



# THE WATCHDOG

Issue No. 23

July 2010

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## Financial Fraud Enforcement Task Force Launches Stopfraud.gov

WASHINGTON – President Obama's Financial Fraud Enforcement Task Force today announced the launch of [StopFraud.gov](http://StopFraud.gov). [StopFraud.gov](http://StopFraud.gov) is a one-stop shop for the American people to learn how to protect themselves from fraud and to report it wherever - and however - it occurs. It will also serve as a hub of information about the task force's work.

who, working together, bring to bear a powerful array of criminal and civil enforcement resources.

"The Financial Fraud Enforcement Task Force is the broadest coalition of law enforcement, investigatory and regulatory agencies ever assembled to combat fraud, but one of our best partners in the fight is a vigilant, informed public," said Robb Adkins, Executive Director of the Financial Fraud Enforcement Task Force. "Throughout government there are resources to help hardworking, honest Americans protect themselves from fraud and report fraud, and [StopFraud.gov](http://StopFraud.gov) will connect the public with those valuable tools."

protect themselves from fraud and report fraudulent activity. It also features access to the latest announcements, press releases, speeches and information regarding the Financial Fraud Enforcement Task Force.

The Financial Fraud Enforcement Task Force is working to improve efforts across the federal executive branch, and with state and local partners, to investigate and prosecute significant financial crimes, ensure just and effective punishment for those who perpetrate financial crimes, combat discrimination in the lending and financial markets, and recover proceeds for victims of financial crimes.

[StopFraud.gov](http://StopFraud.gov) combines resources from a wide range of federal agencies on ways consumers can

For more information, visit [StopFraud.gov](http://StopFraud.gov).

*The United States Trustee is charged with the oversight responsibility for supervising the administration of bankruptcy cases filed in the U.S. Bankruptcy Court for the Central District of California, as well as monitoring the performance of the individual trustees appointed in these cases.*

## USTP Issues FY 2009 Public Report on Debtor Audits

On March 20, 2010, the USTP issued its FY 2009 Public Report on Debtor Audits, in accordance with section 603(a)(2)(D) of the Bankruptcy Abuse Prevention and Consumer Protection act of 2005. It can be accessed at <http://www.justice.gov/ust/>.

## USTP, FTC, Announce \$108 Million Settlement with Countrywide Home Loans on Mortgage Servicing Practices

On June 7, the Director of the Executive Office for U.S. Trustees and the Chairman of the Federal Trade Commission (FTC) announced an FTC consent order and settlement of litigation against Countrywide Home Loans, Inc., that includes a provision for \$108 million in refunds to consumers. The USTP worked closely with the FTC to carry out parallel investigations relating to Countrywide's improper conduct in servicing home loans and, on June 7, the FTC filed a proposed consent order reached

with Countrywide and its affiliate BAC Home Loans Servicing LP that resolves an FTC complaint and the USTP's bankruptcy litigation. Under the consent order: bankruptcy debtors who were victimized by Countrywide's wrongful actions will receive a significant share of the \$108 million settlement; Countrywide will establish internal procedures and an independent third party will verify compliance with the prescribed procedures to help ensure that bills and claims filed in bankruptcy court

are accurate; and Countrywide will provide adequate notice of its charges. The consent order resolves USTP challenges to Countrywide's mortgage servicing practices in litigation throughout the country, including in the cases *In re Atchley*, Case No. 05-79232, Adv. No. 08-6092 (Bankr. N.D. Ga. Feb. 28, 2008); *In re Hill*, Case No. 01-22574 (Bankr. W.D. Pa. June 29, 2008); and *In re Sanchez*, Case No. 01-42230, Adv. No. 08-1176 (Bankr. S.D. Fla. Mar. 1, 2008).

## Supreme Court Agrees with DOJ's Interpretation of Debtor's 'Projected Disposable Income'

On June 7, the U.S. Supreme Court, in an 8-1 decision, held that bankruptcy courts have some flexibility when determining a debtor's income for purposes of devising a repayment plan. The Court rejected the petitioner's argument that bankruptcy courts are limited to a "mechanical" calculation of the debtor's monthly income. The Court instead concluded that the Bankruptcy Code's language "projected disposable income" meant bankruptcy courts can take into account financial fluctuations that artificially inflate or deflate the debtor's monthly income when determining how much disposable

income is available for creditors. This decision clarifies that a bankruptcy court may look forward to consider the debtor's actual financial situation, linking the debtor's repayment plan to his or her financial circumstances and thus benefitting both debtors and creditors. The EOUST assisted the Appellate Staff of the Civil Division in briefing and arguing *Lanning* before the Tenth Circuit; briefed or argued this issue before a number of other circuit panels; and assisted the Solicitor General's Office in preparing the *amicus* brief of the United States in support of the respondent and in preparing for oral argument.



