

**U.S. Department of Justice - Office of the United States Trustee
Peter C. Anderson, U.S. Trustee - Region 16**



THE WATCHDOG

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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.

Twelve-Year Federal Fugitive Indicted for Fraud and Identity Theft in Nationwide Foreclosure Rescue Scam

Defendant Arrested by Canadian Authorities; Allegedly Collected More Than \$1 Million from More Than 800 Distressed Homeowners

Friday, August 17, 2012

WASHINGTON – Federal authorities have charged a former Los Angeles man with aggravated identity theft and having operated a foreclosure-rescue scam in Southern California and elsewhere that promised to postpone foreclosure sales for more than 800 distressed homeowners.

Glen Alan Ward, 47, of Canada, was indicted today in the Central District of California on two counts of bankruptcy fraud, one count of mail fraud and two counts of aggravated identity theft.

In 2000, Ward became a federal fugitive when he failed to appear in court after signing a plea agreement, which stemmed from federal charges in the Central District of California associated with a similar scheme. On April 5, 2012, Ward was arrested in Canada on a U.S. provisional arrest warrant based on the charges in the Central District of California. His extradition to the United States is pending.

Today's indictment charges the defendant with identity theft and a scheme to defraud that took place from July 2007 to April 5, 2012, while he was a fugitive. According to the indictment, Ward led a scheme that solicited and recruited homeowners whose properties were in danger of imminent foreclosure. Ward allegedly promised to delay their foreclosures for as long as the homeowners could afford his \$700 monthly fee. Once a homeowner paid the fee, Ward accessed a public bankruptcy database and retrieved the name of an individual debtor who recently filed bankruptcy. The indictment alleges that Ward also obtained a copy of the debtor's bankruptcy petition and directed his clients to execute, notarize and record a grant deed transferring a 1/100th fractional interest in their distressed home into the name of the debtor he

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provided. Then, Ward allegedly faxed a copy of the bankruptcy petition, the notarized grant deed and a cover letter to the homeowner's lender or the lender's representative, directing it to stop the impending foreclosure sale due to the bankruptcy.

Because bankruptcy filings give rise to automatic stays that protect debtors' properties, the receipt of the bankruptcy petitions and deeds in the debtors' names forced lenders to cancel foreclosure sales. The lenders, which included banks that received government funds under the Troubled Asset Relief Program (TARP), could not move forward to collect money that was owed to them until getting permission from the bankruptcy courts, thereby repeatedly delaying the lenders' recovery of their money.

As part of the scheme, Ward delayed the foreclosure sales of approximately 824 distressed properties by using at least 414 bankruptcies filed in 26 judicial districts across the country. During that same period, Ward collected more than \$1 million from his clients who paid for his illegal foreclosure-delay services.

The indictment was announced by Assistant Attorney General Lanny A. Breuer of the Justice Department's Criminal Division, U.S. Attorney André Birotte Jr. of the Central District of California, Acting Assistant Director in Charge Timothy Delaney of the FBI's Los Angeles Field Office, and Christy Romero, Deputy Special Inspector General for the Troubled Asset Relief Program (SIGTARP).

"Today's charges underscore our commitment to relentlessly pursue those who prey on the vulnerabilities of distressed homeowners to defraud lenders and pad their own pockets," said Assistant Attorney General Breuer. "As this case illustrates, we will not stop pursuing them, no matter where they are, and no matter how long it takes.

"Con artists who seek to victimize homeowners in distress are truly shameless," said U.S. Attorney for the Central District of California André Birotte Jr. "The long arm of

the law can and will find and reach such financial pirates wherever they hide, and we will be tireless in our pursuit of justice for the people they victimize."

"Ward was on the lam for 12 years running from earlier charges of bankruptcy fraud, and it's time he answered for his alleged conduct," said Christy Romero, Special Inspector General at SIGTARP. "In order to advance his scheme, from at least July 2007 until the time of his arrest in Canada in April, Ward allegedly stole the identities of unsuspecting U.S. taxpayers already in the dire straits of bankruptcy proceedings and exploited civil protections under bankruptcy law to defraud lenders, including multiple TARP recipients, and distressed homeowners facing foreclosure. SIGTARP and our partners in law enforcement will continue to hold accountable those responsible for all fraud related to TARP."

"Mr. Ward's fugitive odyssey is over, in large part thanks to our Canadian law enforcement partners," said Timothy Delaney, Acting Assistant Director in Charge of the FBI's Los Angeles Field Office. "The charges against Mr. Ward tell a disturbing tale of avarice whereby scores of homeowners facing foreclosure were further victimized. The FBI will continue to work with our partners at SIGTARP and at the U.S. Attorney's Office to tackle this reprehensible crime problem facing Americans."

The crime of bankruptcy fraud carries a maximum sentence of five years in prison. Mail fraud carries a maximum sentence of 30 years in prison. Each aggravated identity theft charge carries a two-year mandatory, consecutive sentence.

