

**Department of Justice
Executive Office for United States Trustees**

**Final Agency Action
Case No. 98-A-1**

**Review of the Decision of the
United States Trustee for Region [REDACTED]
Regarding [REDACTED]**

via Federal Express

[REDACTED]
Law Offices of
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED], [REDACTED]

Dear [REDACTED]:

This letter is in response to your letter of June 10, 1998. In it, you asked me to review the February 20, 1997, decision of the United States Trustee for Region [REDACTED] not to renew your appointment to the panel of chapter 7 trustees for the United States Bankruptcy Court for the District of [REDACTED].

Effective November 3, 1997, the Department of Justice adopted formal procedures authorizing the Director of the Executive Office for United States Trustees to decide a trustee's timely request for review of a United States Trustee's decision to cease assigning cases to that trustee. Those procedures are codified at 28 C.F.R. 58.6 (*Procedures for Suspension and Removal of Panel Trustees and Standing Trustees*). The Rule does not apply to cases such as yours, however, in which a trustee was suspended or not renewed prior to November 3. Although, I elected to apply the Rule's criteria in several cases that arose prior to November 3, I did so because the trustees in those cases sought reasonably prompt review, either prior to or near the time the Rule was published.

After consideration, I have concluded that too much time has elapsed, between the United States Trustee's decision and your request for review of it, for it to be appropriate for me to provide you with the type of review specified in the Rule. It has been more than 16 months since the United States Trustee's decision and more than seven months since the publication of the Rule. Indeed, the Rule was initially published in proposed form on May 23, 1997, 62 Fed. Reg. 28391.

Providing review at this late juncture would undermine one

of the Rule's principal goals, to review termination decisions quickly in order to minimize uncertainty about who will be on a chapter 7 panel and prevent undue disruption in the composition of that panel. See Procedures for Suspension and Removal of Panel Trustees and Standing Trustees, 62 Fed. Reg. 51740, 51744 (noting that "prompt final agency action benefits creditors, debtors, and trustees"). The Final Rule requires trustees to request review no later than 20 days from the date of case cessation. 28 C.F.R. 58.6(b). Given the necessity of promptly resolving case appointment decisions, I have concluded that it would be inappropriate for me to formally review a decision that is well over a year old.

Nevertheless, in response to your request, I asked my staff to examine the material you provided to me and to obtain information from the United States Trustee for Region [REDACTED]. That examination reveals that the United States Trustee had an articulated and sufficient basis for her decision, and that leads me to conclude that it would not be appropriate for me to disturb that decision, and I shall not do so.

Your letter indicates that you may be engaging in ongoing discussions with the United States Trustee. That would be the appropriate method by which to address whether you might be appointed to the panel at some future date.

Very truly yours,

Joseph Patchan
Director

cc: [REDACTED]
United States Trustee
for Region [REDACTED] - [REDACTED]
(via Federal Express)