U.S. Department of Justice

United States Trustee Program Annual Report, FY 2012

U.S. Trustee Program Annual Report of Significant Accomplishments for Fiscal Year 2012

Table of Contents

Message from the Director 4

Chapter 1. Mission, Organization, and Administration

Mission 6
Organization and Administration 6

Chapter 2. Bankruptcy Code and Bankruptcy Filings

Bankruptcy Code 12
Bankruptcy Filings 12

Chapter 3. Civil Enforcement

National Mortgage Settlement and Other Creditor Abuse Enforcement 14
Additional Consumer Protection Activities 15
Violations by Bankruptcy Petition Preparers 16
Trends–*Pro Se* Filings and Actions against Bankruptcy Petition Preparers 18
Improper Conduct by Attorneys 18
Debtor Identification Issues 20
Trends–Total Financial Impact of USTP Actions and Inquiries 21
Enforcement Against Abusive Conduct by Debtors 21
Denial of Debtor's Discharge 22
Dismissal of Case for Abuse 23
Debtor Audits 24

Chapter 4. Criminal Enforcement

Pursuing Bankruptcy-Related Crimes 25
Criminal Referrals 25
USTP Participation in Cases 26

Chapter 5. Litigation in Chapter 11 Reorganizations

Chapter 11 Priorities 28
Professional Fees 28
Trustees, Examiners, and Chief Restructuring Officers 31
Executive Bonuses–KERPs and KEIPs 32
Other Chapter 11 Enforcement 33
Motions to Convert or Dismiss 33
Objections to Disclosure Statements and to Plan Confirmation 33

Table of Contents

Chapter 6. Appellate Activities

Bankruptcy-Related Appeals 35
U.S. Supreme Court Cases 35
Other Appellate Rulings 36
  Abusive Conduct by Debtors 36
  Chapter 11 Reorganizations 36
  Private Trustee Compensation 37

Chapter 7. Trustee Oversight

Private Trustees 38
Distributions by Trustees 38
Trends–Disbursements in Chapter 13 Cases 41
Language Assistance Plan 41
Supervision of Case Administration 43
Supervision of Financial Operations 44

Chapter 8. Credit Counseling and Debtor Education

Approval of Providers 45
Fees and Delivery of Services 45
Quality of Services 46
Federal Rulemaking 46

List of Tables and Figures

Twenty-Five Years of USTP Accomplishments 6
U.S. Trustee Program Map of Regions and Offices 10
U.S. Trustee Program Nationwide Office Locator 11
Table 2.1 Bankruptcy Filings by Chapter, FY 2012 13
Figure 2.1 Total Bankruptcy Filings in USTP Districts, FY 2002-2012 13
Table 3.1 Abusive Conduct by Mortgage Servicers and Other Creditors 15
Table 3.2 Consumer Protection Activity 16
Table 3.3 Bankruptcy Petition Preparers under § 110 17
Figure 3.1 Trends–*Pro Se* Filings and USTP Actions against BPPs, FY 2007-2012 18
Table 3.4 Attorney Fee Disgorgements under § 329 19
Table 3.5 Other Attorney Misconduct 19
Table 3.6 Debtor Identification 20
Figure 3.2 Trends–Total Financial Impact of USTP Civil Enforcement Actions and Inquiries, FY 2006-2012 21
Table 3.7 Denial or Revocation of Discharge under § 727 22
Table 3.8 Dismissal for Abuse under § 707(b) 23
Table 5.1 Employment of Professionals under §§ 327 and 1103 29
Table 5.2 Professional Fee Requests under § 330 30

Table 5.3 Motions to Appoint Trustee or Examiner under § 1104 31
Table 5.4 Key Employee Retention Plans under § 503(c) 32
Table 5.5 Case Conversion or Dismissal under § 1112 33
Table 5.6 Disclosure Statements under § 1125 34
Table 5.7 Plan Confirmations under § 1129 34
Figure 7.1 Total Disbursements in Chapter 7 and 13 Cases, FY 2002-2012 39
Figure 7.2 Chapter 7 Asset Cases Closed, FY 2002-2012 39
Figure 7.3 Total Disbursements in Chapter 7 Cases, FY 2002-2012 40
Figure 7.4 Total Disbursements in Chapter 13 Cases, FY 2002-2012 40
Figure 7.5 Trends–Disbursements in Chapter 13 Cases, FY 2006-2012 41
Figure 7.6 Telephone Interpreter Usage by Language, FY 2012 42
Figure 7.7 Telephone Interpreter Usage by City, FY 2012 43
Table 8.1 Approved Providers at Year-End 45
Table 8.2 Median Fee for Services, of Providers Who Charge a Fee 45
Table 8.3 Delivery Method for Services Received 46

Message from the Director

From protecting homeowners in bankruptcy to enforcing the Bankruptcy Code's restrictions on attorneys' fees in large chapter 11 cases, the major accomplishments of the U.S. Trustee Program (USTP or Program) in FY 2012 demonstrate the full scope of our mission to promote the integrity and efficiency of the bankruptcy system for the benefit of all stakeholders– debtors, creditors, and the public. The fact that the interests of many parties may be implicated in a single bankruptcy case is one reason why Congress created the USTP as a neutral party to protect *all* interests in a case, including the public interest. The Program's ability to act independently is at the core of its existence and justifies its unique role in the bankruptcy system.

The USTP's signature achievement in FY 2012 was the National Mortgage Settlement, which involved the Department of Justice, including the USTP; the Department of Housing and Urban Development; other federal agencies; 49 state Attorneys General; and the nation's five largest mortgage servicers. The USTP's participation in the settlement resulted from more than five years of investigation and litigation against the mortgage industry for systemic violations of the Bankruptcy Code, including filing inflated claims against homeowners in bankruptcy and charging improper fees after homeowners emerged from bankruptcy. These violations caused real harm to homeowners in financial distress, including the potential loss of their homes.

Under the settlement, the mortgage servicers agreed to pay $25 billion, with most of that amount credited against loan modifications and principal write-downs. They also agreed to follow detailed mortgage servicing standards that address every type of inadequacy the USTP uncovered through its investigation and litigation. The USTP continues its active participation in the settlement as the Justice Department's representative on the committee that oversees the independent third party appointed to monitor servicer compliance and issue periodic public reports. The Program also continues to review the conduct of other mortgage servicers that were not a party to the settlement.

Another major accomplishment of the USTP in FY 2012 was the development of updated guidelines for attorney compensation in large chapter 11 cases. The guidelines communicate the criteria used by U.S. Trustees in reviewing attorneys' fee applications and possible bases for USTP objections to the payment of fees and reimbursement of expenses. In developing the guidelines, the Program followed an open and transparent process, soliciting public views when draft guidelines were first issued; conducting a public meeting at the Department of Justice's headquarters in Washington, D.C.; and, after considering all input, posting updated guidelines for additional comment. We believe that consistent nationwide application of the final guidelines, to be issued in FY 2013, will help ensure that statutory standards for attorney compensation are satisfied and will enhance public confidence in the bankruptcy system.

Throughout the year, the USTP also carried out its many other responsibilities. The USTP took more than 16,500 formal civil enforcement actions, including over 4,450 actions to deny or revoke a debtor's discharge or dismiss a debtor's case, and referred more than 2,100 suspected bankruptcy-related crimes for investigation and potential prosecution. The USTP continued actively enforcing the Bankruptcy Code's limits on executive bonuses paid by companies in bankruptcy. In addition, the Program supervised the private trustees who disbursed

approximately $11 billion in chapter 7 and chapter 13 cases during the year, and approved and reviewed the services of pre-bankruptcy credit counseling agencies and post-bankruptcy debtor education providers.

Strict budget limitations have required the Program to take a new look at ways to achieve savings through staff attrition and the smart management of real estate and other costs. Efficiency projects underway in FY 2012 included the consolidation of tasks such as data extraction from the courts' automated case management system and certain trustee oversight functions, as well as the consolidation of offices and the relocation of office spaces.

Fiscal Year 2012 marked the beginning of the USTP's 25th year as the federal agency charged with protecting the integrity of the bankruptcy system. After its creation in the Bankruptcy Reform Act of 1978 as a pilot program in 18 judicial districts, the Program was expanded nationwide in 1988 with the statutory exception of Alabama and North Carolina. The talented and dedicated employees of the USTP have carried out our mission for a quarter of a century, and I look forward to continued accomplishments in the future. Please accept my invitation to read more about the USTP's activities in our *Fiscal Year 2012 Annual Report*.

Clifford J. White III
Director, Executive Office for United States Trustees

Chapter 1. Mission, Organization, and Administration

Mission

The mission of the United States Trustee Program is to promote the integrity and efficiency of the bankruptcy system for the benefit of all stakeholders–debtors, creditors, and the public.

By statute, the Program has standing to participate in every bankruptcy case within its jurisdiction. The Program oversees the administration of all bankruptcy cases filed by individual and business debtors in every federal judicial district except for those in Alabama and North Carolina. The U.S. Trustee's specific duties in a case depend on the chapter under which a debtor files a bankruptcy petition and the facts of the case.

Organization and Administration

The Program has a headquarters office in Washington, D.C., led by a Director; 21 regions managed by U.S. Trustees; and 95 field offices supervised by Assistant U.S. Trustees. At the conclusion of FY 2012, the Program had 1,197 employees, consisting of attorneys, financial analysts, paralegals, and support staff. More than 92 percent of the Program's employees are located in its field offices.

The Program is funded through user fees paid by bankruptcy debtors. All revenues are deposited into the United States Trustee System Fund and remain available for expenditure, as specified in appropriations acts. Deposits to the United States Trustee System Fund consist of filing fees, chapter 11 quarterly fees, and interest on investments and other miscellaneous revenue. In FY 2012, the Program's total funding level was $226.6 million, consisting of $223.3 million in appropriations and $3.3 million in carry-over funding from the previous fiscal year.

Twenty-Five Years of U.S. Trustee Program Accomplishments

FY 2012 marked the 25th anniversary of the U.S. Trustee Program's establishment as a permanent, new component of the Justice Department.

The Bankruptcy Reform Act of 1978 established a pilot program for the United States Trustee system, with 10 regions in 18 judicial districts and an Executive Office in Washington, D.C. The first Director began work in October 1979. In October 1986, the Bankruptcy Judges, U.S. Trustees, and Family Farmer Bankruptcy Act expanded the U.S. Trustee system nationwide, except for the judicial districts in Alabama and North Carolina, which would be managed by the Administrative Office of the U.S. Courts under the Bankruptcy Administrator program.

The past 25 years have brought continued legislative changes, USTP initiatives, and legal developments.

- March 1987 to October 1988–USTP expansion includes 86 offices and 900 employees.

  The first office to be certified was in Tyler, Texas, in March 1987; the last regions to be certified were Regions 5, 7, 13, 15, 17, and 18 in October 1988.

- June 1992–USTP implements Chapter 7 Initiative.

  This initiative called for the implementation of a blind rotation assignment system for chapter 7 cases and required the U.S. Trustee to conduct annual performance reviews of chapter 7 trustees and take enforcement actions when trustee performance was lacking.

- March 1993–USTP implements Standing Trustee Initiative.

  This initiative established oversight of chapter 12 and chapter 13 standing trustees that included annual evaluations and audits, enforcement actions when trustee performance was lacking, a system for recruitment, and monitoring of caseloads to ensure efficiency.

- October 1994–Bankruptcy Reform Act of 1994 includes new duties for USTP.

  This Act included a requirement that the U.S. Trustee adopt guidelines for reviewing bankruptcy professionals' requests for payment of fees and expenses from the bankruptcy estate. The guidelines took effect in January 1996.

- November 1997–Settlement with Sears, Roebuck & Co. is announced.

  The USTP assisted in a federal/state settlement with Sears, Roebuck & Co. arising from Sears' improper practices relating to debt collection from customers in bankruptcy. Sears agreed to pay more than $180 million in restitution and penalties to debtors and to pay $40 million in civil fines to state attorneys general. Subsequently, Sears agreed to pay a $60 million fine in a related criminal matter referred by the U.S. Trustee.