This case is being prosecuted by Trial Attorney Paul Rosen of the Fraud Section in the Justice Department's Criminal Division and Assistant U.S. Attorney Evan Davis of the U.S. Attorney's Office for the Central District of California. The investigation was conducted by the SIGTARP and the FBI, which received substantial assistance from the U.S. Trustee's Office.

This prosecution is part of efforts underway by President Obama's Financial Fraud Enforcement Task Force.

US Attorney Andre Birotte Jr. hosts Mortgage Fraud Summit June 26, 2012



(Left) U.S. Attorney for the Central District of California Andre Birotte Jr. welcomes meeting participants which included representatives of the US Attorney's Office; the Federal Bureau of Investigation; local police and sheriffs from Los Angeles, Orange County and Riverside; HUD's Office of the Inspector General; Office of the State Attorney General; Department of Real Estate; the State Bar of CA; Office of the U.S. Trustee; the FTC; and others.

The Meeting was held at the offices of the U.S. Attorney.





Above: Bruce Riordan, Senior Counsel to the U.S. Attorney (right), speaks with Butch Grimes, real estate entrepreneur and talk show host. Left: The event was attended by members of the local press.



ELDER BANKRUPTCY FILINGS; CAPACITY ISSUES

By Peter C. Anderson and Abram S. Feuerstein¹

Older Americans are filing for bankruptcy at increasing rates.² And as the age of the average bankruptcy debtor increases, it appears that there is an increase in the number of debtors filing bankruptcy who have chronic and disabling medical conditions. Some of these individuals may lack physical capacity to undertake those actions necessary to complete a bankruptcy filing successfully and obtain a bankruptcy discharge of their debts. Others may lack mental capacity or competency to make financial decisions. Inevitably, there has been a rise in situations involving family members seeking to file bankruptcy cases for incapacitated relatives.

Unfortunately, some aspects of the law in this area are unsettled and not well developed. All too frequently, well-meaning relatives attempt to file bankruptcy cases for incapacitated, financially-distressed family members in a haphazard, improper fashion. Often, they run to the bankruptcy court armed only with a doctor's note attesting to the poor physical health or mental condition of their family member. Other individuals run to a local stationery store or look on the internet for a fill-in-the-blanks power of attorney form to support a bankruptcy filing. At times, family members risk committing bankruptcy crimes by forging documents and making false statements as they attempt to commence a bankruptcy case for a disabled or incompetent relative. Even experienced bankruptcy lawyers lack familiarity with the rules.

INCAPACITATED DEBTORS

The first question is whether incapacitated individuals can file bankruptcy. The short answer is, "yes." The Bankruptcy Code contemplates that incapacitated individuals may be bankruptcy debtors, and courts agree.³

Under Section 301 of the Bankruptcy Code, a voluntary bankruptcy case may only be commenced when an individual who may be a debtor files a bankruptcy petition. In turn, Bankruptcy Code Section 109 states who may be a debtor.⁴ And that section contains no restrictions against incapacitated or disabled debtors.⁵

FILING THROUGH A REPRESENTATIVE OR NEXT FRIEND

Given that disabled and incapacitated debtors may file bankruptcy, the next question that arises is who, if

anyone, has the authority to file a bankruptcy petition on behalf of a debtor who lacks capacity. In answering this question, the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure ("FRBP") provide only limited guidance.

Under FRBP1004.1, "(i)f an infant or incompetent person has a representative, including a general guardian, committee, conservator, or similar fiduciary, the representative may file a bankruptcy petition on behalf of the infant or incompetent person."

Rule 1004.1 also provides that if an infant or incompetent person does not have a duly appointed representative, the person "may file a voluntary petition by next friend or guardian ad litem. The court shall appoint a guardian ad litem for an infant or incompetent person who is a debtor and is not otherwise represented or who shall make any other order to protect the infant or incompetent debtor."

Hence, to the extent that a bankruptcy petition is filed on behalf of an infant or an incompetent person, sound practice dictates that counsel should ensure that to the extent there is a representative, appropriate documentation is filed with the petition establishing the representative's authority to file the petition. However, if no representative exists, the parties should follow Rule 1004.1 and seek an immediate court order appointing a guardian or a next friend.⁶

POWERS OF ATTORNEY

Other than the procedures outlined in Rule 1004.1 pertaining to "infants" and "incompetent persons," the Bankruptcy Code is silent as to whether someone can file a bankruptcy case on behalf of another person, typically by way of a power of attorney. Thus, at least one court has taken a very restrictive view and held that except as allowed by Rule 1004.1, another person may never file a voluntary case on behalf of another individual.⁷

By contrast, there are a range of bankruptcy decisions that authorize bankruptcy filings through the use of powers of attorney. Some of these decisions permit a petition to be filed pursuant to a broad, generic grant of authority contained in a power of attorney.⁸ Other cases prohibit a bankruptcy filing absent a specific, express provision that enumerates a bankruptcy filing as part of the authority conveyed under the power of