## CRIMINAL ENFORCEMENT NEWS

### From the United States Attorney's Office

Release No. 10-106

July 15, 2010

#### **BEL-AIR MAN CONVICTED OF BANKRUPTCY FRAUD AND ASSAULT**

Yesterday, after a two-week trial, a jury convicted defendant Milton Lee Vandevort of concealing assets in a bankruptcy case, making a false oath and a false declaration in a bankruptcy case, assaulting a process server, and money laundering.

Vandevort, 49, who filed chapter 7 bankruptcy in 2005, was convicted of concealing his interests in: a residence in the Bel-Air neighborhood in Los Angeles, California; a nursing registry business, "Always There Nursing Care" (ATNC); and various pass-through entities that he created for income generated from ATNC.

"Criminal bankruptcy fraud threatens the integrity of the bankruptcy system, as well as public confidence in that system," stated Peter Anderson, United States Trustee for the Central District of California (Region 16). "We are grateful to U.S. Attorney Andre' Birotte Jr. for his strong commitment to combating fraud and abuse in the bankruptcy system, as demonstrated by this successful prosecution."

Vandevort also was convicted of assaulting a process server for brandishing a golf club at a private investigator the bankruptcy trustee had hired to serve subpoenas on Vandevort's wife. After doing so, Vandevort called 911, falsely claiming among other things, that his family was experiencing a "home invasion robbery." Finally, Vandevort was convicted of money laundering for using income generated from ATNC to pay his own expenses and using the proceeds of a 2004 refinance of the Bel-Air residence to buy

undeveloped land in Wyoming in the name of his mother-in-law.

After returning its guilty verdicts, the jury found that the properties that Vandevort had concealed should be forfeited to the government. At the conclusion of the trial, United States District Judge Phillip S. Gutierrez remanded Vandevort into federal custody. Sentencing is scheduled for October 18, 2010.

The U.S. Trustee Program is the component of the Justice Department that protects the integrity of the bankruptcy system by overseeing case administration and litigating to enforce the bankruptcy laws. Region 16 is headquartered in Los Angeles, with additional offices in Santa Ana, Riverside, and Woodland Hills, Calif.

The case was investigated by the Federal Bureau of Investigation with assistance from the U.S. Trustee Program.

#### Important Links:



[www.usdoj.gov/ust/r16](http://www.usdoj.gov/ust/r16) provides a wealth of information on Region 16. There's a page devoted to each of the field offices; Los Angeles, Riverside, Santa Ana, Woodland Hills and its Santa Barbara satellite office. You can find maps to the office and meeting rooms, parking information, and a staff directory with phone numbers. Find out about a variety of topics like "Brown Bag" Training series, local forms and references, how to submit criminal complaints fraud and report identity theft, public notices and local policies. A quick click on the "What's New" link will show you what documents have been added or updated.

You can use the "Email us" link to create an email addressed to us. Email us with questions or comments about the web page, or with questions about bankruptcy topics. Please do not submit a complaint or fraud complaint this way - follow the instructions on the "Complaints" page. Always keep in mind that we cannot provide legal advice.

*Continued on page 4*

## CRIMINAL ENFORCEMENT NEWS

### **Foreclosure Rescue Fraud Schemers Sentenced, Ordered to Forfeit Proceeds**

Two defendants from California were sentenced on January 4 in the District of Kansas after their convictions on charges of conspiracy and mail fraud in connection with their operation of a foreclosure rescue scam. Isaac Yass, a citizen of Israel who lives in Los Angeles, was sentenced to 60 months in prison; Robert Blechman of Culver City, California, was sentenced to 18 months in prison. A forfeiture order in the amount of \$1,063,176 was entered against both defendants jointly and severally, in addition to \$931,015 already seized. Yass operated a business that engaged in a foreclosure rescue scheme involving the filing of at least 119 fraudulent bankruptcy cases in Kansas, Maryland, Tennessee, and California. Yass and Blechman represented that, for a monthly fee, they could stop the home foreclosure process and that homeowners would not have to file bankruptcy. The defendants instructed homeowners to transfer a fractional interest in their homes to a fictitious company. The defendants then caused bankruptcy petitions to be filed in the names of

nonexistent individuals as owners of the fictitious companies that purportedly held partial interests in the properties in foreclosure. These actions temporarily postponed the foreclosures. The U.S. Trustee offices in Wichita, Baltimore, Memphis, Knoxville, Sacramento, San Jose, Los Angeles, and Woodland Hills assisted in the criminal investigation, prosecution, and sentencing.

