US Department of Justice

THE WATCHDOG

Inside this issue:

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.

FORMER MLB STAR LENNY DYKSTRA CHARGED IN BANKRUPTCY FRAUD CASE THAT ALLEGES SALE OF ITEMS FROM MANSION

April 15, 2011

LOS ANGELES – Lenny Dykstra, who played outfield for the New York Mets and Philadelphia Phillies baseball clubs and later gained notoriety as a stock picker, has been charged with bankruptcy fraud for allegedly selling items from his $18 million mansion in Ventura County.

Lenny Kyle Dykstra, 48, who is currently residing in Encino, was named in a one count-criminal complaint filed Wednesday that accuses Dykstra of one count of embezzling from a bankruptcy estate.

The federal criminal case against Dykstra was announced today after he was taken into custody last night at his residence by local authorities on unrelated charges.

The federal charges stem from a bankruptcy case that Dykstra filed on July 7, 2009. The criminal case filed in United States District Court alleges that Dykstra removed, destroyed and sold property that was part of the bankruptcy estate without the permission of the bankruptcy trustee.

According to court documents, after Dykstra filed for bankruptcy, he sold many items belonging to the bankruptcy estate for cash, as well as destroying and hiding other items. An attorney hired by the bankruptcy trustee estimates that Dykstra stole and destroyed more than $400,000 worth of property in the estate, according to the criminal complaint.

When Dykstra filed for bankruptcy, he listed two residences – a mansion in Lake Sherwood Estates purchased from Janet and Wayne Gretzky that he estimated was worth $18.5 million, and a home in Westlake Village that he estimated was worth $5.4 million. As a result of the bankruptcy filing, the residences and Dykstra's personal property became part of the bankruptcy estate that would be used to pay off creditors. Even though Dykstra was prohibited from liquidating any part of the estate, the investigation showed that:

SANDRA KLEIN SELECTED AS CENTRAL DISTRICT'S NEWEST JUDGE

SEE THE COMPLETE STORY ON PAGE 7

Dykstra continued from Page 1

- about a month after filing for bankruptcy, Dykstra was paid cash at a Los Angeles consignment store for personal items, including a truckload of furnishings and fixtures that he had taken from the Lake Sherwood mansion;
- Dykstra admitted in a bankruptcy hearing to having arranged the sale of sports memorabilia and a dresser that were property of the bankruptcy estate; and
- Dykstra "ripped out" a $50,000 sink from his mansion and took granite from the mansion and installed it in an office he set up at the Camarillo airport after he had filed for bankruptcy protection.

A criminal complaint contains allegations that a defendant has committed a crime. Every defendant is presumed innocent until and unless proven guilty.

The charge of bankruptcy fraud carries a statutory maximum sentence of five years in federal prison.

Dykstra's bankruptcy case is still pending in United States Bankruptcy Court in Woodland Hills.