ELDER BANKRUPTCY FILINGS; CAPACITY ISSUES (continued)

attorney.⁹ A third group of cases takes a middle approach as to the necessary language in the power of attorney.¹⁰

Regardless of how a specific court will rule, practitioners must understand that bankruptcy courts are reluctant to permit a party other than the debtor to sign and file a petition under a power of attorney. As one court noted, “(t)he filing of a bankruptcy petition is a serious act which necessarily involves exposing the financial and legal affairs of the petitioner to all interested parties in a public forum.”¹¹ Given its profound legal consequences, another court has observed that filing bankruptcy “should not be undertaken without careful deliberation.”¹²

Moreover, the bankruptcy process contemplates complete and accurate disclosure about a debtor’s financial condition – both in written bankruptcy schedules and statements, and in oral testimony at a meeting of creditors.¹³ Typically, this information is only available from the debtor personally. And absent extraordinary circumstances, creditors have the right to demand the personal participation of the debtor in bankruptcy proceedings as a condition of the debtor obtaining a discharge.

In sum, filing a bankruptcy case is among the most important financial decisions a person will make during his or her lifetime. In light of the lack of clarity concerning the use of powers of attorney; the heightened importance of financial disclosure in bankruptcy cases; and the legal consequences of filing bankruptcy, attorneys should proceed very cautiously before advising clients to sign a bankruptcy petition for another person using a power of attorney. And in those extremely rare cases when a power of attorney is used, attorneys should check the language of the instrument to ensure that it authorizes a bankruptcy filing.

¹ Peter C. Anderson currently serves as the United States Trustee for the Central District of California, Region 16. Abram S. Feuerstein serves as an Assistant U.S. Trustee and supervises the Riverside Field Office of the United States Trustee Program.

² See generally, J. Golmant and J. Woods, “Aging and Bankruptcy Revisited,” *American Bankruptcy Institute Journal*, September 2010; and J. Pottow, *The Rise in Elder Bankruptcy Filings and Failure of U.S. Bankruptcy Law*, 19 *Elder L.J.* 119 (2011).

³ *In re Myers*, 350 B.R. 760, 762-3 (Bankr.N.D.Ohio 2006) (collecting cases).

⁴Unless otherwise noted, all statutory references are to the Bankruptcy Code, Title 11, United States Code, and rule references are to the Federal Rules of Bankruptcy Procedure.

⁵In fact, Section 109 supports the filing of bankruptcy by incapacitated and/or disabled persons. Most non-bankruptcy lawyers generally are aware that in 2005 Congress enacted substantial measures to reform the nation’s bankruptcy laws. As part of the wide-ranging amendments, Congress enacted educational requirements for bankruptcy debtors. These mandate that debtors take a *pre*-bankruptcy credit counseling class; and, as a condition of receiving a bankruptcy discharge, debtors are required to take a financial management course *after* they file bankruptcy.

Under Section 109(h)(4), incapacitated or disabled debtors specifically are exempted from meeting the pre-bankruptcy educational requirement. Similarly, the discharge provisions of the Bankruptcy Code exempt incapacitated debtors from the requirement of completing a post-filing course. These provisions manifest a Congressional awareness that incapacitated debtors indeed could be bankruptcy debtors, and Congress went the extra step of excluding such debtors from the newly enacted educational requirements.

⁶The representative and/or would-be representative face another hurdle involving the 2005 education requirements added to the Code. The Code’s educational requirements may be a non-delegable duty. See, e.g., *In re Hammer*, 2008 WL 6177312 (Bankr.N.D.Ohio 2008). Instead of a representative taking the class on behalf of a debtor or, worse, pretending that the incompetent debtor took the class and is capable of certifying that the requirement has been completed, the representative may want to consider filing a motion excusing compliance with the pre- and post-bankruptcy filing educational requirements.

⁷*In re Vitagliano*, 303 B.R. 292, 293 (Bankr.W.D.N.Y. 2003); see also, *In re Smith*, 115 B.R. 84 (Bankr.E.D.Va. 1990) (authorizing filing through a court-appointed guardian having specific authorization to file bankruptcy, but not a power of attorney).

⁸ See, e.g., *In re Hurt*, 234 B.R. 1, 3-4 (Bankr.D.N.H. 1999).

⁹ See, e.g., *In re Eicholz*, 310 B.R. 203, 207 (Bankr.W.D.Wash. 2004).

¹⁰ See, e.g., *In re Curtis*, 262 B.R. 619, 622 (Bankr.D.Vt. 2001).

¹¹ *In re Brown*, 163 B.R. 596, 597 (Bankr.N.D.Fla. 1993).

¹² *Curtis*, 262 B.R. at 624.

¹³ Section 343 of the Bankruptcy Code requires a bankruptcy debtor to appear and submit to an examination under oath at a meeting of creditors.