### **Debtor Sentenced to 27 Months in Prison and Ordered to Pay \$1,828,725.87 in Restitution**

The United States District Court for the Central District of California-Santa Ana, on February 22, 2010 sentenced Todd Adams to prison and ordered restitution, after being convicted of a wire fraud equipment lease scheme. An on-site § 341 hearing was conducted at the Debtor's Chiropractic offices when the UST staff member noticed 15 bubble wrapped photocopier machines in pristine condition in a storage area, worth in excess of \$600,000. After further inquiry, the U.S. Trustee successfully moved for the appointment of a chapter 11 trustee and made a criminal referral in the case. Thereafter, Todd Adams filed an individual chapter 7, in which the U.S. Trustee successfully objected to his

discharge. The U.S. Trustee's office in Santa Ana assisted the AUSA in the prosecution of the case.

### **Identity Thief sentenced to 12 Months and One Day**

On April 26, in what the court called "a long running identity theft," the United States District Court for the Central District of California sentenced Silvia Cabrera Sosa to 12 months and 1 day imprisonment and 2 years probation, and ordered Sosa to pay \$78,223 in restitution to her creditors, after Sosa plead guilty to use of a false Social Security number with the intent to deceive. Sosa admitted that she filed a bankruptcy petition using the name and Social Security number of another woman, with the intent to deceive the bankruptcy court and to discharge debts that she had accrued in the victim's name. In the guilty plea Sosa also admitted that she provided UST staff with a false driver's license, a false passport, and a false social security card, which she had obtained (and in the case of the driver's license even renewed) using the victim's name with the victim's identifying information. The U.S. Trustee's Woodland Hills' office referred the matter and then assisted in the investigation and prosecution.

### Important Links:

*Continued from page 3*

[www.cacb.uscourts.gov/](http://www.cacb.uscourts.gov/) will link you directly with the U.S. Bankruptcy Court - Central District of California .

Visit the U.S. Trustee Program's website, [www.usdoj.gov/ust/](http://www.usdoj.gov/ust/). It's loaded with information on the Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA) of 2005

For information on:

- Means Testing forms and IRS Standards
- Credit Counseling & Debtor Education
- State Domestic Support Enforcement Agencies
- Data Enabled Form Standard

You can also find:

- Annual Reports
- Bankruptcy Statistics
- Press Releases
- Testimony & Statements



## **CIVIL ENFORCEMENT NEWS**

### ***Under-Reported Income Means Dismissal***

On October 7, 2009, the Bankruptcy Court for the Central District of California granted a motion by the U.S. Trustee's Los Angeles office to dismiss the case of a debtor, preventing the chapter 7 discharge of \$178,976 in unsecured debt. The U.S. Trustee alleged the debtor under-reported her gross income by more than \$3,300 per month, claimed vehicle ownership expenses she is not contractually obligated to make, and listed an excessive housing expense of \$3,600 per month for a two-bedroom apartment.

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### ***No Discharge for Debtors with Luxury Home and Cars***

On October 15, 2009, the Bankruptcy Court for the Central District of California dismissed the chapter 7 case of debtors, preventing the discharge of \$169,559 in unsecured debt. The U.S. Trustee's Woodland Hills office requested dismissal based upon the presumption of abuse and the debtor's ability to repay their debt. The U.S. Trustee argued the debtors should not receive a bankruptcy discharge while continuing to make high payments for a luxury home, a BMW, a Mercedes, and recreation. The U.S. Trustee demonstrated that, if the debtors limited their spending, they could pay \$3,000 per month to unsecured creditors even if allowed to remain in their large home.