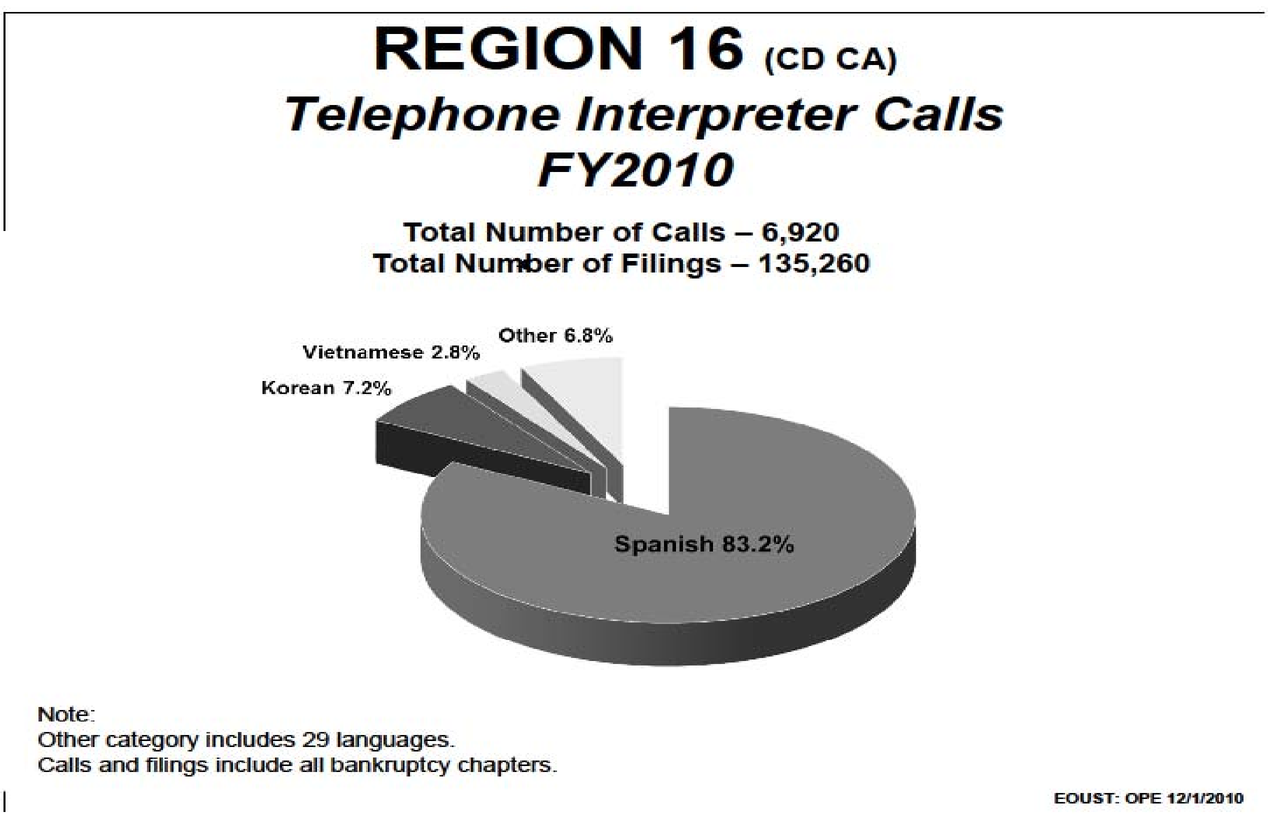
The investigation in the bankruptcy fraud case was conducted by the Federal Bureau of Investigation and IRS - Criminal Investigation. The United States Trustee for the Central District of California (Region 16) provided substantial assistance during the investigation.

CONTACT: Assistant United States Attorney Evan Davis

Assistant United States Attorney Aaron May

Release No. 11-058

Who's Using the Language Assistance Program?



January 18, 2011

Capital One Bank (USA) N.A. Will Refund More than $2 Million in Monies Improperly Collected From Consumers in Bankruptcy

WASHINGTON - The U.S. Trustee Program (USTP) announced today that Capital One Bank (USA) N.A. will refund approximately $2.35 million to consumers in bankruptcy (or their bankruptcy estates) for amounts received by Capital One as a result of erroneous claims it filed in bankruptcy cases for debts that previously had been discharged. Capital One also will reimburse attorneys' fees and costs to consumers and bankruptcy trustees who filed legal objections to Capital One's erroneous claims.

In October 2008, the USTP entered a settlement agreement with Capital One to resolve allegations that the company attempted to collect on debts that previously had been discharged in bankruptcy. At that time, the USTP alleged that Capital One had filed approximately 5,600 erroneous claims in bankruptcy cases, and the company acknowledged that it had received approximately $340,000 to which it was not entitled.

As part of the settlement with the USTP, Capital One agreed to an audit process overseen by an independent auditor chosen by the court to examine Capital One customer accounts to ensure that all monies improperly received by Capital One as a result of erroneously filed claims were returned to consumers who had filed bankruptcy or to their bankruptcy estates. The auditor would also approve reimbursement to consumers and bankruptcy trustees for out-of-pocket costs and expenses, including attorneys' fees, incurred to contest erroneous claims.

