

# USTP Enforcement Activity

## FY04-10

As of September 30, 2010

Annual Data Tables

Office of Planning and Evaluation  
United States Trustee Program  
U.S. Department of Justice

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## Introduction

The annual data tables contained in this document provide summary statistics on the civil enforcement activities of the United States Trustee Program. The tables summarize data for Fiscal Year 2004 through Fiscal Year 2010 (October 1, 2003 through September 30, 2010). This report covers civil enforcement activity in four major areas: general civil enforcement, case administration, creditor abuse, and debtor identification.

### **United States Trustee Program**

The United States Trustee Program (Program) is the component of the Department of Justice that is responsible for overseeing the administration of bankruptcy cases. The Program's mission is to promote integrity and efficiency in the bankruptcy system by enforcing bankruptcy laws; appointing and supervising private trustees; and ensuring that those involved in the process, including debtors, creditors, attorneys, and other professionals, fulfill their legal obligations. To carry out its mission, the Program has standing to participate in every bankruptcy case within its jurisdiction. (By statute, the Program does not have jurisdiction in Alabama and North Carolina.)

Further explanation of Program activity and a more detailed explanation of the types of enforcement actions are contained in the Program's Annual Reports of Significant Accomplishments, which are posted at the following website:

[http://www.justice.gov/ust/eo/public\\_affairs/annualreport/index.htm](http://www.justice.gov/ust/eo/public_affairs/annualreport/index.htm)

## Data Definitions

**Formal Actions** include all motions, complaints and objections filed by Program personnel with the bankruptcy court seeking some type of relief.

**Informal Actions** include documented telephone calls, letters, e-mail transmissions, facsimile transmissions, and documented personal conversations by the United States Trustee to the debtor, debtor's counsel, or a third party (such as a trustee), raising a specific issue in a specific case that requires a response.

**Successful Litigation Outcomes** include outcomes where the court entered an order granting the relief sought by the United States Trustee, in whole or in part, or the defendant agreed to other relief satisfactory to the United States Trustee.

**Success Rate** is computed as the total number of formal actions where the court granted some or all of the relief sought or the defendant agreed to relief satisfactory to the US Trustee, divided by the total number of formal actions adjudicated or satisfactorily resolved prior to adjudication.

**Financial Impact** represents debt that potentially is not discharged in a bankruptcy case as a result of Program efforts. The measure also includes funds that become part of or remain in bankruptcy estates, funds that are returned to debtors, funds that are paid to the Treasury, and sanctions and fines as a result of Program efforts.

**Table 1 – Formal Actions**

Type of Formal Action	Total FY04–10	FY 2010	FY 2009	FY 2008	FY 2007	FY 2006	FY 2005	FY 2004
<b>General Civil Enforcement</b>								
§ 707(a) Dismissal for Cause	<b>28,548</b>	2,672	3,107	3,709	5,248	6,477	3,570	3,765
§ 707(b) Dismissal for Abuse	<b>30,227</b>	3,809	3,912	4,372	4,835	4,301	4,245	4,753
§ 727 Denial of Discharge	<b>11,482</b>	1,966	2,006	1,810	1,639	1,704	1,301	1,056
§ 1328(f) Denial of Discharge	<b>688</b>	51	91	313	233	N/A	N/A	N/A
§ 1307(c) Dismissal or Conversion	<b>5,015</b>	367	331	958	1,885	708	766	N/A
§ 110 Bankruptcy Petition Preparers	<b>2,919</b>	520	301	167	245	246	546	894
§ 327 & § 1103 Appointment of Professionals	<b>5,015</b>	979	751	660	485	497	699	944
§ 329 Attorney Fee Disgorgement	<b>3,760</b>	667	542	540	465	421	418	707
Other Attorney Misconduct	<b>870</b>	142	41	53	66	191	166	211
Referrals to State Bar	<b>158</b>	39	13	19	19	11	40	17
<b>Creditor Abuse and Debt Relief Agencies</b>								
§ 526 Debt Relief Agencies	<b>61</b>	5	6	39	9	2	N/A	N/A
Abusive Conduct by Creditors	<b>646</b>	122	318	130	57	19	N/A	N/A
<b>Case Administration</b>								
§ 1112(b) Conversion or Dismissal	<b>21,588</b>	4,400	3,459	2,766	2,289	2,429	2,938	3,307
§ 1125 Disclosure Statements	<b>3,808</b>	812	489	362	405	408	630	702
§ 1129 Plan Confirmation	<b>2,076</b>	446	291	235	241	237	281	345
§ 1104 Appointment of Trustee or Examiner	<b>808</b>	150	125	122	108	63	117	123
§ 330 Professional Fee Requests	<b>4,902</b>	629	511	546	581	630	957	1,048
§ 326 Trustee Fees	<b>623</b>	26	29	73	97	98	179	121
§ 503(c) Key Employee Retention Plans	<b>28</b>	28	N/A	N/A	N/A	N/A	N/A	N/A
<b>Debtor Identification</b>								
Debtor Identification - Motions/Objections	<b>1,019</b>	37	38	45	43	212	203	441
<b>Total</b>	<b>124,241</b>	17,867	16,361	16,919	18,950	18,654	17,056	18,434

N/A – Data are not available for the year indicated.