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### ***Consent to Dismissal Prevents Chapter 7 Discharge of \$623,124 in Unsecured Debt***

On December 2, 2009, the Bankruptcy Court for the Central District of California dismissed a debtor's case, preventing the chapter 7 discharge of \$623,124 in unsecured debt. An investigation by the U.S. Trustee's Los Angeles office revealed the debtor over-reported his household size and claimed an ownership expense for a vehicle he owned free and clear. When informed that the U.S. Trustee would file a motion to dismiss, the debtor agreed to dismiss his case.

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### ***Mortgage Servicer Refunds \$8,819 Overpayment, Changes Account Procedures***

A servicing agent for a lien holder refunded at least \$8,819 of overpayments to a debtor in January 2010, after the U.S. Trustee's Los Angeles office made an inquiry in the case. After the debtor filed bankruptcy, the servicing agent erroneously sent him a letter demanding payments in violation of the automatic stay. The servicing agent informed the U.S. Trustee in writing that it has implemented new safeguards to prevent customer overpayments through by flagging accounts on a daily report reviewed by its agent. In addition, to reflect these changes the servicing agent changed the language in the required Real Estate Settlement Procedures Act (RESPA) notifications of transfer and assignment of servicing letters sent to its customers in bankruptcy.

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### ***Petition Preparer Sanctioned \$17,750 for Violations***

The Bankruptcy Court for the Central District of California on January 28 granted a motion by the

U.S. Trustee's Riverside office for fines and disgorgement of fees and awarded damages against a bankruptcy petition preparer and his company. The court fined the BPP \$15,000 for violations of 11 U.S.C. § 110, and ordered them to refund \$750 in fees paid by the debtor and to pay the debtor \$2,000 in damages for fraudulent, unfair, and deceptive conduct in knowingly concealing the true amount of fees received. The BPP collected \$900 from the debtor for bankruptcy preparation services. He subcontracted the typing of the petition to a second person who never spoke to the debtor. The typist disclosed the \$150 she received from the BPP but the BPP failed to disclose any of the amounts he received from the debtor. Trial attorneys in the Honolulu and Los Angeles offices contributed to the successful outcome.

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### ***Debtor's Counsel Ordered to Disgorge \$15,000 in Fees***

After an evidentiary hearing, on June 16, the Bankruptcy Court for the Central District of California ordered an attorney to disgorge the \$15,000 retainer he received to handle a debtor's chapter 11 bankruptcy case. The U.S. Trustee's Santa Ana office brought the motion because the attorney never filed an application for employment in the case, which is a prerequisite to compensation under controlling Ninth Circuit law. The U.S. Trustee further contended that, even if the attorney was employed on a *nunc pro tunc* basis, disgorgement was required because the attorney failed to provided competent and complete representation to the debtor. In particular, the attorney failed to

appear on behalf of the debtor at the hearing on relief from stay motions brought against her and failed to prepare an adequate written opposition to the motions. As a result, the debtor eventually lost the properties to foreclosure.

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***Attorney Suspended for Delegating to Non-Attorney Petition Preparer***

On November 13, a three-judge panel of the Bankruptcy Court for the Central District of California determined it would suspend an attorney from practice before the bankruptcy court after the U.S. Trustee's Los Angeles and Woodland Hills offices presented evidence of the attorney's repeated misconduct. The attorney admitted he delegated communications with his clients and management of his office to a non-attorney petition preparer, who promised loan modifications to primarily Spanish-speaking clients. The attorney also admitted he did not speak Spanish, provided minimal office supervision, failed to meet with or review the bankruptcy documents of many clients, accepted chapter 11 cases without being qualified, and failed to keep adequate records of client payments. The attorney stated he fired the BPP and filed a police report when he discovered the BPP kept part of the fees paid by clients. The panel concluded the attorney should be suspended from all practice before the bankruptcy court for up to two years and be prohibited from representing chapter 11 debtors indefinitely.

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***Petition Preparers Sanctioned for Actions in Homeowners' Case***

On September 23, 2009, the Bankruptcy Court for the Central District of California ordered \$7,000 in fines, damages, and

disgorgement of fees against bankruptcy petition preparers, based on their actions in a case. When the debtors contacted the BPP seeking a loan modification, the BPP referred the couple to a loan modifier with whom they shared an office. Months passed without a modification, and the couple turned to the BPP for help filing bankruptcy. At a hearing on its motion under 11 U.S.C. § 110, the U.S. Trustee's Woodland Hills office showed that the BPP unlawfully offered the debtors legal advice regarding bankruptcy, overcharged new debtors, failed to disclose their fees, and failed to disclose their identities as petition preparers. The BPP contended they did not provide petition preparation services, but instead provided translation services for \$1,300 and paper and supplies for \$200. The Court fined the BPP \$2,500 and ordered the BPP to pay the debtors \$3,000 in damages for deceptive conduct and to refund their \$1,500 fee.