The auditor filed her report with the bankruptcy court today, after examining nearly 700,000 claims made by Capital One. The auditor found that Capital One erroneously filed approximately 15,500 claims totaling approximately $24.7 million on account of debts previously discharged in bankruptcy, and that the company received payment of approximately $2.35 million on approximately 5,100 of those erroneously filed claims. The refund to each affected consumer or bankruptcy estate will be based on the amount paid to Capital One as a result of the erroneous claim, and consumers and bankruptcy trustees need not take any further action. Similarly, reimbursement of attorneys' fees and costs will be based on the amount paid by consumers to their counsel or costs incurred by the bankruptcy trustee to object to Capital One's erroneous claims, and affected consumers and bankruptcy trustees will receive further information from the auditor.

The auditor's report and the October 2008 settlement agreement are filed in the U.S. Bankruptcy Court for the District of Massachusetts *(United States Trustee v. Capital One Bank (USA) N.A.*, Adversary Proceeding No. 08-01272 (Bankr. D. Mass.)).

The USTP is the component of the Department of Justice that protects the integrity of the bankruptcy system by overseeing case administration and litigating to enforce the bankruptcy laws.

Contact:
Jane Limprecht, Public Information Officer
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APRIL 18, 2011

The USTP has submitted to Congress its FY 2010 Criminal Referral Report in accordance with section 1175 of the Violence Against Women and Department of Justice Reauthorization Act of 2005, Public Law 109-162. To view the report in its entirety, please go to http://www.justice.gov/ust/.

CRIMINAL ENFORCEMENT NEWS

Third Individual Pleads Guilty to Operating Foreclosure Scheme

Darwin Bowman pleaded guilty to one count of bankruptcy fraud on February 22nd in the Central District of California. Bowman admitted having operated a foreclosure delay scheme with co-defendants Irving Cohen and Robin Phillips. During two years of Bowman's knowing participation in the scheme, the defendants generated fraudulent bankruptcies to delay foreclosure on approximately 475 properties, with outstanding loans of more than $200,000,000. Bowman admitted that, during that period, the defendants received approximately $396,000 in fees from homeowners for their illegal foreclosure delay services. The U.S. Trustee's Los Angeles office assisted with the investigation. Cohen and Phillips pleaded guilty on December 3 and November 29, respectively.

Canadian Businessman Sentenced for Bankruptcy Fraud

On October 27, 2010, former Edmonton Oilers owner Peter Pocklington, 69, was sentenced to six months of house arrest and two years of probation, and ordered to pay a $3,000 fine for committing perjury when he failed to disclose related bank accounts at Palm Desert National Bank and two storage units maintained in his name. Pocklington was also ordered to perform 100 hours of community service.

Mother and Daughter Sentenced to Jail Time

On October 25, 2010, Alice Kantin and her daughter Dawn Kantin were sentenced to 2 years and 5 years respectively in State Prison and ordered to pay restitution of $4,417,025.00 to 38 victims, after conviction on 44 counts of embezzlement and grand theft. The Kantins stole rents from distressed homeowners in a fraudulent rent-to-own scheme, while their customers' homes were lost in foreclosure. After Alice Kantin falsely used a victim's social security number to obtain a home loan, to incur retail debt, and to file two bankruptcies in order to stall foreclosures, the U.S. Trustee's Woodland Hills office referred the case and then assisted in the investigation.

Important Links:

http://www.justice.gov/ust/r16/index.htm 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.

CIVIL ENFORCEMENT NEWS

Case Conversion Prevents Chapter 7 Discharge of $589,916 in Unsecured Debt

In response to a Motion to Dismiss filed by the U.S. Trustee's Woodland Hills office, on October 8 in the Central District of California, this debtor moved to convert his case to chapter 13. Case conversion prevented the chapter 7 discharge of $589,916 in unsecured debt. After separating from his wife, the debtor was no longer making mortgage payments on a former residence in New Jersey, but he listed those payments as expenses. In addition, the debtor was no longer paying his wife's medical expenses. The U.S. Trustee discovered the debtor had significant disposable income with which to repay his debts, and argued a discharge would be abusive. The bankruptcy court ruled the case would be dismissed if the debtor did not file a motion to convert.

