range for all cases, regardless of size. However, as the following chart shows, the proportion paid to unsecured creditors is much higher in the smaller cases, while secured creditors tend to be the primary beneficiaries in the largest cases. The remaining 40% - 50% is consumed by various fees and expenses necessary to administer the estate.

PERCENT OF TOTAL DISBURSEMENTS TO PRE-PETITION CREDITORS				
CASE SIZE	SECURED CREDITORS	PRIORITY CREDITORS	GENERAL UNSECURED CREDITORS	TOTAL TO PRE-PETITION CREDITORS
UNDER \$10,000	1.1%	4.6%	54.0%	59.7%
\$10,000 - \$24,999	3.3%	7.4%	45.1%	55.8%
\$25,000 - \$49,999	8.3%	7.3%	35.1%	50.7%
\$50,000 - \$99,999	17.4%	6.6%	26.4%	50.4%
\$100,000 - \$499,999	30.1%	6.5%	17.7%	54.3%
\$500,000 OR MORE	30.7%	7.0%	22.0%	59.7%

⁵ The number of large asset cases closed nationwide has been very consistent since 1994. Each year between 400 and 500 of these larger cases have been closed nationwide, accounting for 50% to 60% of total disbursements in all asset cases.

ASSET CASES BY STATE: It is not possible to get a precise measure of the percentage of chapter 7 cases that end up as asset cases because the no asset cases are usually closed within four months of filing while asset cases tend to close about two to four years after filing - and some are open much longer than that. To get a rough estimate of the proportion of chapter 7 asset cases by state, we divided asset cases closed in the most recent year (excluding cases that had originally been filed in another chapter⁶) by the annual average of chapter 7 filings from 1998 to 2000 (the period during which most of these asset cases had originally been filed). This analysis disclosed a wide variation in the percentage of chapter 7 asset cases by state. For example, in Mississippi, New Mexico, and Delaware less than one percent of chapter 7 cases end up as asset cases, while in Louisiana, Arizona, Idaho, Montana, Wyoming, Nevada, and Kansas more than 10 percent of chapter 7 cases are closed as asset cases. These differences reflect the effects of state exemption laws, debtor circumstances, and other local factors. Nationwide, less than four percent of chapter 7 cases are closed as asset cases.



CONCLUSION: Although most chapter 7 debtors do not have any assets to be liquidated, every case is reviewed by a trustee and non-exempt assets are found in about four percent of the cases. During the year ended June 30, 2002, this resulted in more than \$825 million being returned to pre-petition creditors. Most asset cases involve less than \$10,000 in disbursements, but the bulk of the money is handled in the very largest cases. General unsecured creditors are the primary recipients in the small cases, while secured creditors are the main beneficiaries in the largest cases.

⁶Of the asset cases closed during the year, 1,493 had been filed in another chapter. Converted cases closed during the year accounted for only 4.0% of all asset cases, but involved 34.4% of total asset case disbursements