Transcript of Public Meeting on Proposed Fee Guidelines Now Available



On June 4, 2012, Director Cliff White conducted a public meeting to hear comments on the U.S. Trustee Program's (USTP) proposed guidelines for reviewing applications for attorney compensation in larger chapter 11 cases. At the meeting, seven commenters from private practice, academia, and professional associations made presentations and responded to

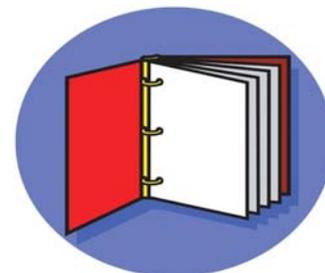
questions from a panel of USTP officials. The public forum provided a productive exchange of views and perspectives that will assist the USTP in developing the final Guidelines to enhance attorney disclosures, compliance with statutory standards for the award of professional fees, and public confidence in the integrity of the bankruptcy process. The USTP expects to post a revised draft of the proposed Guidelines for an additional brief comment period. A transcript of the public meeting is now available for review at www.justice.gov/ust/.

Annual Trustee Seminar “Another Day in LA!”

The Chapter 7 Annual Trustee Seminar was held on June 6, 2012, in the Los Angeles offices of the U.S. Trustee. The conference was opened with remarks by U.S. Trustee Peter Anderson, followed by EOUST Director Clifford White, who spoke of the Program's involvement with the National Mortgage Settlement, and about the proposed changes to the Chapter 11 Fees and Guidelines. The remainder of the day consisted of panel discussions ranging from case law developments to the use of an ombudsman for patient case information and privacy. Forty five chapter 7 trustees attended.

Reports Now Available at www.justice.gov/ust

- FY 2011 Criminal Report to Congress
- USTP Strategic Plan for 2012-2016



USTP Representatives Provide Training at Foreclosure Rescue/Bankruptcy Fraud Summit.

On July 25, representatives from USTP Regions 15, 16, and 17 – covering all judicial districts in California – participated in a Mortgage Foreclosure Rescue and Bankruptcy Fraud Summit hosted by the State Bar of California in Los Angeles. The State Bar expanded its loan modification fraud initiative to include attorney-operated mortgage rescue scams and “bankruptcy mills” (high-volume consumer bankruptcy law practices) that enable or facilitate bankruptcy fraud scams. Region 15 Acting U.S. Trustee Tiffany Carroll; Jennifer Braun and Antonia Darling, the Assistant U.S. Trustees for Woodland Hills and Sacramento, respectively; and staff from offices in Region 16 discussed basic bankruptcy law, bankruptcy-related scams, and red flags indicating fraud. Attendees included representatives from the U.S. Attorney’s Office, FBI, U.S. Postal Inspection Service, Consumer Financial Protection Bureau, Federal Housing Finance Agency, California Department of Justice, California Department of Real Estate, and several district attorneys’ offices.

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.

<http://www.cacb.uscourts.gov/> connects you to the United States Bankruptcy Court for the Central District of California.

<http://www.calbar.ca.gov/> will get you to the State Bar of California’s website where you can search attorney names.



YTD 2012 Filings for Central District

January through July

	Chapter 7	Chapter 11	Chapter 12	Chapter 13	Grand Total
Opened	48,115	567	5	14,557	63,244
Reopened	2,727	17	0	85	2,829
Total	50,842	584	5	14,642	66,073
Change from 2011	-17.1%	-19.1%	16.7%	-30.7%	-20.6%



Chapter 7 Trustee Howard Ehrenberg of Sulmeyer Kupetz, PC recently hosted a delegation from the Thai Ministry of Justice. Trustee Ehrenberg, through a translator, explained the trustee's role in the bankruptcy process. The delegates wanted to know how trustees are appointed and by whom, how they interact with the Court and the role of the U.S. Trustee. They were also interested in how cases are administered, particularly how assets are sold, and how trustees enforce the law when dealing with an uncooperative debtor.

CRIMINAL

NEWS



Austin, Texas Man Sentenced to 61 Months in Federal Prison for Foreclosure-Rescue Scam and Identity Theft

Defendant Collected \$1.6 million from more than 1,100 Distressed Homeowners

LOS ANGELES – An Austin, Texas man was sentenced today in the Western District of Texas for his role in operating a foreclosure-rescue scam in Southern California and elsewhere that charged distressed homeowners fees in exchange for fraudulently delaying foreclosure sales.

Frederic Alan Gladle, 53, was sentenced by Federal District Court Judge Lee Yeakel to 37-months for bankruptcy fraud, and to an additional 24-months for identity theft, for a total sentence of 61 months.

“Foreclosure-rescue scams are intentionally designed to victimize people in extreme financial distress,” said United States

Attorney André Birotte Jr.

“Financial predators like Mr. Gladle need to be held accountable for the harm they cause and today’s sentence does just that, sending the message to scam artists like Mr. Gladle that the final outcome for their criminal schemes is a long stay in federal prison.”