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Waiver Prevents Chapter 7 Discharge of $287,626 in Debt on 27 Credit Cards

The Bankruptcy Court for the Central District of California on October 25 approved this debtor's waiver of the chapter 7 discharge of $287,626 in unsecured debt incurred on at least 27 revolving credit card accounts. The debtor testified she bought inventory for a purported business, but she failed to maintain or turn over business or financial records. In addition, the debtor testified she purchased $50,000 worth of electronics and $21,000 worth of jewelry, but she failed to disclose those assets or any transfer of those assets, and failed to explain where they went. The U.S. Trustee's Woodland Hills office objected to her discharge.

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Denial Prevents Chapter 7 Discharge of $568,518 in Unsecured Debt

Granting a motion for default judgment filed by the U.S. Trustee's Santa Ana office, on January 6, the Bankruptcy Court for the Central District of California denied these debtors' chapter 7 discharge of $568,518 in unsecured debt. The U.S. Trustee's investigation revealed the debtors' failure to disclose four chapter 13 cases filed in 2009 by the wife-debtor, all of which were dismissed for failure to prosecute. A public records search showed the debtors owned a limousine service and a RE/MAX franchise they failed to disclose in their bankruptcy filing. The U.S. Trustee obtained a Bankruptcy Rule 2004 order requiring the debtors to produce documents and appear for examination, but the debtors refused to appear or produce documents. According -ly, the U.S. Trustee filed a complaint to deny discharge.

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Revocation Prevents Chapter 7 Discharge of $80 Million in Unsecured Debt

Granting a motion by the U.S. Trustee's Santa Ana office, on February 10, the Bankruptcy Court for the Central District of California entered a default judgment revoking this debtor's chapter 7 discharge of $80,373,340 in unsecured debt. The debt arose from the debtor's role as the owner of registered investment adviser. The Securities and Exchange Commission recently barred the debtor from the industry after filing a complaint against him for violations of federal securities laws. After the debtor received his bankruptcy discharge, the U.S. Trustee received a tip that he acquired nearly $200,000 in federal and state tax refunds post-petition, and failed to disclose them to the chapter 7 trustee.

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Civil Enforcement News

(continued)

Dismissal Prevents Chapter 7 Discharge of $488,693 in Primarily Credit Card Debt

On March 28, the Bankruptcy Court for the Central District of California dismissed this debtor's case, preventing the chapter 7 discharge of $488,693 in unsecured debt, and barring her from refiling for two years. In a motion to dismiss for abuse based upon bad faith, the U.S. Trustee's Los Angeles office alleged the debtor incurred at least $418,262 in debt on 25 credit cards, including 22 new accounts, in a 70-day period during which she claimed to have been an unemployed student. The debtor's credit card expenditures included $94,397 for home improvements, $18,721 for furniture, $15,735 for clothing, and $24,076 for jewelry. The U.S. Trustee subpoenaed credit card statements allegedly demonstrating how the debtor engaged in check-kiting to increase her available new credit. The debtor had no personal financial records and no credible explanation for the disposition of her purchases and cash advances. In lieu of contesting the motion to dismiss, she entered into a stipulation dismissing her case and limiting her refiling.

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Denial Prevents Chapter 7 Discharge of Almost $1.4 Million in Unsecured Debt

Granting a motion for default judgment filed by the U.S. Trustee's Santa Ana office, on February 24, the Bankruptcy Court for the Central District of California denied a debtor's chapter 7 discharge of $1,383,107 in unsecured debt. The U.S. Trustee questioned the debtor at the section 341 meeting of creditors regarding the disposition of hundreds of thousands of dollars the debtor received from the refinancing of various properties. The debtor failed to adequately explain the disposition of the funds and the U.S. Trustee obtained a Bankruptcy Rule 2004 order requiring the debtor to produce documents and appear for examination. After the debtor refused to appear or produce documents, the U.S. Trustee sought denial of discharge.