- October 1998–USTP announces new National Bankruptcy Training Institute.

  The National Bankruptcy Training Institute would be located at the Justice Department's recently opened National Advocacy Center in Columbia, S.C.

- July 2001–Civil Enforcement Initiative is launched.

  The initiative's goals included ensuring that chapter 7 was not abused; protecting consumer debtors, creditors, and others; and holding chapter 11 debtors accountable for their obligations under the Bankruptcy Code.

- July 2003 and August 2003–First U.S. Supreme Court briefs are filed for USTP.

  In July 2003, in *Kontrick v. Ryan,* 540 U.S. 443, 124 S. Ct. 906 (2004), the USTP for the first time helped author the United States' brief filed as *amicus curiae* in the Supreme Court. The following month, the first brief listing the U.S. Trustee as a party, in *Lamie v. U.S. Trustee*, 540 U.S. 526, 124 S. Ct. 1023 (2004), was filed with the Supreme Court. *Kontrick* addressed a procedural issue regarding objections to a debtor's discharge and *Lamie* dealt with fees for debtors' attorneys. The Supreme Court adopted the USTP's position in both cases.

- October 2005–Bankruptcy Abuse Prevention and Consumer Protection Act expands USTP duties.

  The Act made sweeping changes in the Bankruptcy Code and directed the USTP to implement many new requirements, including means testing in consumer bankruptcy cases, pre-bankruptcy credit counseling, post-bankruptcy debtor education, and audits of consumer debtors.

- October 2008–USTP national settlement with Capital One Bank (USA) N.A. is announced.

  The USTP announced its first nationwide settlement. The settlement with Capital One Bank (USA) N.A. resolved the USTP's allegations that the credit card issuer attempted to collect debts previously discharged in bankruptcy. Under the settlement, an independent auditor chosen by the court oversaw an examination of nearly 700,000 customer accounts across the country. Based on the auditor's findings, Capital One refunded approximately $2.35 million to consumers in bankruptcy, or to their bankruptcy estates. The settlement also provided for reimbursement of expenses incurred by debtors and trustees to contest erroneous claims.

- December 2008–USTP launches creditor abuse enforcement effort.

  The USTP launched a national enforcement effort to address abusive practices of mortgage loan servicers and other creditors, which were identified in actions filed by U.S. Trustees in various judicial districts.

- October 2009 and October 2010 Terms of the U.S. Supreme Court–USTP assists in four important bankruptcy appeals decided in the United States' favor.

  In three of these cases, the Supreme Court favorably interpreted important parts of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. *Ransom v. FIA Card Servs., N.A.*, __ U.S. __, 131 S. Ct. 716 (2011); *Hamilton v. Lanning*, __ U.S. __, 130 S. Ct. 2464 (2010); and *Milavetz, Gallop, & Milavetz, P.A. v. United States*, 559 U.S.

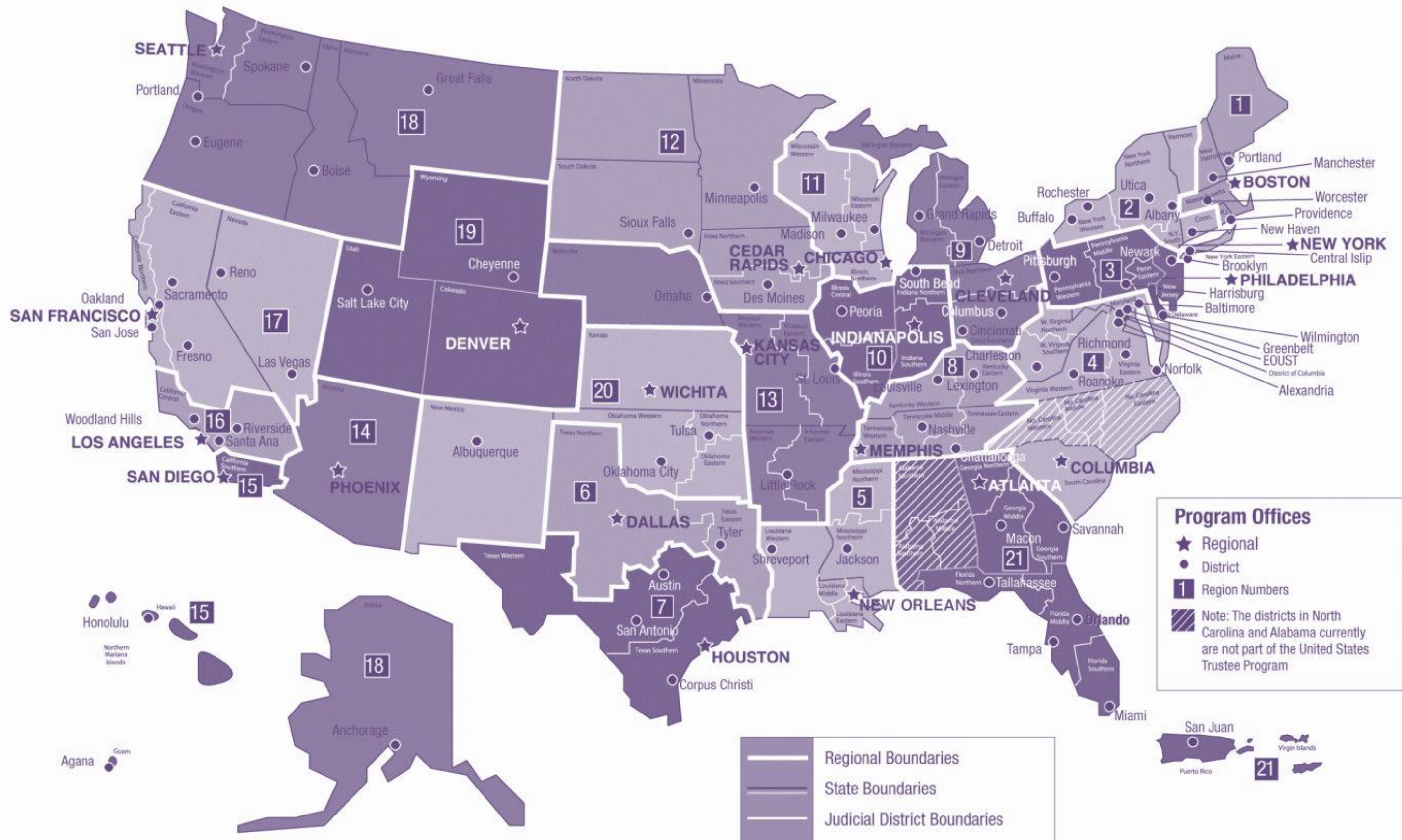
229, 130 S. Ct. 1324 (2010). In addition to helping litigate these appeals before the Court, the USTP briefed and argued *Ransom* before the Ninth Circuit, was actively involved in *Milavetz* before the trial court and the Eighth Circuit, and participated in the briefing of *Lanning* before the Tenth Circuit. The Program's efforts in these cases succeeded in clarifying the law and ensuring its fair and consistent application throughout the bankruptcy system. Similarly, in the final case, the Program's work before the Court helped ensure that chapter 7 trustees may resolve chapter 7 bankruptcy cases expeditiously and fairly. *Schwab v. Reilly*, __ U.S. __, 130 S. Ct. 2652 (2010).

- June 2010–$108 million USTP/FTC settlement with Countrywide Home Loans, Inc., is announced.

  After conducting a national investigation of the mortgage servicing practices of Countrywide Home Loans, Inc., the USTP joined the Federal Trade Commission in announcing a $108 million settlement with Countrywide resolving an FTC complaint and U.S. Trustees' lawsuits in bankruptcy courts. The USTP worked closely with the FTC in fashioning the settlement, which required Countrywide to compensate homeowners, including those in bankruptcy, who were harmed by its mortgage loan servicing practices, and provided for a monitor to verify Countrywide's compliance with prescribed procedures.

- February 2012–$25 billion federal/state settlement with five largest banks is announced.

  After the USTP expanded its coordinated investigation into the practices of the nation's largest mortgage servicers, it played a key role in achieving a historic settlement announced by the Attorney General, the Secretary of Housing and Urban Development, and state Attorneys General. The settlement with Bank of America, J.P. Morgan Chase Mortgage, Citigroup, Inc., Wells Fargo, and Ally Financial required the banks to commit $25 billion to resolve violations of state and federal laws governing mortgage servicing, including with respect to borrowers in bankruptcy, and to implement comprehensive new mortgage servicing standards.


SEATTLE
Spokane
Portland
Great Falls
Eugene
Boise
18
12
Minneapolis
11
Milwaukee
Madison
CHICAGO
CEDAR RAPIDS
Des Moines
Omaha
Sioux Falls
19
Cheyenne
DENVER
Salt Lake City
Reno
Sacramento
Oakland
SAN FRANCISCO
San Jose
Fresno
17
Las Vegas
Woodland Hills
LOS ANGELES
Riverside
Santa Ana
16
SAN DIEGO
15
14
PHOENIX
Albuquerque
20
WICHITA
KANSAS CITY
13
Tulsa
Oklahoma City
6
DALLAS
Tyler
Shreveport
Austin
7
San Antonio
HOUSTON
Corpus Christi
Little Rock
St. Louis
MEMPHIS
Jackson
5
NEW ORLEANS
Peoria
INDIANAPOLIS
10
South Bend
Grand Rapids
9
Detroit
CLEVELAND
Columbus
Cincinnati
Charleston
8
Lexington
Louisville
Nashville
Chattanooga
ATLANTA
Macon
21
Savannah
Tallahassee
Orlando
Tampa
Miami
COLUMBIA
Richmond
4
Roanoke
Norfolk
Pittsburgh
3
Newark
Harrisburg
Baltimore
Wilmington
Greenbelt
EOUST
Alexandria
Rochester
Buffalo
Utica
2
Albany
1
Portland
Manchester
BOSTON
Worcester
Providence
New Haven
NEW YORK
Central Islip
Brooklyn
PHILADELPHIA
Honolulu
15
18
Anchorage
Agana
San Juan
21
Program Offices
Regional
District
Region Numbers
Note: The districts in North Carolina and Alabama currently are not part of the United States Trustee Program
Regional Boundaries
State Boundaries
Judicial District Boundaries

U.S. Trustee Program Nationwide Office Locator

Executive Office for U.S. Trustees
Washington, D.C.

Regional and Field Offices (by State)

Alaska
Anchorage

Arizona
Phoenix

Arkansas
Little Rock

California
Fresno
Los Angeles
Oakland
Riverside
Sacramento
San Diego
San Francisco
San Jose
Santa Ana
Woodland Hills

Colorado
Denver

Connecticut
New Haven

Delaware
Wilmington

Florida
Miami
Orlando
Tallahassee
Tampa

Georgia
Atlanta
Macon
Savannah

Hawaii
Honolulu

Idaho
Boise

Illinois
Chicago
Peoria

Indiana
Indianapolis
South Bend

Iowa
Cedar Rapids
Des Moines

Kansas
Wichita

Kentucky
Lexington
Louisville

Louisiana
New Orleans
Shreveport

Maine
Portland

Maryland
Baltimore
Greenbelt

Massachusetts
Boston
Worcester

Michigan
Detroit
Grand Rapids

Minnesota
Minneapolis

Mississippi
Jackson

Missouri
Kansas City
St. Louis

Montana
Great Falls

Nebraska
Omaha

Nevada
Las Vegas
Reno

New Hampshire
Manchester

New Jersey
Newark

New Mexico
Albuquerque

New York
Albany
Brooklyn
Buffalo
Central Islip
New York City
Rochester
Utica

Ohio
Cincinnati
Cleveland
Columbus

Oklahoma
Oklahoma City
Tulsa

Oregon
Eugene
Portland

Pennsylvania
Harrisburg
Philadelphia
Pittsburgh

Puerto Rico
San Juan

Rhode Island
Providence

South Carolina
Columbia

South Dakota
Sioux Falls

Tennessee
Chattanooga
Memphis
Nashville

Texas
Austin
Corpus Christi
Dallas
Houston
San Antonio
Tyler

Utah
Salt Lake City

Virginia
Alexandria
Norfolk
Richmond
Roanoke

Washington
Seattle
Spokane

West Virginia
Charleston

Wisconsin
Madison
Milwaukee

Wyoming
Cheyenne

Please visit our Web site at www.justice.gov/ust for office phone numbers and addresses.