Frederic Alan Gladle

“Mr. Gladle concocted an elaborate fraud scheme to use the financial crisis to his criminal advantage,” said Assistant Attorney General Lanny A. Breuer of the Justice Department’s Criminal Division. “He preyed

upon vulnerable homeowners facing foreclosure, just as the housing bubble began to burst, and stood in the way of financial institutions attempting to collect on their debts. We will continue to pursue scam artists like Mr. Gladle, and ensure that they are held accountable for their crimes.”

“This scheme was particularly insidious in that Mr. Gladle exploited victims who were already in financial straits,” said FBI Assistant Director Steven Martinez of the FBI’s Los Angeles Field Office. “This sentence should send a message to those contemplating similar fraud targeting vulnerable individuals or the banking system and, in addition, should encourage those trying to salvage their homes to beware of fraudulent rescue offers.”

(continued on next page)

CRIMINAL ENFORCEMENT NEWS (CONTINUED)

Frederic Alan Gladle, 53, was charged on Dec. 9, 2011, in U.S. District Court in Los Angeles with one count of bankruptcy fraud and one count of aggravated identity theft. On January 6, 2012, Gladle pled guilty after the case was transferred to Austin, Texas, and was ordered detained without bond.

Gladle admitted that beginning in October 2007 and continuing until October 2011, he operated a foreclosure-rescue fraud scheme that netted him more than \$1.6 million in fees from distressed homeowners. According to court documents, Gladle used five aliases to avoid detection, including stealing the identity of at least one person and setting up a mobile phone account in that victim's name.

Gladle admitted that he recruited homeowners whose properties were in danger of imminent foreclosure and falsely promised to delay the foreclosures for up to six months, in exchange for a fee of approximately \$750 per month. Gladle, directly or through salespersons, directed homeowners to sign deeds granting fractional

interest in their properties to debtors in bankruptcy proceedings whose names Gladle found by searching bankruptcy records. The debtors were unaware that their names and bankruptcy cases were being stolen by Gladle in his scheme. Gladle then sent the unsuspecting debtors' bankruptcy petitions, and the deeds that transferred fractional interests to the debtors, to the homeowners' lenders to stop foreclosure proceedings.

Because bankruptcy filings give rise to automatic stays that protect debtors' properties, the receipt of the bankruptcy petitions and deeds in the debtors' names forced lenders to cancel foreclosure sales. The lenders, which included banks who received government funds under the Troubled Asset Relief Program (TARP), could not move forward to collect money that was owed to them until getting permission from the bankruptcy courts, thereby repeatedly delaying the lenders' recovery of their money. When homeowners wanted to void the deeds to the unsuspecting debtors, Gladle would forge the debtors' signatures on papers

voiding the deeds.

"Gladle preyed on struggling homeowners with promises to delay their foreclosures for a fee," said Christy Romero, Special Inspector General at SIGTARP. "To forestall the foreclosures, Gladle deeded away a portion of their homes to unsuspecting debtors in bankruptcy, stealing the debtors' identities and forging their signatures. Gladle exploited homeowners, the debtors whose identities he stole, and multiple banks, including TARP banks. The exploitation of TARP will not be tolerated, and SIGTARP and our partners will hold individuals accountable for their actions."

"Criminal bankruptcy fraud and foreclosure-rescue fraud schemes, in particular, threaten 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). “This sentence sends a strong message that abuse of the bankruptcy process will not be permitted.”

Gladle’s sentence follows the arrest in Canada last month of Glen Alan Ward, who had been a fugitive since 2000 for allegedly operating the same scheme as Gladle. According to court documents, Ward, who also goes by the name Brandon Michaels, is alleged to have worked with and taught Gladle the scheme. Ward is currently being detained in Canada pending his extradition to the United States.

This case is being prosecuted by the United States Attorney’s Office for the Central District of California, and the Fraud Section in the Justice Department’s Criminal Division, and who received assistance from the United States Attorney’s Office for the Western District of Texas. The investigation was conducted by the Federal Bureau of Investigation and the Special Inspector General for the Troubled Asset Relief Program (SIGTARP), which received assistance from the U.S. Trustee’s Office.

This prosecution is part of efforts underway by President Barack Obama’s Financial Fraud Enforcement Task Force. President Obama established the inter-agency Financial Fraud Enforcement Task Force to wage an aggressive, coordinated and proactive effort to investigate and prosecute financial crimes. The task force includes representatives from federal agencies, regulatory authorities, inspectors general and state and local law enforcement who, working together, bring to bear a powerful array of criminal and civil enforcement resources. The 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. For more information about the task force visit: www.stopfraud.gov.

Release No. 12-057

Former Major League Baseball Player Lenny Dykstra Pleads Guilty in Federal Court to Bankruptcy Fraud and Money Laundering



July 16, 2012

Lenny Kyle Dykstra, an All-Star outfielder who played for the New York Mets and Philadelphia Phillies, pleaded guilty today to bankruptcy fraud and other federal charges for selling items pilfered from his mansions in Ventura County.