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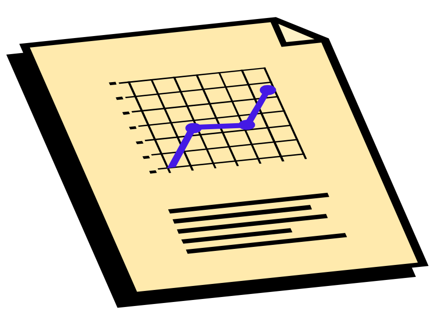
<u>U.S. TRUSTEE PROGRAM ISSUES PUBLIC REPORT ON DEBTOR AUDITS FOR FISCAL YEAR 2010</u>

THE U.S. TRUSTEE PROGRAM HAS ISSUED ITS ANNUAL PUBLIC REPORT ON DEBTOR AUDITS FOR FISCAL YEAR 2010 AS REQUIRED BY SECTION 603(A)(2)(D) OF THE BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTIONS ACT OF 2005. GO TO WWW.JUSTICE.GOV/UST/ TO REVIEW THE REPORT.



FTC's Mortgage Assistance Relief Services Advance Fee Ban Takes Effect

02/10/2011

The advance fee ban under the FTC's Mortgage Assistance Relief Services (MARS) Rule is designed to protect financially distressed homeowners from mortgage relief scams that have sprung up during the mortgage crisis.

"Banning the collection of up-front fees will protect homeowners from being victimized," FTC Chairman Jon Leibowitz said. "This is especially important at a time when so many people are behind on their mortgages or facing foreclosure."

As of January 31, 2011, companies that offer to help homeowners get their loans modified or sell them other types of mortgage assistance relief services are no longer allowed to charge up-front fees. Under the rule, a mortgage assistance relief company may not collect a fee until the consumer has signed a written agreement with the lender that includes the relief obtained by the company. When the company presents the consumer with that relief, it must inform the consumer, in writing, that the consumer can reject the offer without obligation and, if the consumer accepts, the total fee due. Before the consumer agrees to accept the mortgage relief, the company must also provide a written notice from the lender or servicer showing how the relief will change the terms of the consumer's loan (including any limitations on a trial loan modification).

During the past three years, the FTC has filed 32 lawsuits against mortgage assistance relief companies for deception and abuse, and state law enforcers have filed hundreds of additional cases. The MARS Rule issued in November gives the FTC and the states an additional tool for combating deceptive and unfair acts or practices by these entities.

Attorney exemption

Attorneys are generally exempt from the rule if they provide mortgage assistance relief services as part of the practice of law, are licensed in the state where the consumer or dwelling is located, and comply with state laws and regulations governing attorney conduct related to the rule. To be exempt from the advance fee ban, attorneys must also place any advance fees they collect in a client trust account and abide by state laws and regulations covering such accounts.

Information for Businesses and Consumers

FTC staff has issued two new business education publications. "The Mortgage Assistance Relief Services Rule: A Compliance Guide for Business" describes the key provisions of the MARS Rule to help covered businesses ensure that they are in compliance. "The Mortgage Assistance Relief Services Rule: A Compliance Guide for Lawyers" contains specific guidance for attorneys who provide mortgage assistance relief services. The staff has also issued a consumer publication, "Mortgage Assistance Relief Scams: Another Potential Stress for Homeowners in Distress," which relates how to spot and avoid these scams.

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Important Links:

For information on:

- Means Testing forms and IRS Standards
- Credit Counseling & Debtor Education
- Annual Reports
- Bankruptcy Statistics
- Press Releases
- Testimony & Statements

go to:

http://www.justice.gov/ust/

OUST Staff News

USTP's Program Director Cliff White stated in a March message to the staff that he was pleased to announce that Sandra Klein, who has served as one of the Program's Criminal Coordinators for eight years (including two years as the Acting Chief of the Criminal Enforcement Unit), has been appointed as a Bankruptcy Judge in the Central District of California. Ms. Klein was sworn into office on April 22, 2011.