Chapter 2. Bankruptcy Code and Bankruptcy Filings

Bankruptcy Code

A bankruptcy case is a proceeding brought under federal law to discharge or reorganize the financial obligations of an individual or an entity. The federal Bankruptcy Code appears in title 11 of the United States Code. Most bankruptcy cases are filed under chapter 7, 11, or 13.

- Chapter 7 bankruptcy is a liquidation proceeding available to consumers and businesses. The assets of a debtor that are not exempt from the reach of creditors are collected and reduced to money, and the proceeds are distributed to creditors in accordance with a priority scheme established by the Bankruptcy Code. A consumer debtor receives a release from debt, except for certain debts that are excepted from discharge by the Bankruptcy Code.

- Chapter 11 provides a procedure by which an individual or a business can reorganize debts while continuing to operate. The vast majority of chapter 11 cases are filed by businesses. The debtor, often with participation from creditors, creates a plan of reorganization under which it proposes to repay part or all of its debts.

- Chapter 13 is used by individual consumers to reorganize their financial affairs under a repayment plan that must be completed within three to five years. To be eligible for chapter 13 relief, a consumer must have regular income and may not have more than a specified amount of debt.

Bankruptcy Filings

Bankruptcy filings declined for the second consecutive year in FY 2012, following three years of substantial increases. In the 88 judicial districts covered by the Program, more than 1.2 million bankruptcy cases were filed, representing a 14 percent decrease from FY 2011.

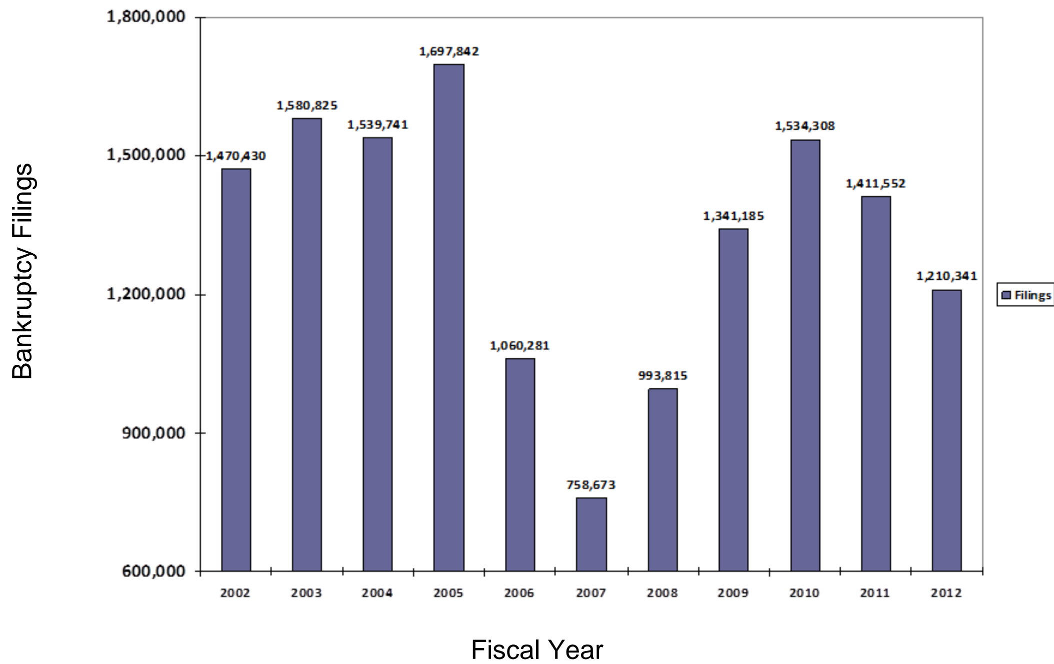
Chapter 2. Bankruptcy Code and Bankruptcy Filings

Table 2.1. Bankruptcy Filings by Chapter, FY 2012

Bankruptcy Chapter	Filings in USTP Districts
All Chapters	1,210,341
Chapter 7	853,471
Chapter 11	10,208
Chapter 12 and Other Cases	657
Chapter 13	346,005

Source: Administrative Office of the U.S. Courts

Figure 2.1. Total Bankruptcy Filings in USTP Districts, FY 2002-2012



Source: Administrative Office of the U.S. Courts

Chapter 3. Civil Enforcement

<u>National Mortgage Settlement and Other Creditor Abuse Enforcement</u>

Protecting consumers from bankruptcy-related fraud and abuse is one of the Program's highest priorities and is a major aspect of its civil enforcement activities. The USTP's signature achievement this fiscal year was the National Mortgage Settlement, announced by Attorney General Eric Holder on February 9, 2012. The Department of Justice, including the USTP, the Department of Housing and Urban Development (HUD), other federal agencies, and 49 state Attorneys General obtained a consent order involving the five largest mortgage servicers in the United States.

The USTP's participation in the settlement resulted from more than five years of investigation and litigation against the mortgage servicing industry for violations of the Bankruptcy Code. Even before the mortgage meltdown, the USTP uncovered systemic violations, such as the filing of inflated claims, the filing of motions seeking relief from the automatic stay (that is, court permission to foreclose) based on the creditor's faulty accounting, and the charging of fees that were presented to homeowners only after the homeowners emerged from bankruptcy court protection. These violations caused real harm to homeowners in financial distress, including the potential loss of their homes.

Leading up to the settlement, the USTP stepped up investigations and coordinated with other agencies. As Attorney General Holder said at the news conference in February 2012, the work of the USTP in investigating mortgage servicer abuse was instrumental in the government's successful resolution of allegations that these servicers failed to play by the rules and harmed distressed homeowners. In an eight-month period prior to the settlement, the USTP reviewed more than 37,000 documents and conducted discovery in more than 175 cases. The major mortgage servicers responded by consistently opposing the USTP's investigations, including filing 300 motions to quash or restrict discovery.

Announcing the National Mortgage Settlement, the Attorney General stated it was the largest joint federal-state civil settlement ever obtained. Under the terms of the agreement, the mortgage servicers will pay $25 billion, with most of that amount credited against loan modifications and principal write-downs. The settling banks also are obligated to follow detailed mortgage servicing standards that are prescribed in the agreement and backed by a federal court order. The standards address every type of inadequacy the USTP uncovered in mortgage servicer practices, and require servicers to ensure the accuracy of proofs of claims and motions for relief from stay, properly document default service fees, and properly oversee third party providers.

The settlement is monitored by an independent third party who will issue public reports on servicer compliance for three and one-half years. The USTP serves as the Justice Department's representative on the committee that oversees the monitor and, along with representatives from HUD and several state Attorneys General, is an active participant in the committee's activities. The USTP meets regularly with the monitor to discuss implementation and compliance, and confers with the settling servicers to discuss and address implementation, compliance, and

consumer relief efforts. For example, the USTP worked closely with the monitor as the monitor supervised the implementation of the servicing standards and the framework for compliance; the USTP also played an active role in reviewing the terms of the work plans, which outlined testing methodology for the compliance process.

The USTP's mortgage industry enforcement efforts remain strong after the National Mortgage Settlement. The standards set forth in the settlement reflect sound practices that should be followed by all in the mortgage servicing industry, and the Program continues to review the conduct of the settling servicers as well as claims filed by other mortgage servicers that were not a party to the settlement.

Table 3.1. Abusive Conduct by Mortgage Servicers and Other Creditors

Actions & Inquiries	FY 2012
Actions Filed	428
Actions Decided	428
Actions Success Rate	99.3%
Inquiries	1,947

Source: Executive Office for U.S. Trustees
Note: The numbers of actions filed and actions decided are identical by coincidence. The 428 cases decided in FY 2012 are not necessarily the same 428 cases filed in FY 2012.

Additional Consumer Protection Activities

The USTP's consumer protection activity also encompasses enforcement to combat improper conduct by non-attorney petition preparers, including foreclosure rescue scheme operators; attorneys; and individuals or entities that misuse identifying information such as Social Security numbers.

In total, in FY 2012 the Program's civil enforcement consumer protection activity included nearly 8,000 actions, inquiries, and problems identified. Generally, in Table 3.2 "actions" means formal motions, complaints, objections, and other matters brought before a court or other tribunal; "inquiries" means enforcement activities that do not require resolution by a court or other tribunal, such as written and verbal inquiries made to creditors and their counsel; and "problems identified" means debtor identification issues addressed in partnership with the private trustees. Throughout this chapter, in charts describing U.S. Trustee actions, the numbers of actions filed and actions decided during FY 2012 are not identical because some actions were

filed before the reporting period, some actions were decided afterward, and some actions were withdrawn by the U.S. Trustee.

Table 3.2. Consumer Protection Activity

Actions & Inquiries	FY 2012
Actions Filed	1,780
Actions Decided	1,599
Actions Success Rate	97.8%
Inquiries and Problems Identified	6,217

Source: Executive Office for U.S. Trustees

Violations by Bankruptcy Petition Preparers

A bankruptcy petition preparer is a non-attorney who prepares debtors' bankruptcy documents for a fee. To protect consumers, petition preparers are governed by 11 U.S.C. § 110, which requires, among other things, that they disclose in court filings their identities and the fees they receive. Section 110 also limits the practices that petition preparers may engage in, permitting them only to provide typing services and barring them from activities such as advertising "legal" services, charging excessive fees, collecting clients' payments for court filing fees, or engaging in unfair, deceptive, or fraudulent conduct.

Nonetheless, some petition preparers charge exorbitant rates, fail to make necessary disclosures, and engage in other prohibited conduct including schemes to defraud consumers who seek home loan modification or face foreclosure or eviction. To curb such conduct, U.S. Trustees bring civil actions to obtain orders to disgorge document preparation fees, impose fines, and enjoin prohibited conduct by petition preparers.

Table 3.3. Bankruptcy Petition Preparers under § 110

Actions & Inquiries	FY 2012
Actions Filed	552
Actions Decided	487
Actions Success Rate	97.3%
Inquiries	809
Fines Imposed	$1,673,052
Fees Recovered	$499,312
Injunctions	152

Source: Executive Office for U.S. Trustees

Ruling for the Denver office, the Bankruptcy Court for the District of Colorado held a bankruptcy petition preparer in civil contempt and ordered him to pay sanctions of $34,000 for non-compliance with a discovery order and to pay more than $18,500 in attorneys' fees and costs incurred by the U.S. Trustee. The court had directed the petition preparer to provide documents and other information after the U.S. Trustee alleged violations of section 110 involving more than 241 victims. Following a subsequent trial on the merits, the bankruptcy court ultimately ordered the petition preparer to pay damages totaling $480,000 to debtors and barred him for 10 years from preparing petitions in Colorado and nationally. Meanwhile, another bankruptcy judge in the District of Colorado ordered the petition preparer to pay $41,500 in fines and statutory damages, including $37,500 payable to the U.S. Trustee, for numerous violations of the Bankruptcy Code. In that case, the U.S. Trustee charged that the petition preparer improperly provided legal advice to the debtors, inappropriately completed their pre-bankruptcy credit counseling session and post-bankruptcy financial management course, and failed to disclose all the fees he received from them.