Dykstra, 48, who was known by the nickname "Nails," pleaded guilty to three felony counts – bankruptcy fraud, concealment of assets, and money laundering. As result of the guilty pleas, Dykstra faces a statutory maximum sentence of 20 years in federal prison.

Dykstra is currently in state custody after having been convicted in Los Angeles Superior Court on unrelated charges.

CRIMINAL ENFORCEMENT NEWS (CONTINUED)

In court today, Dykstra admitted that he filed a bankruptcy case on July 7, 2009, and later lied about taking and selling items that were part of the bankruptcy estate. Dykstra specifically admitted he committed bankruptcy fraud by lying about whether he had taken and sold items from his \$18 million mansion in Sherwood Estates that he had purchased from Wayne and Janet Gretskey. Dykstra also admitted that he concealed property from the bankruptcy estate, items that included baseball memorabilia stored in his other Sherwood Estates mansion. And, Dykstra admitted that he sold some of the memorabilia and laundered the proceeds by taking \$15,000 earned from the sale and purchasing a cashier's check in another person's name.

Dykstra also admitted that there were at least 10 creditors who were victims of his crimes, and those victims lost between \$200,000 and \$400,000.

"Mr. Dykstra's days of playing games with the public and the legal system are over. With these federal convictions, Mr. Dykstra's fraud and deceit have been exposed for all to see," says André Birotte Jr., whose office prosecuted the case. "These convictions should serve as a cautionary tale of a high-flying sports celebrity who tried to manipulate and exploit both his creditors and the bankruptcy laws of the United States."

The bankruptcy fraud and concealment charges carry a statutory maximum penalty of five years in federal prison. The money laundering charge carries a potential sentence of up to 1 years in prison, in addition to fines and mandatory restitution.

Dykstra pleaded guilty before United States District Judge Dean D. Pregerson, who scheduled a sentencing hearing for December 3, 2012 at 1:30 p.m.

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

"The FBI is committed to investigating financial crime, including the bankruptcy fraud to which Mr. Dykstra pleaded guilty," said Timothy Delaney, Acting FBI Assistant Director in Charge in Los Angeles. "At one time, Mr. Dykstra inspired Americans but later, sadly, he chose to defraud his fellow Americans and the United States government. His acknowledgement of these crimes may prevent others from engaging in similar activity."

"Lenny Dykstra improperly concealed and sold assets – including baseball equipment and memorabilia – failing to disclose the proceeds from the sale to the bankruptcy court. Mr. Dykstra didn't just commit an error – he committed a felony," said Leslie P. DeMarco, Special Agent in Charge of IRS-Criminal Investigation's Los Angeles Field Office. "IRS-Criminal Investigation is proud to work with our law enforcement partners by lending its financial expertise in these complex investigations."

Peter C. Anderson, the United States Trustee for Region 16, stated: "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. The bankruptcy-related conduct to which Mr. Dykstra pleaded guilty constitutes an egregious abuse of the bankruptcy system and will not be tolerated."

The investigation in the bankruptcy fraud case was conducted by the Federal Bureau of Investigation and IRS - Criminal Investigation. The United States

CRIMINAL (Continued)

Trustee for the Central District of California (Region 16) provided substantial assistance during the investigation.

Release No. 12-092

Debtor Sentenced to Nearly 10 Years in State Prison for Grand Theft

On May 14, the U.S. Trustee's Woodland Hills office learned that Neelam Bhatia was recently sentenced to nine years and eight months in California state prison following her conviction on six counts of grand theft. A jury found Bhatia stole, through fraud and embezzlement, approximately \$1,110,000 in escrow funds belonging to consumers expecting to buy homes. The Woodland Hills office assisted the district attorney's office in its investigation. The U.S. Trustee also filed a complaint and obtained the stipulated denial of Neelam and Anoopman Bhatia's chapter 7 discharge of \$329,900 in unsecured debt.



CIVIL ENFORCEMENT NEWS

Failure to Disclose Harley and Property results in Denial of \$470,884 Discharge

On March 7, the Bankruptcy Court for the Central District of California denied the discharge of \$470,884 in debt owed by a debtor pursuant to a stipulated waiver of discharge obtained by the U.S. Trustee's Riverside office. The U.S. Trustee's investigation revealed that the debtor failed to disclose three parcels of property and a Harley Davidson motorcycle. The debtor asserted that family members owned the properties, but the U.S. Trustee determined she engaged in sham transactions to disguise her ownership interests.

Attorney makes \$20K per Month and Still Can't Pay?

Ruling for the U.S. Trustee's Woodland Hills office, on February 21, the Bankruptcy Court for the Central District of California dismissed a debtor's case, preventing the chapter 7 discharge of \$166,170 in unsecured debt. The debtor earned more than \$20,000 per month in gross income from his work as an attorney, but contended he could not repay his debts. The U.S. Trustee successfully argued that, after reasonable adjustments to his \$7,000 monthly housing expense and his \$1,400 monthly contribution to a 401(k) fund, the debtor had disposable income with which to repay creditors.