The press release reads as follows:

<u>Court of Appeals Appoints New Bankruptcy Judge for Central District of California</u>

SAN FRANCISCO — Chief Judge Alex Kozinski of the United States Court of Appeals for the Ninth Circuit has announced the appointment of Sandra R. Klein to serve as a judge of the U.S. Bankruptcy Court for the Central District of California.

Ms. Klein, who will be sworn into office April 22, will have chambers in Los Angeles.

She will fill a judgeship left vacant by the retirement of Bankruptcy Judge Kathleen H.

Thompson in January 2011. Judge Thompson is currently serving as a recalled

bankruptcy judge in the Central District.

"Ms. Klein knows bankruptcy law well, has worked on a significant variety of bankruptcy

related matters, and has demonstrated a commitment to public service. We welcome her to the bench in one of our busiest bankruptcy courts," Judge Kozinski said in announcing the appointment.

Ms. Klein, 50, has been the acting chief of the Criminal Enforcement Unit of the Department of Justice, U.S. Trustee Program, since 2009. Her work focuses on increasing detection and prosecution of criminal conduct in the bankruptcy system. She previously served in the program as a bankruptcy fraud criminal coordinator from 2003 to 2009. She also worked as a special assistant U.S. attorney in the Central District of California from 1997 to 2003. In addition to her public sector experience, Ms. Klein was a litigation associate at the law firm of O'Melveny & Myers, LLP, from 1995 to 1997. Ms. Klein has served as a part-time adjunct professor at Loyola Law School in Los Angeles in 2003, 2005, and 2006. She taught a white collar crime elective course designed to emphasize ethical issues arising in law and business.

A native of Boston, Massachusetts, Ms. Klein received her undergraduate degree in 1982 from the University of Massachusetts, where she graduated *magna cum laude*. She received her J.D. in 1992 from Loyola Law School, also graduating *magna cum laude* and serving as the comment editor for the Loyola International & Comparative Law Journal.

Ms. Klein clerked for Circuit Judge Arthur L. Alarcón of the U.S. Court of Appeals for the Ninth Circuit from 1994 to 1995. She received her master's degree in 2009 from the UCLA Anderson School of Management, where she graduated as a member of its Honor Society.

Ms. Klein was co-chair of the Law Student Mentoring Committee, Women Lawyers Association of Los Angeles, from 2004 to 2005. She served as a volunteer instructor for National Institute of Trial Advocacy training in Los Angeles in 2005, 2006, 2007, and 2010.

The complete press release can be found at http://www.ca9.uscourts.gov/

OUST Staff News

Departures

Analyst **Marjorie Gibson** retired September 30, 2010 with over 15 years of service to the USTP

Analyst **Dennis Strayhan** retired December 30, 2010 with over 14 years of service to the USTP

Arrivals

Analyst **Carolyn Feinstein** started with the USTP on September 12, 2010

Trial Attorney **Melanie Scott** started with the USTP on February 28, 2011

Trial Attorney Michael Bujold started with the USTP on April 11, 2011.

New Babies

New babies were recently welcomed by Trial Attorney **Everett Green**, Trial Attorney **Kate Bunker** and Trial Attorney Brian **Fittipaldi.** Best wishes to them from the USTP staff!

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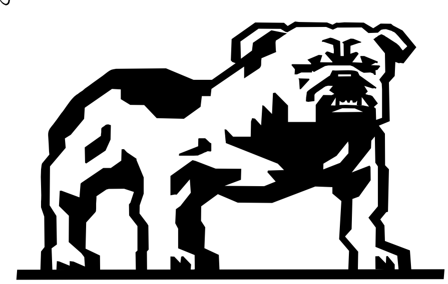
Questions for Region 16 can be directed to: www.ustp.region16@usdoj.gov

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



New Riverside Meeting Rooms
located at 3685 Main Street