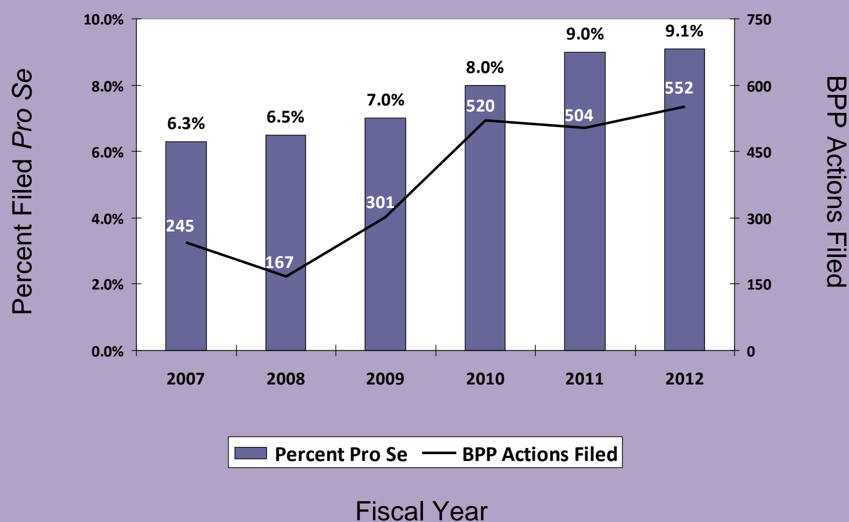
Granting a motion by the Riverside office, the Bankruptcy Court for the Central District of California ordered two bankruptcy petition preparers and their business entities to pay a total of $20,000 in damages, client fees, and fines. The bankruptcy petition preparers failed to disclose their identities in bankruptcy papers filed for the client. An investigation by the U.S. Trustee uncovered a fraudulent scheme to delay a scheduled foreclosure sale. The petition preparers had pressured the client to convey his home to one of the business entities and to pay rent to one of the individuals. Subsequently, they filed bankruptcy for the client to delay the foreclosure and continue collecting fees. In doing so, the petition preparers improperly provided legal advice to the client and charged him excessive fees.

Chapter 3. Civil Enforcement

Trends–*Pro Se* Filings and Actions against Bankruptcy Petition Preparers

The percentage of consumer debtors filing *pro se*–without an attorney–has risen steadily in recent years. *Pro se* debtors may pay bankruptcy petition preparers to draft their bankruptcy documents. Not all BPPs comply with the Bankruptcy Code's restrictions on their activities, and the number of USTP actions against bankruptcy petition preparers has also increased.

Figure 3.1. Trends–*Pro Se* Filings and USTP Actions against BPPs, FY 2007-2012



Source: Executive Office for U.S. Trustees

Improper Conduct by Attorneys

U.S. Trustees take action against attorneys who engage in unethical conduct or provide substandard representation. For example, the U.S. Trustee may ask the court to order the attorney to disgorge fees; refer the matter to a state court disciplinary board or other regulatory body; and seek other appropriate sanctions. U.S. Trustees also enforce sections 526, 527, and 528 of the Bankruptcy Code, which govern debt relief agencies. Among other things, those provisions require attorneys to make certain disclosures to clients who are consumer debtors.

Table 3.4. Attorney Fee Disgorgements under § 329

Actions & Inquiries	FY 2012
Actions Filed	592
Actions Decided	519
Actions Success Rate	97.1%
Inquiries	1,328
Amount Disgorged	$4,518,489

Source: Executive Office for U.S. Trustees

Table 3.5. Other Attorney Misconduct

Actions & Inquiries	FY 2012
Motions for Sanctions Filed	164
Motions for Sanctions Decided	152
Motions for Sanctions Success Rate	97.4%
Inquiries	307
Sanctions	$198,507
Referrals to State Bar	72
Disciplinary Rulings Issued	67

Source: Executive Office for U.S. Trustees

The Bankruptcy Court for the Central District of California imposed sanctions totaling $27,500 against an attorney and a bankruptcy petition preparer who operated a foreclosure rescue scheme. Moreover, the attorney was suspended from all bankruptcy practice in the district for at least five years and the petition preparer was enjoined from future violations of section 110. The Woodland Hills office sought disgorgement and sanctions against the two individuals in 63 cases, demonstrating that they transferred partial interests in real properties to the names of sham corporations and then, solely to delay foreclosures, filed at least 82 bankruptcy petitions in the names of the corporations.

The offices in Milwaukee and Madison, Wisconsin, and Columbus, Ohio, worked together to obtain the disgorgement of more than $19,000 in attorneys' fees from a New York-based debt

settlement law firm and its principal. The U.S. Trustees charged that the firm front-loaded high legal fees before setting aside sufficient money for settlements with creditors. The U.S. Trustees filed motions in five cases, alleging that the firm collected unreasonable and excessive fees for pre-bankruptcy debt settlement representation.

Two attorneys in the Southern District of Texas entered into an agreed order with the Houston office in connection with their representation of debtors in nine cases. One of the attorneys was not admitted to practice before the federal courts. In an undisclosed arrangement, he contracted to use the other attorney's name and electronic case filing number in the cases, in exchange for paying the other attorney half the fees. The second attorney appeared to be the attorney of record in the cases, but he never met the debtors and knew nothing about the cases or bankruptcy law. Under the agreed order, the attorneys were barred from acting as debt relief agencies under section 526 and would return all attorneys' fees received.

Debtor Identification Issues

U.S. Trustees take action against debtors who intentionally use false names or Social Security numbers on bankruptcy documents. False filings may occur in an effort to avoid Bankruptcy Code restrictions on refiling bankruptcy within a particular time period, or to discharge debts that were falsely incurred using the identity of another individual. U.S. Trustees also assist, under certain circumstances, when an individual has a bankruptcy case falsely filed in his or her name. Assistance may include helping the individual to obtain a court order that expunges the bankruptcy case from the court record or asking the court to make a finding that the individual did not file the case.

Table 3.6. Debtor Identification

Actions & Inquiries	FY 2012
Actions Filed	35
Actions Decided	7
Actions Success Rate	100.0%
Problems Identified	1,752
Petitions Amended or Form B21 (Statement of Social Security Number) Filed	1,526

Source: Executive Office for U.S. Trustees

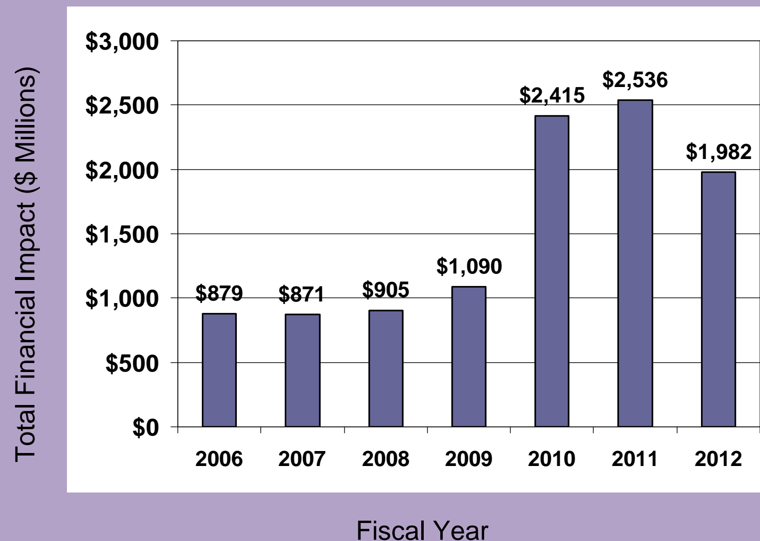
Granting a motion filed by the Baltimore office, the Bankruptcy Court for the District of Maryland struck from the court record all references to a Social Security number used in a false filing. The true holder of the Social Security number learned that a bankruptcy case had been filed

in her name when a creditor declined to accept her payments in order to avoid violating the Bankruptcy Code. The person who actually filed the bankruptcy case had used the victim's Social Security number for several years to obtain loans and open bank accounts.

Trends–Total Financial Impact of USTP Actions and Inquiries

The USTP tracks the financial impact of various USTP actions and inquiries. Over the last three years, the total impact was almost $7 billion. More than 99 percent of this amount consisted of debts not discharged in chapter 7 or funds potentially available for distribution to creditors. The remainder consisted of disgorgements returned to debtors or fines paid to the U.S. Treasury.

Figure 3.2. Trends–Total Financial Impact of USTP Civil Enforcement Actions and Inquiries, FY 2006-2012



Note: This chart does not include the $25 billion National Mortgage Settlement.
Source: Executive Office for U.S. Trustees

Enforcement Against Abusive Conduct by Debtors

The Program investigates and takes action against debtors who have a demonstrated ability to pay a portion of their debts out of disposable income, or who conceal their assets, file incomplete or inaccurate financial information, or otherwise fail to satisfy their obligations under the Bankruptcy Code. In addition, the Program takes action when debtors violate restrictions on refiling bankruptcy within particular time periods or fail to complete mandatory pre-bankruptcy credit counseling or post-bankruptcy debtor education. The most common of these actions are objections to a debtor's bankruptcy discharge and motions to dismiss a debtor's bankruptcy case.

Denial of Debtor's Discharge

U.S. Trustees may file complaints to deny or revoke a bankruptcy discharge under 11 U.S.C. § 727 if the debtor engaged in improper conduct such as concealing assets, withholding information on his or her bankruptcy papers, destroying property to hinder or defraud a creditor or trustee, knowingly making a false oath, or refusing to obey a court order. The debtor may voluntarily waive discharge under the same statutory section.

Table 3.7. Denial or Revocation of Discharge under § 727

Actions & Inquiries	FY 2012
Actions Filed	1,717
Actions Decided	1,554
Actions Success Rate	98.7%
Inquiries	2,176
Amount Not Discharged (General Unsecured Debt Listed by Debtor on Schedule F)	$1,432,140,001

Source: Executive Office for U.S. Trustees

Ruling for the Dallas office after a two-day trial, the Bankruptcy Court for the Northern District of Texas denied a debtor couple's chapter 7 discharge of more than $5 million in unsecured debt. An investigation revealed the husband previously owned a car dealership, personally guaranteed the debt on approximately 70 vehicles that were sold without paying back the lender, and was unable to explain what happened to the vehicles. The debtors also failed to disclose income, interests in businesses, and debts owed to the State of Texas for violations of laws governing the sales of used vehicles.

After a two-day trial on a complaint filed by the Eugene office, the Bankruptcy Court for the District of Oregon revoked a debtor's chapter 7 discharge of almost $3.7 million in unsecured debt. The discharge revocation was based on the debtor's failure to disclose an interest in real property, misrepresentation of the value of some of his business interests, and failure to disclose certain accounts receivable.

The Bankruptcy Court for the Eastern District of Michigan entered a default judgment denying a debtor's chapter 7 discharge of $509,524 in unsecured debt after the Detroit office objected to his discharge. The U.S. Trustee's investigation revealed the debtor did not disclose a

second home and $400,000 in pre-petition income, undervalued approximately $2.5 million in stock holdings and $300,000 in household furnishings, and failed to explain the disposition of the proceeds from his sale of a Lamborghini automobile.

Dismissal of Case for Abuse

The U.S. Trustee may file a motion to dismiss under 11 U.S.C. § 707(b) if the debtor's chapter 7 filing is presumed abusive under the means test because the debtor has sufficient monthly disposable income to make payments to creditors, and the debtor demonstrates no special circumstances to rebut that presumption. In some cases where abuse is presumed under the statute, the U.S. Trustee may decline to seek dismissal if the debtor rebuts the presumption by demonstrating that dismissal is not appropriate due to job loss or other factors. In addition, even if the filing is not presumed abusive, the U.S. Trustee may seek dismissal under section 707(b) if the case would be abusive considering the totality of the circumstances of the debtor's financial situation, including the debtor's ability to repay, or under a bad faith analysis.

In FY 2012, approximately 13 percent of chapter 7 debtors had income above their respective states' medians. Of the cases filed by debtors with income above the state median, 6 percent were presumed abusive under the means test. After considering a debtor's special circumstances, however, the Program exercised its statutory discretion to decline to seek dismissal in about 60 percent of the cases presumed abusive.

Table 3.8. Dismissal for Abuse under § 707(b)

Actions & Inquiries	FY 2012
Actions Filed	2,743
Actions Decided	2,201
Actions Success Rate	98.9%
Inquiries	15,002
Amount Not Discharged (General Unsecured Debt Listed by Debtor on Schedule F)	$375,334,397

Source: Executive Office for U.S. Trustees

A debtor in the Central District of California was prevented from discharging $929,000 in unsecured debt after he agreed to dismissal of his case with an 18-month prohibition against re-filing bankruptcy. The Los Angeles office pursued the dismissal for bad faith. The debtor

disclosed minimal income from the years before he filed bankruptcy, but he incurred more than $900,000 in gambling debt at high-end casinos and reached the credit limits on all of his credit cards by purchasing fine wine and luxury goods.