(Civil Enforcement News continued on next page)

CIVIL ENFORCEMENT NEWS (Continued)

Reality TV Star Cannot Discharge \$544,521 in Unsecured Debt

Granting a motion for summary judgment filed by the U.S. Trustee's Los Angeles office, on March 27, the Bankruptcy Court for the Central District of California denied this debtor's chapter 7 discharge of \$544,521 in unsecured debt. The debtor most recently appeared in one of "The Real Housewives" franchises. In his bankruptcy case, the debtor claimed that he had no assets and minimal income, and that he had transferred his business to a former employee to whom he owed wages. He had no records to prove the transfer or his financial condition during the 18 months before filing bankruptcy. He also claimed he never received \$350,000 related to a business, although the U.S. Trustee obtained evidence to the contrary.

What Happened to the \$600K and Mom's Trust Fund?

On March 27, the Bankruptcy Court for the Central District of California denied the discharge of \$530,795 in unsecured debt owed by a debtor. The U.S. Trustee's Riverside office objected to her discharge after an investigation revealed she failed to account for more than \$600,000 in pre- and post-petition withdrawals she made from her retirement accounts. In addition, the debtor served as trustee of her mother's trust and failed to account for more than \$300,000 in trust property. She failed to answer the U.S. Trustee's complaint, and the court granted a motion for default judgment.

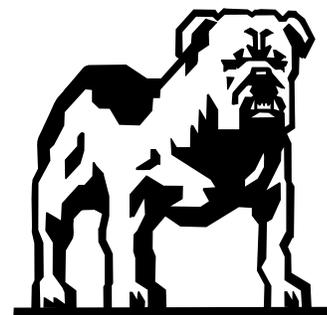
True Monthly Income Puts Them in a Chapter 11 or 13

Ruling for the U.S. Trustee's Woodland Hills office, on April 26, the Bankruptcy Court for the Central District of California ordered these joint debtors' case dismissed if they did not con-

vert to chapter 11 or chapter 13, preventing the chapter 7 discharge of \$272,247 in unsecured debt. When they filed bankruptcy, the debtors under-reported their income by more than \$1,000 per month and listed expenses of nearly twice the amount allowed under the IRS Standards. The U.S. Trustee argued that, taking into account the debtors' true monthly income and reducing their expenses to reasonable levels, they had ample disposable income available to repay creditors.

Consent Denial for Debtor Who Doesn't Want to Appear

On May 11, the Bankruptcy Court for the Central District of California denied a debtor's chapter 7 discharge of \$297,268 in unsecured debt. When she filed bankruptcy, she listed minimal income and assets, but her schedules identified several luxury vehicles including three Mercedes Benz, a Porsche, and a Harley Davidson motorcycle. The debtor testified she co-signed the loan applications for these vehicles while working at a corporation and did not know their current location. The U.S. Trustee's Los Angeles office requested that she produce documents related to vehicle acquisitions and attend a Bankruptcy Rule 2004 examination. Glow refused to produce documents or attend the examination. She entered into a stipulation with the U.S. Trustee to deny her discharge.



CIVIL ENFORCEMENT NEWS (Continued)

Under Reporting of Income and No Discharge of \$919,969 in Unsecured Debt

Granting a motion filed by the U.S. Trustee's Los Angeles office, on July 12, the Bankruptcy Court for the Central District of California dismissed this debtor's chapter 7 case, preventing the discharge of \$919,969 in unsecured debt. The U.S. Trustee sought dismissal based upon the debtor's under-reporting of her income by almost \$1,500 per month and her claimed ownership expenses for two vehicles, one of which she owned free and clear, for a single person household. After adjustments to income and expenses, the debtor had more than \$1,700 in monthly disposable income available to pay creditors.

Judge Says Don't Come Back for 18 Months !

On July 25, the Bankruptcy Court for the Central District of California approved a stipulation by a debtor under which his case was dismissed with an 18-month bar against re-filing. The debtor sought to discharge \$929,000 in unsecured debt; the U.S. Trustee's Los Angeles office filed a motion to dismiss for bad faith. The debtor's schedules showed minimal income in the years before he filed bankruptcy. Nonetheless, pre-petition, the debtor 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.

Chapter 11 Debtor's Counsel Ordered to Disgorge All Fees

On February 7, the Bankruptcy Court for the Cen-

tral District of California granted a motion by the U.S. Trustee's Riverside office to disgorge all legal fees paid to chapter 11 debtors' counsel. After substituting into the case, debtor's counsel failed to file an employment application or otherwise seek court approval of his retention. He demanded that he receive funds from non-debtor sources in an effort to conceal his compensation, and made numerous errors that led to dismissal of the case with a bar against re-filing. The court ordered the attorney to disgorge \$42,000 in fees.

