

Strong Partnership with NACTT Produces Many Successes in 2009

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By the time this edition of the *NACTT Quarterly* arrives in your office, calendar year 2009 will have drawn to a close. As I reflect on the year, I am amazed by how many changes have been implemented that affect the way chapter 13 trustees do business. The successful implementation of new trustee final reports, streamlined trustee budget and evaluation forms, the Language Assistance Program, and new mortgage claims review guidelines is attributable in part to the hard work, dedication and “can do” attitude of the NACTT and its members. I am proud of what the U.S. Trustee Program (“Program”) and the trustees have accomplished working together. In this article, I would like to acknowledge those accomplishments, and some of the many folks who made them possible.

Implementation of Final Reports

One of the responsibilities assigned to the Program under the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (“BAPCPA”) was to develop and implement uniform final reports to be filed by panel, case and standing trustees. The Program worked closely with several chapter 13 trustees to ensure that the uniform final report form complied with the mandate of BAPCPA without imposing an undue burden on trustees. Trustees recognized early on that the new final report form would create an additional burden for those trustees who did not already input all scheduled claims during case set-up, and they made sure the membership was aware of this change.

Throughout the rulemaking process and implementation phase of the uniform final report forms, the Program coordinated with the NACTT to ensure that the forms would capture the required information and that the instructions for completing the forms were easy to understand. The NACTT was instrumental in reviewing the proposed final report forms and suggesting changes. One of the most significant time-saving changes was to eliminate the requirement to input scheduled claims in cases that dismissed or converted prior to confirmation. Kudos to Mike Macco for that useful suggestion and to many other NACTT members who made implementation of this statutory mandate a success.

New Budget and Trustee Evaluation Forms

In August 2008, a joint USTP/NACTT working group was formed to review the chapter 13 trustee budget form, and to recommend ways to streamline the budget review process and the budget information requirements, without compromising the Program’s oversight responsibilities. The working group had a short window of time to come up with recommendations. Thanks to the hard work of Mary Ida Townson, Paul Chael and Bob Drummond, the group submitted its recommendations to EOUST Director Cliff White in January 2009.

The working group’s recommendations resulted in several significant changes to the form used for preparing chapter 13 trustees’ Fiscal Year 2010 budgets. These changes included allowing the payment of mandatory bar dues (licensing fees) for chapter 13 trustees’ staff

attorneys; allowing the payment of up to \$1,000 for voluntary dues to local bar associations or membership fees to organizations that are directly related to job duties, such as NACTT; and eliminating the requirement to provide prior-year data for certain expense items, including individual employee expenses.

In addition, the Program rolled out a new trustee evaluation form that includes the new duties mandated by BAPCPA. The form will be used starting with the performance period ending in FY 2010. We hope the change in format will lead to positive discussions regarding trustee performance and more effectively identify any areas of concern. The trustee members of the working group also noted that the evaluation could provide an opportunity to discuss successful trustee efforts. As the form is put into use, we welcome your comments on the new format.

Nationwide Implementation of Language Assistance Plan

On May 1, 2009, the Program rolled out its Language Assistance Plan (LAP) nationwide. The LAP provides free telephone interpreter services for debtors in approximately 250 section 341 meeting room locations. In the first five months since implementation of the LAP, nearly 9,000 calls have been placed to the interpreter services. Usage appears to be increasing rapidly.

Until the USTP/NACTT liaison committee meeting in July, the Program had received very little trustee feedback about the LAP. At the meeting, the NACTT members of the committee shared some of the problems and concerns raised by chapter 13 trustees.

For example, one chapter 13 trustee commented that there was only one phone in a 341 meeting room in which multiple 341 meetings were conducted simultaneously, causing inconvenience if a trustee and a 341 presiding officer needed to use the interpreter service at the same time. To remedy the problem, we have had additional phones installed in 341 rooms where we are aware multiple meetings are held concurrently. Please notify your local LAP coordinator if you need additional phones in your meeting room.

Quality of interpretation was another issue raised at the liaison meeting. One chapter 13 trustee explained that the available interpreter did not speak the local dialect of a particular language and, therefore, provided inaccurate translations of the trustee's questions and the debtor's responses. As a result of the trustee's comments, the interpreter service hired an interpreter who speaks the local dialect. All trustees in that region now ask for that interpreter. Many thanks to Cindy Boudloche for bringing these LAP-related issues to our attention, and for suggesting to the language interpreter service an interpreter who understood the local dialect.

For the LAP to meet the Program's goals of improving the 341 meeting experience for debtors with limited English proficiency while providing trustees an easy, accurate and cost-effective mechanism for translation, we need to know when there are problems or concerns. It is vitally important that chapter 13 trustees continue to provide constructive feedback on the LAP program.

Mortgage Proof of Claim Guidelines

Creditor abuse continues to be a top priority of the Program. In August 2008, the Program announced the formation of a joint USTP/NACTT working group to develop guidelines for chapter 13 standing trustees to use in reviewing mortgage proofs of claim. Like the budget working group, the proof of claim guidelines group had a short window in which to accomplish its task. Byron Meredith, Brian Lynch and Marie-Ann Greenberg did an outstanding job of explaining the nuances of mortgage servicing agreements and proof of claim charges, and articulating the trustees' concerns with some of the proposed guidelines. While the USTP is solely responsible for the content of the guidelines, we are grateful for the hard work and insight that the NACTT members of the working group provided.

In a year marked by decreased receipts and increased percentage fees to cover expenses, many trustees were concerned about taking on what was, for some, an additional level of claims scrutiny. Would they have to hire more staff? How would they train their staff? And how should they determine whether charges on a proof of claim were reasonable? Some trustees already performed many of the steps outlined in the guidelines, and their colleagues quickly turned to them for answers. By April 2009, trustees had already developed and circulated checklists that could be used by their staffs for reviewing proofs of claim. Despite initial trepidations, trustees made the system work.

In addition to assisting one another, chapter 13 trustees participated in a training seminar for USTP personnel entitled "Creditor Abuse Issues: Combating Abusive Practices by Creditors," held at the National Bankruptcy Training Institute in Columbia, South Carolina. Three chapter 13 trustees provided their perspectives on the NACTT Best Practices, local orders, administrative orders and cooperation with the United States Trustee. Hearing their views was invaluable for Program staff who do not always have the opportunity for such dialogue.

Conclusion

The past year brought a number of significant changes to the way chapter 13 trustees perform their jobs. Although I do not possess a crystal ball and cannot predict the future, I am hopeful that 2010 will not bring quite as many changes. I am confident that no matter what challenges 2010 sends our way, chapter 13 trustees and the Program will meet them by continuing to work together.