The Bankruptcy Court for the Northern District of Oklahoma dismissed the case of a medical doctor who sought to discharge $552,690 in unsecured debt. The Tulsa office filed a motion to dismiss based on the debtor's monthly income of more than $14,000 and her excessive expenses for clothes, travel, gourmet items, and other goods and services.

Debtor Audits

The Program is authorized by law to contract with independent firms to perform audits of consumer chapter 7 and chapter 13 cases. The audits are designed to provide baseline data to gauge the magnitude of fraud, abuse, and error in the bankruptcy system; to assist the Program in identifying cases of fraud, abuse, and error; and to enhance deterrence.

The Program designates for random audit a specified uniform percentage of consumer bankruptcy cases within each judicial district, and designates for exception audit additional cases in which the debtor's income or expenses deviate from a statistical norm of the district where the case is filed. In a case designated for audit, the debtor is required to cooperate with the audit firm, and a debtor's discharge may be revoked for failure to explain either a lack of cooperation with the audit firm or a material misstatement reported by the audit firm. For budgetary reasons, the USTP suspended the designation of cases for audit in FY 2012 until January 2012.

Ruling for the Jackson office, the Bankruptcy Court for the Southern District of Mississippi denied a couple's chapter 7 discharge of $245,937 in unsecured debt, based on items of interest uncovered during a debtor audit. The audit revealed that an outboard boat and jet ski registered to the debtor husband were not listed on the debtors' bankruptcy documents. The debtors amended their schedules after the U.S. Trustee made inquiries, but a subsequent examination under oath revealed another jet ski and a pontoon boat.

Annually, the Attorney General is required to make a public report of the audit results, including the number of material misstatements in each judicial district. More information regarding debtor audits can be found in the report, which is posted on the Program's Internet site at www.justice.gov/ust/eo/public_affairs/reports_studies/index.htm.

Chapter 4. Criminal Enforcement

Pursuing Bankruptcy-Related Crimes

By law, the Program is required to refer suspected crimes to the U.S. Attorneys' offices and, if requested, to assist the U.S. Attorneys in carrying out prosecutions of such cases. The Program also makes criminal referrals to other law enforcement agencies such as the Federal Bureau of Investigation (FBI), United States Secret Service, United States Postal Inspection Service, Internal Revenue Service-Criminal Investigation, Office of the Inspector General for the Department of Housing and Urban Development, and Office of the Inspector General for the Social Security Administration.

While most bankruptcy-related crimes are prosecuted by Assistant U.S. Attorneys, approximately 25 USTP attorneys in field offices across the country are designated as Special Assistant U.S. Attorneys who assist in prosecutions. In addition, Program employees–including attorneys, bankruptcy analysts, and paralegals–regularly provide expert testimony or fact testimony at criminal trials.

The Program is an active member of the President's Financial Fraud Enforcement Task Force, a coalition of federal, state, and local law enforcement, investigatory, and regulatory agencies working together to combat financial crimes. The Program also participates in more than 90 local bankruptcy fraud working groups, mortgage fraud working groups, and other specialized task forces throughout the country that focus on investigating and prosecuting suspected bankruptcy fraud and related crimes. In addition, the Program provides targeted training to staff, chapter 7 and chapter 13 trustees, and law enforcement.

The Program reviews all citizen reports of suspected criminal bankruptcy fraud and maintains an Internet-based email "hotline" for reporting suspected bankruptcy fraud at USTP.Bankruptcy.Fraud@usdoj.gov.

Criminal Referrals

In FY 2012 the Program made 2,120 bankruptcy and bankruptcy-related criminal referrals, a 7.7 percent increase over the 1,968 criminal referrals made the prior year. One referral often contains more than one allegation. The five most common allegations in referrals made during FY 2012 were tax fraud (37.5 percent), false oath/false statement (32.4 percent), concealment of assets (25 percent), bankruptcy fraud scheme (22.6 percent), and identity theft or use of false/multiple Social Security numbers (16.7 percent).

Annually, the Attorney General is required to make a public report on the Program's criminal referrals, outcomes of referrals, and efforts to prevent bankruptcy fraud and abuse. The report is posted on the Program's Internet site at www.justice.gov/ust/eo/public_affairs/reports_studies/index.htm.

Chapter 4. Criminal Enforcement

USTP Participation in Cases

The following are examples of criminal matters in which the USTP worked with law enforcement in FY 2012.

The District Court for the Western District of Texas sentenced an individual who pleaded guilty to bankruptcy fraud and aggravated identity theft to more than five years in prison, and ordered the individual to pay restitution of $214,258 to 68 claimants, including 25 lenders, and to forfeit nearly $88,000. The individual operated a foreclosure rescue scheme that involved more than 1,100 properties; in four years, he collected over $1.6 million in fees from homeowners seeking to save their homes from foreclosure. Either directly or through salespersons, the individual advised the homeowners to transfer partial interests in their properties to unsuspecting bankruptcy debtors who were identified through court records. Because of the automatic stay in bankruptcy, the partial interest transfers temporarily delayed foreclosure actions against the distressed homeowners. The Wichita office detected the scheme and a USTP working group referred the matter to the Special Inspector General of the Troubled Asset Relief Program (SIGTARP). Bankruptcy Analysts from the Wichita and Lexington offices assisted SIGTARP and the FBI as part of a team that ultimately received an award from the Council of the Inspectors General on Integrity and Efficiency.

After a week-long trial, a jury in the Middle District of Florida convicted a forensic accountant who filed a chapter 13 bankruptcy petition. When he filed bankruptcy, the debtor failed to disclose more than $700,000 in checks, several of which were made out to his elderly mother. Within a week after filing bankruptcy, the debtor opened a joint bank account under his mother’s Social Security number and deposited the checks into the account. Over the next year, he used funds from the account to pay a country club, purchase a luxury vehicle, pay various attorneys, pay off the mortgage for a commercial building, and withdraw around $150,000 in cash. The Orlando office referred the criminal matter to the U.S. Attorney and assisted in the investigation, and the Assistant U.S. Trustees from Orlando and Atlanta testified as expert witnesses at the criminal trial.

After a 10-day jury trial in the District of Puerto Rico, an investment scheme operator was convicted on charges of conspiracy to commit securities fraud, conspiracy to conceal assets and fraudulent transfers in bankruptcy, uttering coins, and money laundering. The scheme operator and other individuals promoted so-called “securities” associated with his company, along with investment contracts that contained false statements and omitted certain information about the use of the funds. The scheme operator also used his company to promote coins called the Liberty Dollar or the Boricua Dollar for use as legal tender. During their bankruptcy case, the scheme operator and his wife concealed their involvement with the stock promotion company and other businesses. After uncovering the undisclosed business operations, the San Juan office referred the matter to the U.S. Attorney and assisted in the investigation and prosecution.

A former Major League Baseball outfielder pleaded guilty in the Central District of California to bankruptcy fraud, concealment of assets, and money laundering, admitting that in his bankruptcy case he lied about whether he took and sold items from his $18.5 million mansion, laundered the proceeds, and concealed property from the bankruptcy estate. The Woodland Hills office referred the criminal matter, assisted in the criminal investigation, and obtained the appointment of a chapter 11 trustee in the bankruptcy case.

A debtor in the Eastern District of Tennessee agreed to forfeit 323 firearms in connection with his guilty plea to concealment of assets in bankruptcy, conspiracy to engage in the business of dealing in firearms without a license, possession of a machine gun, and structuring financial transactions to avoid reporting requirements. When the debtor filed bankruptcy, he failed to disclose cash, business interests, transfers, and firearms. The Chattanooga office assisted the Internal Revenue Service and the Justice Department's Bureau of Alcohol, Tobacco, Firearms, and Explosives with the investigation and referred the criminal matter to the U.S. Attorney, and a Trial Attorney in that office served as a Special Assistant U.S. Attorney in the criminal case. The U.S. Trustee also obtained the waiver of the debtor's chapter 7 discharge.

Chapter 5. Litigation in Chapter 11 Reorganizations

Chapter 11 Priorities

The USTP has important statutory obligations in business reorganization cases to ensure accountability by the debtor's management so the interests of all stakeholders are protected. Among the USTP's top priorities in chapter 11 are reviewing fee requests by professionals such as attorneys, accountants, and turnaround specialists; appointing chapter 11 trustees and examiners; appointing unsecured creditors' committees and other official committees; and scrutinizing bonuses requested for chapter 11 debtor company executives.

Throughout this chapter, in charts describing actions by the U.S. Trustee, the numbers of actions filed and actions decided during FY 2012 are not identical because some actions were filed before the reporting period, some actions were decided afterward, and some actions were withdrawn by the U.S. Trustee.

Professional Fees

In 1994, Congress directed the USTP to establish uniform guidelines for reviewing applications for professional compensation in bankruptcy cases, in order to provide uniformity in the fee application preparation and review process. In early 1996, the Program published fee guidelines that included disclosure requirements, task-based billing requirements, and standards for reimbursement for certain expenses.

In FY 2012, the USTP began to revise and update the guidelines to take into account changes in law firm billing practices, law office technology, and other aspects of bankruptcy practice. The first phase was to revise the guidelines for reviewing applications for attorney compensation in larger chapter 11 cases.

The Bankruptcy Code requires professionals who seek payment of fees from the bankruptcy estate to demonstrate that fees charged in bankruptcy cases are comparable to fees charged outside of bankruptcy. Among other things, the USTP's revised proposed guidelines require attorneys in large chapter 11 cases to make additional disclosures to ensure adherence to this comparable services standard.

The objectives of the revised proposed fee guidelines are to:

- Ensure that fee review is subject to client-driven market forces, accountability, and scrutiny.
- Enhance meaningful disclosure and transparency in billing practices.
- Decrease the administrative burden of review.
- Maintain the burden of proof on the fee proponent.
- Increase public confidence in the integrity and soundness of the bankruptcy compensation process.

In general, the Guidelines:

- Apply to cases with $50 million or more in assets and $50 million or more in liabilities, aggregated for jointly administered cases and excluding cases involving a single real property.
- Require a showing that rates charged reflect market rates outside of bankruptcy.
- Require the submission of billing records in an open, searchable electronic format.
- Provide for the use of budgets and staffing plans.
- Require disclosure of rate increases that occur during the representation.
- Address the use of "home forum" rates when working in other locales.
- Support the use of independent fee committees and fee examiners.
- Provide model forms and templates for applications for compensation and expenses.

The USTP disseminated the revised proposed fee guidelines widely, posting them on the USTP's Internet site at http://www.justice.gov/ust/eo/rules_regulations/guidelines/proposed.htm on November 4, 2011; soliciting written comments; and conducting a public meeting on June 4, 2012, to take testimony from interested individuals and groups. Based on the comments and testimony, the USTP issued an updated version of the proposed guidelines in November 2012 and announced an additional comment period. The final guidelines will be issued in 2013.

Table 5.1. Employment of Professionals under §§ 327 and 1103

Actions & Inquiries	FY 2012
Actions Filed	1,025
Actions Decided	808
Actions Success Rate	91.6%
Inquiries	1,281

Source: Executive Office for U.S. Trustees
Note: The database includes all actions and inquiries relating to employment of professionals, with the majority in chapter 11 cases.

Table 5.2. Professional Fee Requests under § 330

Actions & Inquiries	FY 2012
Actions Filed	699
Actions Decided	570
Actions Success Rate	94.7%
Inquiries	937
Fees Reduced/Withdrawn	$36,055,030

Source: Executive Office for U.S. Trustees
Note: The database includes all actions and inquiries relating to professional fee requests, with the majority in chapter 11 cases.