Court Cuts Fees of Debtor's Counsel by \$90,074, or Over 18 Percent

On April 6, the Bankruptcy Court for the Central District of California reduced the final compensation requested by debtor's counsel \$90,074. The law firm sought approval of \$488,026 in fees for services as counsel for an individual chapter 11 debtor. The debtor fired the firm as legal expenses mounted and the firm's bills became unmanageable. The U.S. Trustee's Riverside office objected to the fees on the ground that the firm spent excessive time on its employment and fee applications and on uncomplicated and uncontested tasks, and exercised poor billing judgment overall.



ATTORNEY/PETITION PREPARER ACTIONS

Bankruptcy Petition Preparers Sanctioned \$21,700 for Multiple Violations

Ruling for the U.S. Trustee's Riverside office, on June 5, the Bankruptcy Court for the Central District of California ordered these bankruptcy petition preparers to pay fines of \$19,500 to the U.S. Trustee, disgorge \$200 in fees to the debtor, and pay statutory damages of \$2,000. The U.S. Trustee argued they engaged in fraudulent conduct by failing to identify their involvement on the debtor's bankruptcy papers and using "legal" in their advertising. Additionally, the preparers unlawfully provided legal advice to the debtor by encouraging the debtor to file bankruptcy solely to stop a pending foreclosure.

Consumer Bankruptcy Attorney Suspended for Five Years, Sanctioned \$92,300

On June 27, a three-judge panel of the Bankruptcy Court for the Central District of California ordered an attorney suspended from practice before the bankruptcy court. After the U.S. Trustee's Woodland Hills office presented evidence of the attorney's repeated misconduct, the panel found that he abandoned clients, failed to disclose fees, abused the bankruptcy process, and failed to comply with multiple sanctions orders. The panel directed that the attorney be suspended from all practice before the bankruptcy court for at least five years, pay \$92,300 as required by outstanding sanctions and disgorgement orders, and demonstrate remedial steps.

Bankruptcy Petition Preparers Sanctioned \$26,000 for Deceptive "Foreclosure Rescue"

Ruling for the U.S. Trustee's Riverside office, on August 8, the Bankruptcy Court for the Central District of California ordered these bankruptcy petition pre-

parers to pay fines of \$8,000 to the U.S. Trustee, disgorge \$6,000 in fees to a debtor and pay damages of \$12,000. The petition preparers failed to identify their identity in the debtor's bankruptcy papers. An investigation by the U.S. Trustee revealed a fraudulent scheme to delay a scheduled foreclosure sale. Before filing bankruptcy case to stop the foreclosure, the petition preparers pressured him to convey his home to an entity and to pay rent to the preparer. The U.S. Trustee's investigation further revealed the petition preparers provided legal advice to the debtor and charged him excessive fees for these services.

Petition Preparer Sanctioned \$16,400 for Multiple Violations

On April 30, the Bankruptcy Court for the Central District of California granted the motion of the U.S. Trustee's Riverside office and directed a bankruptcy petition preparer to pay the debtors \$2,000 in statutory damages, forfeit \$900 in fees, and pay a \$13,500 fine to the U.S. Trustee. The preparer charged the debtors \$900 for loan modification and bankruptcy services. She failed to identify herself as a bankruptcy petition preparer, offered legal advice, concealed her excessive fees, and collected court filing fees in violation of 11 U.S.C. § 110.



OUST Staff News

Paralegal Specialist *Ranetta Chappell* has transferred from our Riverside office to the Los Angeles Office.

Paralegal Specialist *Susan Trevino* has transferred from our Los Angeles office to our Riverside Office.

Trial Attorney *Kate Bunker* and her husband Brian welcomed daughter *Brooke Katherine* on May 28th. Baby Brooke joins big brother Jack, 15 months.



Legal Clerk *Carolyn Fusilier* retired May 1, 2012 with 33 years of government service, 16 years with the USTP.



Congratulations, Carol!!

Carol with her family



Carol with Peter Anderson, UST and Jill Sturtevant, AUST



Carol's friends and family



The U.S. Trustee's Riverside Office is Moving!

**Effective October 22nd the Riverside OUST will be located at
3801 University Avenue
Riverside, CA 92501-3200**

**Meeting rooms will be located on the First Floor and staff offices will
be on the Seventh Floor.**



**Riverside Standing Trustee Rod Danielson has
recently moved to:**

**3787 University Avenue
Riverside CA 92501**

(corner of University and Market).

**Telephone & fax numbers, and e-mail are not
changed.**

U.S. Department of Justice Office of the U.S. Trustee
Central District of California
725 S. Figueroa Street
Suite 2600
Los Angeles, CA 90017

The Watchdog Staff

Assistant U.S. Trustee L. Charmayne Mills
Regional Analyst Carol O. Raineri
Paralegal Specialist Frances Yang

Questions for Region 16 can be directed to:

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.

U.S. Trustee Mission Statement

The USTP Mission is to promote integrity and efficiency in the nation's bankruptcy system by enforcing bankruptcy laws, providing oversight of private trustees, and maintaining operational excellence.