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***10-Day Period for Statement of Presumed Abuse Starts after Continued Meeting***

On November 24, 2009, the U.S. District Court for the Central District of California affirmed the bankruptcy court's decision dismissing a chapter 7 case under 11 U.S.C. § 707(b)(2) and (b)(3), rejecting the debtors' argument that the U.S. Trustee failed to file a timely statement of presumed abuse. The debtors filed multiple means test calculations with changing figures, causing their section 341 meeting of creditors to be continued several times. The U.S. Trustee initially filed a 10-day statement stating he could not determine whether the presumption of abuse arose. When the U.S. Trustee obtained the debtors' accurate financial information, he

filed a supplemental statement of presumed abuse and a successful motion to dismiss under section 707 (b)(2) and (b)(3). The debtors appealed the dismissal, arguing that the U.S. Trustee must file a statement of presumed abuse within 10 days of the first date set for the section 341 meeting, even if the debtors continue to present new information until the day of the hearing on the U.S. Trustee's motion to dismiss. The district court rejected their argument, holding that under section 707(b)(2) the 10-day period for filing a statement of presumed abuse begins to run after a continued section 341 meeting is concluded. The court also found that under section 707(b)(3) the ability to repay debt, is sufficient to show that a discharge would be an abuse of chapter 7.

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***Trustee Appointment Approved for Chapter 11 Debtors Who Converted Escrow Deposits***

On July 1, the Bankruptcy Court for the Central District of California ordered the appointment of a chapter 11 trustee in the case of husband and wife debtors. The U.S. Trustee's Woodland Hills office moved for the trustee's appointment after multiple creditors alleged the debtors misappropriated escrow trust funds the creditors had deposited with the debtors' escrow company to buy their new homes. After a contested evidentiary hearing, the court found the debtors engaged in dishonest conduct and mismanagement when they converted purchasers' escrow deposits by commingling them with their company's operating account and misappropriating the funds. Accordingly, the court found the debtors could not be trusted to serve as fiduciaries, and granted the motion to appoint a chapter 11 trustee.

# New UST Staff



Tayo A. Agboke, Bankruptcy Analyst  
Los Angeles Field Office



Jack Arutyunyan, Bankruptcy Analyst  
Los Angeles Field Office



Abram Feuerstein, Assistant U.S. Trustee of the  
Riverside Office swearing in Misty Perry Isaacson



Questions for Region 16  
can be directed to:

[www.ustp.region16@usdoj.gov](mailto:www.ustp.region16@usdoj.gov)

Please contact us with  
suggestions and topics. To make  
sure you are included in our  
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e-mail your address to the  
address above and put  
"WATCHDOG" in your subject  
line.

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#### The Watchdog Staff

L. Charmayne Mills  
Carol. O. Raineri  
Frances Yang



## **Bruce Sydney Schildkraut**

**1943-2010**

*In memory of the life and service of Bruce Schildkraut, born January 21, 1943 and died April 24, 2010. United States Trustee staff and Bankruptcy community of the Central Judicial District of California remember with fondness and appreciation the almost nine years of service of Bruce S. Schildkraut, Trial Attorney for the Los Angeles Office of the United States Trustee.*

*Bruce joined this office in March of 2001 as a Senior Trial Attorney and brought his deft business acumen and legal expertise in Chapter 11 Business Reorganizations and Turnarounds to our staff. As a former member of the staffs of the Honorable Lisa Hill Fenning and the Honorable Robert Eisen, Pillsbury Madison & Sutro as well as Weinstein & Eisen, Bruce was well known throughout the Bankruptcy Community.*

*Unfortunately, as many of you know, Bruce has had many struggles with his health for the past several years. Yet, he continued to make an effort to make it to the office when he was able. He reported to the office on Friday, April 23<sup>rd</sup>, only to leave early due to illness. That was the last day we saw Bruce as he succumbed to his illness the next morning. It has been a few months now since his death. The United States Trustee Program is grateful for his service and will remember him fondly. May he rest in peace.*