The Bankruptcy Court for the Southern District of New York approved a settlement between the New York City office and counsel for a chapter 11 debtor, in which counsel agreed to waive its final fee request for approximately $1.73 million. Previously, the U.S. Trustee moved for the appointment of an examiner, who determined that the debtors made almost $4 million in post-petition payments without court authorization, largely due to the lack of appropriate guidance from counsel. The U.S. Trustee then sought the appointment of a chapter 11 trustee and disgorgement of fees from counsel, and objected to counsel's final fee application.

To resolve a complaint filed by the Baltimore office, the Bankruptcy Court for the District of Maryland approved a settlement denying a law firm the entire $850,324 in fees and expenses it had requested for serving as special counsel to the chapter 11 debtor company. The court also vacated the order approving the law firm's employment as special counsel. Early in the case, the law firm failed to disclose a conflict that arose when it began representing a new business entity formed by the debtor's top executives. As facts about the new entity/client were discovered, the law firm filed three amended disclosure statements but failed to disclose the conflicts fully.

After the San Antonio office and other parties objected, the Bankruptcy Court for the Western District of Texas denied payment of almost $842,000 to a consulting firm–cutting its requested compensation in half. A chapter 11 debtor company sought to employ the consulting firm as financial advisor and a consulting firm employee as chief restructuring officer (CRO), creating a conflict of interest. With court approval, the consulting firm agreed that the employee would serve as CRO but the firm would not serve as financial advisor. Nonetheless, the consulting firm acted as financial advisor and the employee not only delegated his CRO duties to a colleague without court approval but also used consulting firm staff for tasks that others could have performed at lower cost.

Trustees, Examiners, and Chief Restructuring Officers

Under the Bankruptcy Code, the Program has responsibilities for promoting accountability by the management of companies in chapter 11. The Bankruptcy Code requires the U.S. Trustee to seek the appointment of a chapter 11 trustee if the U.S. Trustee has reasonable grounds to suspect that the debtor or its management engaged in financial fraud.

Alternatively, the Program may seek the appointment of an examiner to investigate allegations of fraud, dishonesty, incompetence, misconduct, mismanagement, or irregularity in the management of the debtor's affairs and file a report of the investigation with the court. Unlike a trustee, an examiner does not displace the debtor in possession.

Congress conferred upon the USTP the power to appoint trustees with court approval, in part, so the interests of all stakeholders are protected. The Program strongly emphasizes the importance of independent fiduciaries in bankruptcy cases and, therefore, frequently opposes the practice of installing a chief restructuring officer for a chapter 11 debtor. A CRO may play a critical role in rehabilitating a financially ailing company, but is not a legally permissible substitute for a chapter 11 trustee who operates free from the control of the debtor's management or board of directors.

Table 5.3. Motions to Appoint Trustee or Examiner under § 1104

Actions	FY 2012
Filed	110
Decided	103
Success Rate	90.3%

Source: Executive Office for U.S. Trustees

The Bankruptcy Court for the Southern District of Texas entered an order for the appointment of a chapter 11 trustee in the case of a "tax resolution" firm aimed at taxpayers who have received a notice from the Internal Revenue Service of an audit, garnishment, lien, levy, or tax deficiency. After the company filed bankruptcy, a state court jury returned a verdict of more than $195 million, finding that the company, its predecessor companies, and its principal engaged in deceptive business practices. The Houston office sought the trustee's appointment; prior to the scheduled hearing, the debtor agreed.

Executive Bonuses–KERPs and KEIPs

The Bankruptcy Code imposes strict limitations on chapter 11 debtors' payment of bonuses to retain key employees (Key Employee Retention Plan bonuses, or KERPs). If the key employee is an insider, the debtor may not pay a retention bonus unless the employee has a *bona fide* job offer at the same or greater compensation and, even then, the bonus amount is limited.

On the other hand, key employees who are insiders may be paid incentive bonuses based upon future performance (Key Employee Incentive Program bonuses, or KEIPS). These KEIPs, as well as bonuses paid to non-insiders, may be justified in light of the facts and circumstances of the case. Under some case law, the debtor must justify the KEIP under the "business judgment" standard–a much easier test than the Bankruptcy Code's test for KERPs.

Because the KEIP standard is easier to meet, debtors rarely request bankruptcy court permission to pay a KERP. Instead, they seek to justify the bonus as an incentive payment. The U.S. Trustee vigorously enforces the statutory limitations on KERPs and KEIPs, and is often the only party objecting to the bonus plan. Frequently, the U.S. Trustee argues the plans are merely disguised KERPs. Among the touchstones for distinguishing a prohibited KERP from a permissible KEIP are measurable milestones that are difficult to achieve, such as selling assets for more than an existing bid, confirming a reorganization plan within a tight time frame with a resulting benefit to the estate, or meeting financial performance standards. Most KERP and KEIP disputes are fact-sensitive, and they are often resolved when the debtor modifies the bonus plan voluntarily or upon court order.

Table 5.4. Key Employee Retention Plans under § 503(c)

Actions & Inquiries	FY 2012
Actions Filed	34
Actions Decided	27
Actions Success Rate	66.7%
Inquiries	26

Source: Executive Office for U.S. Trustees

Within a week's time, two bankruptcy judges in the Southern District of New York ruled in favor of the U.S. Trustee's New York City office in two different chapter 11 cases, rejecting proposals to provide millions of dollars to debtor company insiders. In both cases, the courts agreed with the U.S. Trustee that the proposals did not meet the Bankruptcy Code's standard for approval because they functioned primarily as retention plans to reward the executives for remaining with the companies, rather than as incentive plans to reward them for meeting

challenging goals. In one case, the bankruptcy court rejected the debtor company's proposal to give bonuses totaling $5.3 million to eight top executives. The total executive bonus amount sought by the debtor company was the equivalent of more than $31,000 for each employee reportedly facing layoff. Just four days later, the bankruptcy court denied another debtor company's motion to pay 17 senior executives a total of $4.1 million to $7 million in bonuses.

Other Chapter 11 Enforcement

Motions to Convert or Dismiss

When there appears to be little likelihood of a successful reorganization or the debtor fails to exercise its fiduciary obligations and/or comply with the law–for example, by failing to file required monthly operating reports or causing the diminution of bankruptcy estate assets–U.S. Trustees seek to have a chapter 11 case converted to a chapter 7 liquidation case or dismissed entirely.

Table 5.5. Case Conversion or Dismissal under § 1112

Actions & Inquiries	FY 2012
Actions Filed	4,423
Actions Decided	4,007
Actions Success Rate	97.9%
Inquiries	1,851

Source: Executive Office for U.S. Trustees

Objections to Disclosure Statements and to Plan Confirmation

Disclosure statements filed in chapter 11 cases must provide sufficient information about the debtor, its plan of reorganization, and future operations to allow creditors to make an informed decision on whether to vote in favor of the debtor's plan. U.S. Trustees object to disclosure statements filed by parties to a case if the disclosure statements do not provide adequate information and/or do not meet statutory requirements.

Table 5.6. Disclosure Statements under § 1125

Actions & Inquiries	FY 2012
Actions Filed	1,094
Actions Decided	928
Actions Success Rate	98.6%
Inquiries	586

Source: Executive Office for U.S. Trustees

The debtor's plan of reorganization must comply with specific requirements set forth in 11 U.S.C. § 1129. U.S. Trustees object to confirmation of proposed plans of reorganization that do not meet statutory requirements.

Table 5.7. Plan Confirmations under § 1129

Actions & Inquiries	FY 2012
Actions Filed	495
Actions Decided	362
Actions Success Rate	95.3%
Inquiries	293

Source: Executive Office for U.S. Trustees

Chapter 6. Appellate Activities

Bankruptcy-Related Appeals

The USTP participates in appeals of bankruptcy-related legal matters to help clarify the law, produce consistency within the bankruptcy system, and preserve the integrity of the bankruptcy system. Through its appellate practice, the Program strives to ensure that the system works fairly for all stakeholders–debtors, creditors, trustees, and professionals–and that all stakeholders fulfill their responsibilities.

The USTP identifies important emerging issues, develops uniform legal positions, and advocates them as a party and as *amicus curiae* (friend of the court). The Program's appellate practice benefits from a nationwide team of attorneys in the Executive Office for U.S. Trustees in Washington, D.C., and the Program's 95 field offices who brief, argue, and help litigate at every appellate level, including bankruptcy appellate panels, district courts, courts of appeals, and the U.S. Supreme Court. The USTP also assists the Department of Justice's Civil Appellate Division and the Office of the Solicitor General in other bankruptcy-related matters, including appeals that the U.S. Supreme Court has accepted for review.

The Program acted as a party or as an *amicus curiae* in 146 appeals during FY 2012. The Program received written decisions in 60 appeals, winning 56 of them.

U.S. Supreme Court Cases

In FY 2012, the Supreme Court decided two cases in which the Program was involved. In both cases, the USTP assisted the Office of the Solicitor General with briefing and preparing the oral argument before the Supreme Court.

In *Hall v. U.S.,* 132 S. Ct. 1882 (2012), the Supreme Court agreed with the position of the United States that the federal income tax liability resulting from a farm sale held while chapter 12 "family farmer" debtors were in bankruptcy could not be discharged in their chapter 12 reorganization plan. The Supreme Court explained that chapter 12 bankruptcy estates are not taxable entities under the federal tax code. Therefore, the post-bankruptcy taxes could not be collected or discharged through the chapter 12 plan; presumably the Internal Revenue Service could attempt to collect the full amount from the debtors outside of the bankruptcy case.

In *RadLAX Gateway Hotel LLC v. Amalgamated Bank*, 132 S. Ct. 2065 (2012), the Supreme Court agreed with the United States' position as *amicus curiae* and held that a chapter 11 reorganization plan could not be confirmed over a secured creditor's objection. The plan provided for the debtors to sell the secured creditor's collateral at auction free and clear of the secured creditor's lien and to give the sale proceeds to the secured creditor. The plan was not acceptable, however, because it did not allow the secured creditor to "credit bid" on the property by offsetting its secured claim against the purchase price instead of paying cash.

Other Appellate Rulings

Appellate rulings by circuit courts, district courts, and bankruptcy appellate panels covered a broad range of issues, such as abusive conduct by debtors, chapter 11 reorganizations, and compensation for the private trustees who administer chapter 7 and chapter 13 cases. The following are examples of appellate rulings involving the USTP in FY 2012.

Abusive Conduct by Debtors

The U.S. Court of Appeals for the Fourth Circuit agreed with the U.S. Trustee for Region 4 (the District of Columbia, Maryland, South Carolina, Virginia, and West Virginia) that the bankruptcy court's denial of a motion to dismiss the chapter 7 debtors' case for abuse could be appealed. The district court had held that the bankruptcy court order was not final and appealable because the question whether the debtors would receive a discharge was not yet decided. On appeal, the Fourth Circuit explained in *McDow v. Dudley*, 622 F.3d 284 (4th Cir. 2011), that the determination of whether a case is abusive is a mandatory threshold question and a discrete dispute that must be determined at the outset of the case. In turn, the circuit court said, 11 U.S.C. § 707(b) creates a cause of action on whether the case is abusive, and an order denying such a motion "finally and conclusively resolves the issue," rendering the order appealable.

The U.S. Bankruptcy Appellate Panel of the Ninth Circuit agreed with the U.S. Trustee for Region 15 (Southern California, Hawaii, Guam, and the Northern Mariana Islands), and affirmed a bankruptcy court order dismissing the chapter 7 debtors' case under 11 U.S.C. § 707(b)(3)(B). The appellate panel held in *Ng v. U.S. Trustee (In re Ng)*, 477 B.R. 118 (B.A.P. 9th Cir. 2012), that an ability to repay creditors constitutes abuse under section 707(b)(3)(B)'s "totality of the financial circumstances" test and that the record supported a finding that the debtors had the ability to repay. The appellate panel rejected the debtors' argument that the bankruptcy court could not consider a post-petition increase in their income. The appellate panel found that the bankruptcy court could consider any circumstances affecting the debtors' income and expenses that occurred between the time the petition was filed and the time of any decision on abuse.

Chapter 11 Reorganizations

In *Yehud-Monosson USA, Inc. v. Fokkena (In re Yehud-Monosson USA, Inc.)*, 458 B.R. 750 (B.A.P. 8th Cir. 2011), the U.S. Bankruptcy Appellate Panel for the Eighth Circuit agreed with the U.S. Trustee for Region 12 (Iowa, Minneapolis, North Dakota, and South Dakota) and affirmed a bankruptcy court order converting the debtor's chapter 11 case to chapter 7 due to bad faith. The debtor's principal and sole shareholder filed four previous chapter 11 cases within two years, all involving a related business entity with the same assets and liabilities as the current debtor. The appellate panel held that the bankruptcy court need not find that the debtor was the same entity that filed the previous four cases; the entities' substantial similarity supported the bankruptcy court's determination that the debtor "had its 'day in court' four times–in three different courts–and that the current filing was an abuse of process."

Private Trustee Compensation

Agreeing with the U.S. Trustee for Region 15, the U.S. Bankruptcy Appellate Panel for the Ninth Circuit reversed a bankruptcy court order that treated the value of an apartment building transferred to a secured creditor in satisfaction of the secured debt as “moneys disbursed” when calculating the chapter 7 trustee’s maximum compensation under 11 U.S.C. § 326(a). In *U.S. Trustee v. Tamm (In re Hokulani Square, Inc.)*, 460 B.R. 763 (B.A.P. 9th Cir. 2011), the appellate panel held that the plain meaning of “moneys disbursed” required the trustee to disburse cash or a functional equivalent, and that there was no evidence in the record to support a finding that the apartment building the creditor received in exchange for surrendering its security interest was the functional equivalent of cash. The appellate panel explained that Congress deliberately selected the language “moneys disbursed” to structure the incentives for chapter 7 trustees.

In another case involving chapter 7 trustee compensation, *Hopkins v. Asset Acceptance LLC (In re Salgado-Nava)*, 473 B.R. 911 (B.A.P. 9th Cir. 2012), the U.S. Bankruptcy Appellate Panel of the Ninth Circuit agreed with the United States as *amicus curiae* and reversed a bankruptcy court order denying the trustee’s compensation under 11 U.S.C. § 330. The chapter 7 trustee sought the maximum compensation allowed under section 326(a) as a commission under section 330(a)(7), but the bankruptcy court reduced the compensation by $600, finding that it was unreasonable for the trustee to charge his full rate for “simple, administrative tasks.” The appellate panel reversed, holding that section 330(a)(7) requires a trustee’s compensation to be calculated as a commission and thus should be presumed reasonable absent extraordinary circumstances.

Chapter 7. Trustee Oversight

Private Trustees

Pursuant to the Bankruptcy Code, the Program appoints and supervises private trustees, who are not government employees, to administer bankruptcy estates and distribute payments to creditors in cases filed under chapters 7, 12, and 13. At the end of FY 2012, the Program supervised the activities of 1,103 chapter 7 trustees, 41 chapter 12 trustees, and 181 chapter 13 trustees.

Chapter 7 trustees are often referred to as "panel trustees" because they are appointed by the U.S. Trustee to a panel in each judicial district. Once the trustees are appointed to the panel, chapter 7 cases generally are assigned through a blind rotation process. The chapter 7 trustee collects the debtor's assets that are not exempt from creditors, liquidates the assets, and distributes the proceeds to creditors.

Chapter 12 and chapter 13 trustees are called "standing trustees" because, pursuant to statute, they have a standing appointment from the U.S. Trustee to administer cases within a particular geographic area. Standing trustees evaluate the financial affairs of the debtor, make recommendations to the court regarding confirmation of the debtor's repayment plan, and administer the court-approved plan by collecting payments from the debtor and disbursing the funds to creditors.

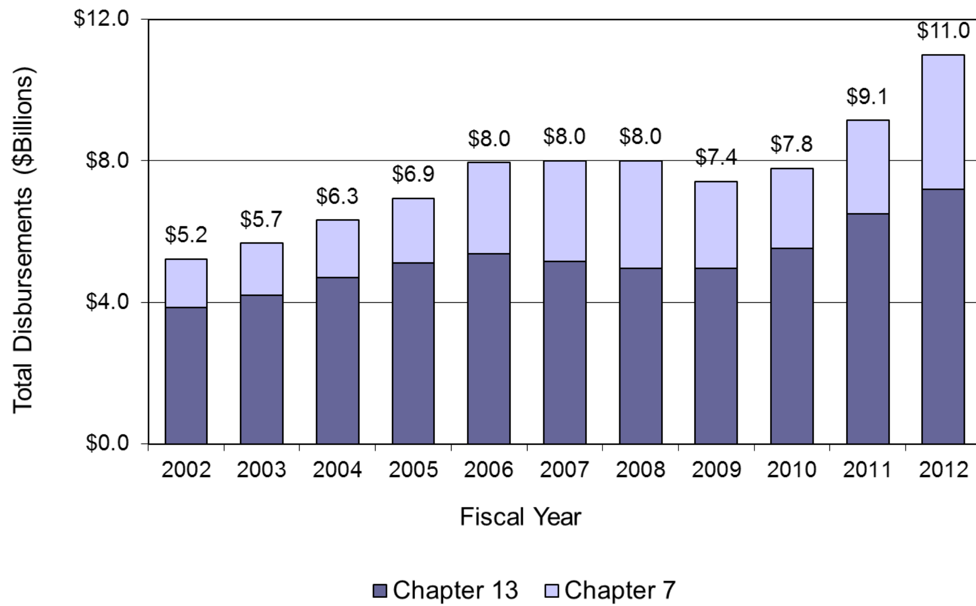
The Program provides policy guidance to the trustees concerning their duties to debtors, creditors, other parties in interest, and the U.S. Trustee; trains trustees and evaluates their performance; reviews their financial operations; ensures the effective administration of estate assets; and intervenes to investigate and recover the loss of estate assets when embezzlement, mismanagement, or other improper activity is suspected or alleged.

Distributions by Trustees

During FY 2012, chapter 7 trustees administered about 76,200 asset cases that generated $3.8 billion in funds, while chapter 12 and chapter 13 trustees administered 1,312,984 cases and disbursed almost $7.2 billion.

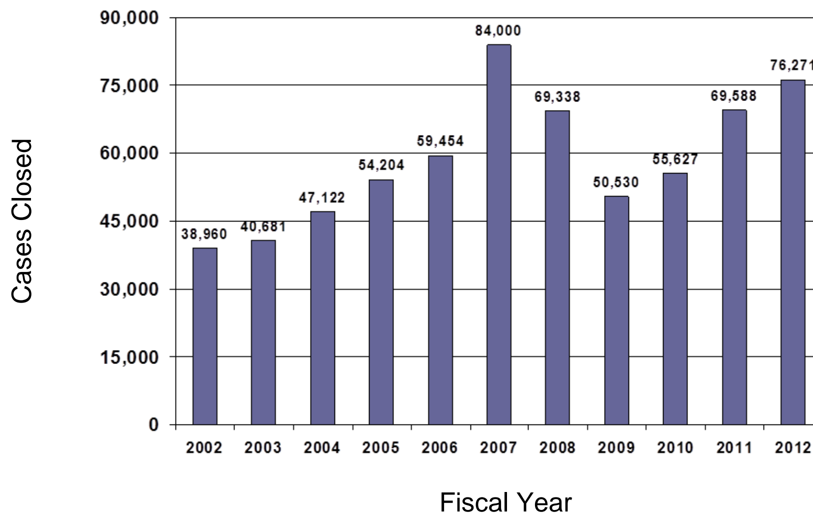
Chapter 7. Trustee Oversight

Figure 7.1. Total Disbursements in Chapter 7 and 13 Cases, FY 2002-2012



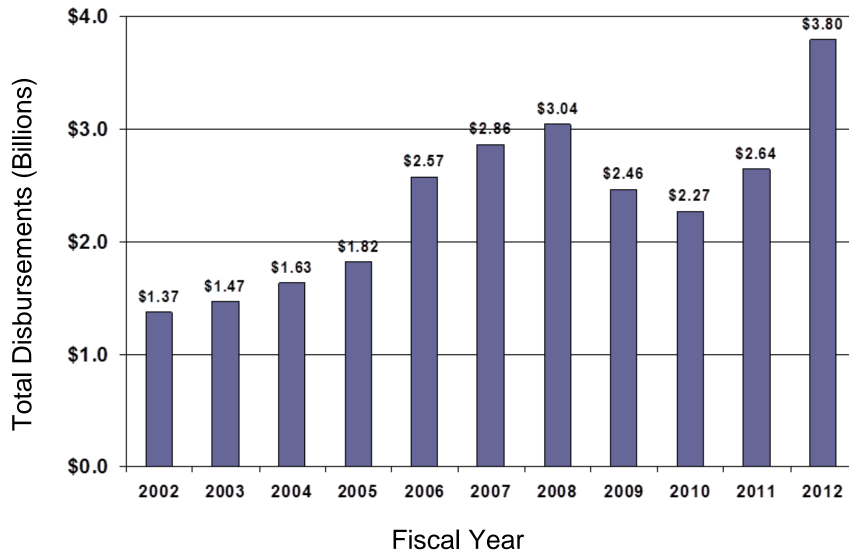
Source: Executive Office for U.S. Trustees

Figure 7.2. Chapter 7 Asset Cases Closed, FY 2002-2012



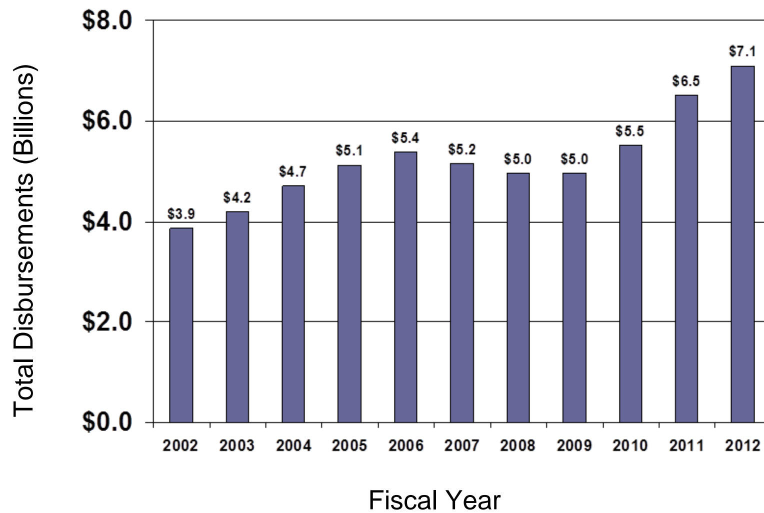
Source: Executive Office for U.S. Trustees

Figure 7.3. Total Disbursements in Chapter 7 Cases, FY 2002-2012



Source: Executive Office for U.S. Trustees

Figure 7.4. Total Disbursements in Chapter 13 Cases, FY 2002-2012

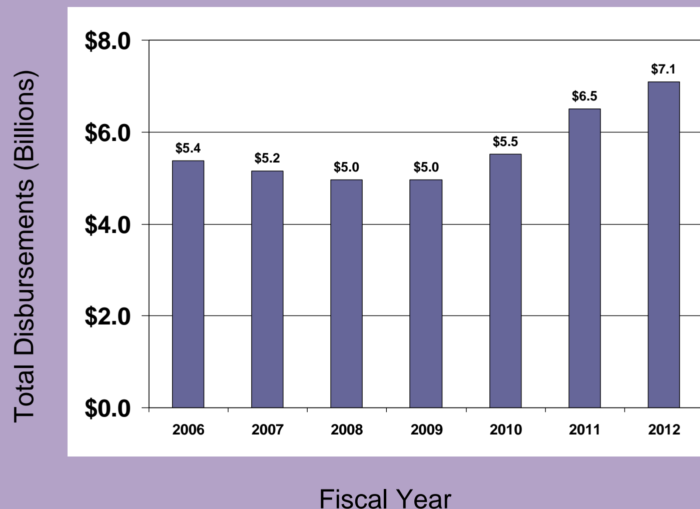


Source: Executive Office for U.S. Trustees

Trends–Disbursements in Chapter 13 Cases

After modest declines due to fewer bankruptcy filings in the period immediately after the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 took effect, total disbursements in chapter 13 cases increased substantially during the last three years and are now at record levels. Chapter 13 trustees in districts overseen by the USTP disbursed about $40 billion over the last seven years.

Figure 7.5. Trends–Disbursements in Chapter 13 Cases, FY 2006-2012



Source: Executive Office for U.S. Trustees

Chapter 7, chapter 12, and chapter 13 distribution statistics are available on the Program's Web site at http://www.justice.gov/ust/eo/public_affairs/data_files/ch7_asset/index.htm, http://www.justice.gov/ust/eo/private_trustee/data_statistics/ch12.htm, and http://www.justice.gov/ust/eo/private_trustee/data_statistics/ch13.htm, respectively. In addition, raw data on chapter 7 trustee distributions are posted on www.data.gov and on the USTP's Web site at http://www.justice.gov/ust/eo/public_affairs/data_files/ch7_asset/index.htm.

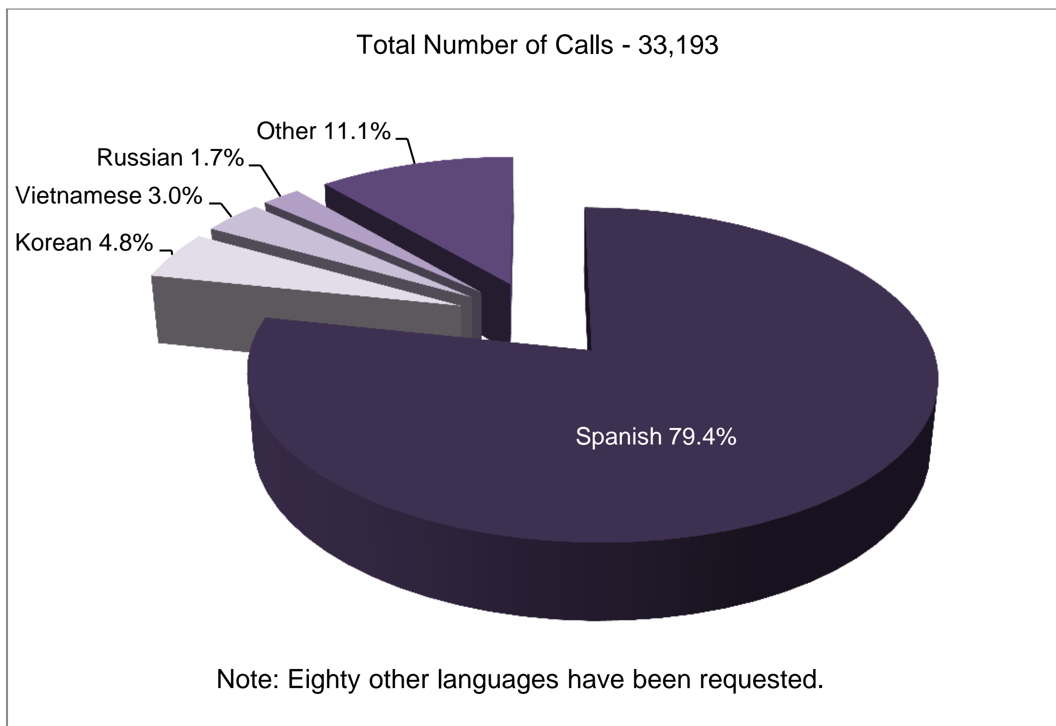
Language Assistance Plan

For individuals with limited English proficiency, the Program offers telephonic interpreter services at section 341 meetings of creditors, at no charge to debtors. At the section 341 meeting, the debtor is questioned under oath by the trustee, U.S. Trustee, and/or creditors about his or her financial affairs. The Program makes interpreter services available to debtors via either conference-quality telephones or cell phones with conference call speakers in nearly 260 section 341 meeting rooms.

The USTP collects data from the interpreter services regarding the languages interpreted and the locations where services are provided. The USTP uses the data for oversight, billing, and statistical purposes. The data are posted by state, city, and language on the USTP's "interactive dashboard" at http://www.justice.gov/ust/eo/public_affairs/data_files/lap/lap_statistics/index.htm and in delimited text files at www.data.gov and http://www.justice.gov/ust/eo/public_affairs/data_files/lap/index.htm.

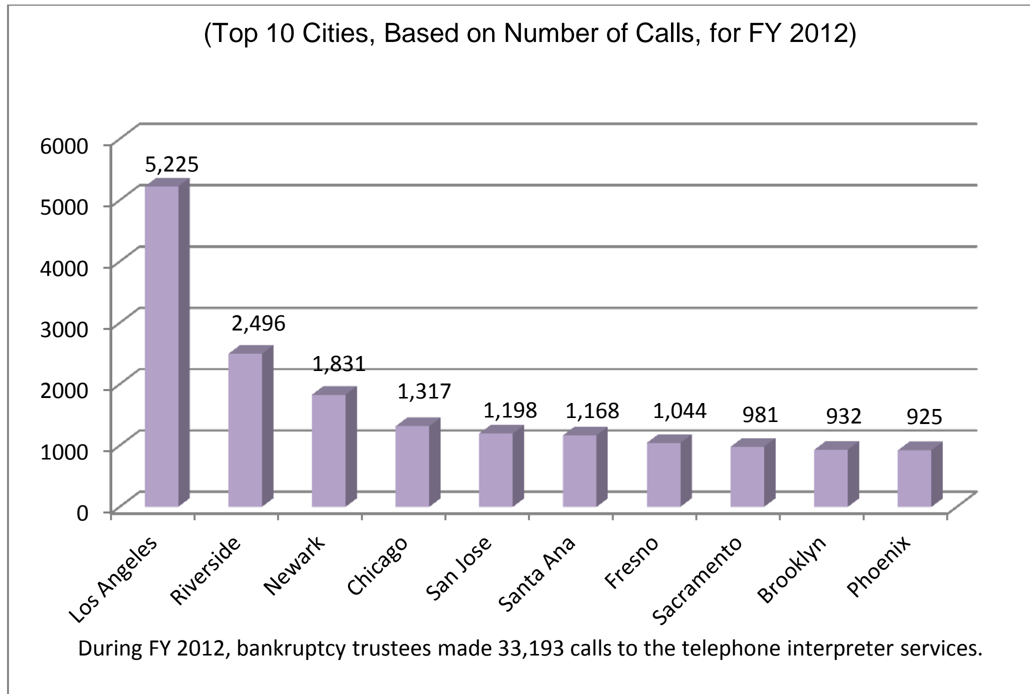
The interpreter services' data show that in FY 2012 interpreters were used 33,193 times; the three most commonly requested languages were Spanish, Korean, and Vietnamese; and interpreters were used most often in Los Angeles, Riverside, Newark, Chicago, San Jose, Santa Ana, Fresno, Sacramento, Brooklyn, and Phoenix.

Figure 7.6. Telephone Interpreter Usage by Language, FY 2012



Source: Executive Office for U.S. Trustees

Figure 7.7. Telephone Interpreter Usage by City, FY 2012



Source: Executive Office for U.S. Trustees

Supervision of Case Administration

USTP staff monitor trustee case administration to ensure that cases are handled efficiently, effectively, and in accordance with applicable law and Program policy.

In chapter 7 cases, Program staff review trustees' final reports before funds are distributed to creditors, and review final accounts after distribution is complete. Program staff reviewed approximately 152,000 such reports in FY 2012. In addition, chapter 7 trustees receive performance reviews at least every other year. These reviews focus on numerous facets of a trustee's work, including the conduct of section 341 meetings of creditors, the pursuit of assets, case administration, and the supervision of professionals. In FY 2012, Program staff prepared about 550 performance reviews of chapter 7 trustees.

In chapter 13 cases, Program staff review monthly reports, as well as specialized reports received from trustees, to determine if cases in the aggregate are being administered efficiently and effectively. Program staff also may periodically visit trustees to review procedures in more detail. Chapter 12 and chapter 13 trustees receive performance evaluations at least every other year. These reviews focus on matters such as the conduct of section 341 meetings of creditors, case administration, public complaints, and reporting of information. Program staff prepared 153 performance reviews of chapter 12 and chapter 13 trustees in FY 2012.

Chapter 7. Trustee Oversight

Supervision of Financial Operations

Program staff also engage in oversight of trustees' financial operations to ensure compliance with mandatory safeguards of bankruptcy estate funds.

Chapter 7 trustee operations are either audited by independent certified public accountants or reviewed by Program staff every four years. During FY 2012, about 250 audits and field reviews were conducted. In addition, each trustee submits an annual report covering all open asset cases. The annual reports are reviewed by Program staff to assure that cases are progressing toward closure and that the trustee has properly accounted for bankruptcy estate funds. About 1,100 annual reports were reviewed during FY 2012.

Chapter 13 trustees are audited by independent certified public accountants every year. Chapter 12 trustees are either audited by independent certified public accountants or reviewed by Program staff every three years. During FY 2012, 191 chapter 12 and chapter 13 trustees were audited. Program staff review the audit reports and work with the trustees to resolve any identified deficiencies. They also review the monthly reports in which trustees describe financial activity within the trust operation.

Chapter 8. Credit Counseling and Debtor Education

Approval of Providers

Under the Bankruptcy Code, the U.S. Trustee is responsible for approving eligible providers of pre-bankruptcy credit counseling and post-bankruptcy debtor education. Consumer debtors generally must seek credit counseling and debtor education from these providers as a condition of filing bankruptcy and receiving a discharge of debts. Certificates are issued upon completion of credit counseling or debtor education services.

An entity seeking approval as a credit counseling agency or debtor education provider must apply for approval by the Program, pursuant to criteria set forth in the Bankruptcy Code. Application information and materials are posted on the Program's Web site at www.justice.gov/ust/eo/bapcpa/ccde/index.htm.

Table 8.1. Approved Providers at Year-End

Type of Provider	Number Approved
Credit Counseling Agencies	172
Debtor Education Providers	269

Source: Executive Office for U.S. Trustees

Fees and Delivery of Services

While the Bankruptcy Code permits credit counseling agencies and debtor education providers to charge a reasonable fee for services, it also requires them to provide services without regard to ability to pay. Most credit counseling agencies and debtor education providers charge a fee, but offer a full or partial waiver upon a debtor's showing of inability to pay. Approximately 50 chapter 13 trustees provide free debtor education only to the chapter 13 debtors whose cases they administer.

Table 8.2. Median Fee for Services, of Providers Who Charge a Fee

Type of Service	Cost for Individuals	Cost for Couples
Credit Counseling	$50	$50
Debtor Education	$49	$55

Source: Executive Office for U.S. Trustees

The Bankruptcy Code allows approved credit counseling agencies and debtor education providers to offer services in person or via the Internet or telephone.

Table 8.3. Delivery Method for Services Received

Type of Service	In-Person	Internet	Telephone	Internet/ Telephone
Credit Counseling Agencies	2.3%	67.0%	16.3%	14.5%
Debtor Education Providers	5.0%	80.0%	8.7%	6.3%

Source: Executive Office for U.S. Trustees

Quality of Services

In FY 2012, the Program undertook 29 quality of service reviews of approved credit counseling agencies and debtor education providers. These reviews allow the Program to corroborate the information submitted in the application for approval, observe credit counseling and debtor education sessions, and evaluate the operations of the credit counseling agency or debtor education provider to ensure the safekeeping of client funds and protect consumers. After a quality of service review, the USTP removed an agency from the list of approved credit counseling agencies in FY 2012.

In addition, the Program investigated complaints against approved agencies and providers. The most common complaints involved authenticity of credit counseling certificates, timely issuance of credit counseling certificates, and bankruptcy court inquiries regarding certificate validity and/or credit counseling agency approval to provide services.

Federal Rulemaking

At the end of FY 2012, the Executive Office for U.S. Trustees' proposed final rules for approval of providers of personal financial management courses (the debtor education rule) and pre-bankruptcy credit counseling agencies (the credit counseling rule) awaited final approval and publication, which took place in March 2013.

http://www.justice.gov/ust