**Table 2 – Informal Actions**

Type of Informal Action	Total FY04–10	FY 2010	FY 2009	FY 2008	FY 2007	FY 2006	FY 2005	FY 2004
<b>General Civil Enforcement</b>								
§ 707(a) Dismissal for Cause	28,212	3,106	3,946	4,211	6,014	4,624	3,458	2,853
§ 707(b) Dismissal for Abuse	191,781	22,629	24,817	31,480	40,130	26,864	22,433	23,428
§ 727 Denial of Discharge	23,236	3,733	3,765	4,259	3,598	2,826	2,646	2,409
§ 1328(f) Denial of Discharge	1,574	253	327	541	453	N/A	N/A	N/A
§ 1307(c) Dismissal or Conversion	1,707	145	207	340	456	279	280	N/A
§ 110 Bankruptcy Petition Preparers	5,883	965	667	597	470	817	1,007	1,360
§ 327 & § 1103 Appointment of Professionals	5,237	1,162	1,024	725	551	509	555	711
§ 329 Attorney Fee Disgorgements	7,587	1,438	1,464	1,103	1,158	897	776	751
Other Attorney Misconduct	2,323	364	430	232	227	258	326	486
<b>Creditor Abuse and Debt Relief Agencies</b>								
§ 526 Debt Relief Agencies	111	33	13	21	25	19	N/A	N/A
Abusive Conduct by Creditors	6,235	2,780	3,207	190	44	14	N/A	N/A
<b>Case Administration</b>								
§ 1112(b) Conversion or Dismissal	7,042	1,608	1,187	1,009	1,012	796	656	774
§ 1125 Disclosure Statements	2,075	422	292	260	226	250	279	346
§ 1129 Plan Confirmation	1,081	246	170	123	142	127	116	157
§ 1104 Appointment of Trustee or Examiner	332	70	49	57	51	25	36	44
§ 330 Professional Fee Requests	5,394	707	656	702	735	798	883	913
§ 326 Trustee Fees	1,540	105	142	224	325	300	237	207
§ 503(c) Key Employee Retention Plans	16	16	N/A	N/A	N/A	N/A	N/A	N/A
<b>Debtor Identification*</b>								
Debtor Identification – Problems Identified	21,910	2,171	2,109	2,084	1,633	3,074	4,598	6,241
<b>Total</b>	<b>313,276</b>	<b>41,953</b>	<b>44,472</b>	<b>48,158</b>	<b>57,250</b>	<b>42,477</b>	<b>38,286</b>	<b>40,680</b>

N/A – Data are not available for the year indicated.

(1) Most informal actions relating to debtor identification issues are conducted by private trustees.

**Table 3 – Litigation Outcomes**

Type of Action	Success Rate							
	Total FY04–10	FY 2010	FY 2009	FY 2008	FY 2007	FY 2006	FY 2005	FY 2004
<b>General Civil Enforcement</b>								
§ 707(a) Dismissal for Cause	97.0%	97.9%	97.9%	96.9%	96.4%	97.3%	97.6%	95.1%
§ 707(b) Dismissal for Abuse	96.5%	98.1%	97.1%	97.1%	95.1%	96.8%	96.4%	95.2%
§ 727 Denial of Discharge	98.7%	99.2%	99.0%	99.2%	98.8%	99.3%	99.3%	94.5%
§ 1328 (f) Denial of Discharge	99.9%	100.0%	100.0%	99.7%	100.0%	N/A	N/A	N/A
§ 1307(c) Dismissal or Conversion	96.6%	99.3%	96.9%	98.1%	97.8%	97.4%	90.4%	N/A
§ 110 Bankruptcy Petition Preparers	97.1%	99.2%	98.1%	99.4%	98.5%	97.8%	98.0%	93.9%
§ 327 & § 1103 Appointment of Professionals	91.3%	90.9%	90.9%	91.7%	88.7%	93.4%	92.6%	90.7%
§ 329 Attorney Fee Disgorgement	92.5%	96.2%	92.6%	93.9%	92.5%	89.4%	91.7%	90.1%
Other Attorney Misconduct	91.2%	96.7%	94.9%	90.9%	91.8%	85.4%	91.3%	89.7%
<b>Creditor Abuse and Debt Relief Agencies</b>								
§ 526 Debt Relief Agencies	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	N/A	N/A
Abusive Conduct by Creditors	96.4%	98.8%	96.9%	93.7%	93.2%	100.0%	N/A	N/A
<b>Case Administration</b>								
§ 1112(b) Conversion or Dismissal	97.5%	98.1%	98.7%	98.2%	97.1%	97.5%	97.2%	95.5%
§ 1125 Disclosure Statements	98.5%	98.2%	98.9%	98.9%	97.8%	98.4%	98.8%	98.7%
§ 1129 Plan Confirmation	93.8%	95.7%	93.1%	93.5%	92.2%	92.7%	96.9%	91.4%
§ 1104 Appointment of Trustee or Examiner	93.0%	90.4%	94.1%	93.2%	95.4%	89.8%	94.2%	93.3%
§ 330 Professional Fee Requests	92.7%	94.5%	91.9%	93.0%	91.0%	92.0%	95.3%	91.0%
§ 326 Trustee Fees	86.4%	100.0%	73.1%	85.5%	75.0%	93.0%	88.8%	82.8%
<b>Debtor Identification</b>								
Debtor Identification - Motions/Objections	98.0%	96.2%	100.0%	100.0%	96.7%	98.5%	97.7%	98.0%
<b>Total</b>	<b>96.4%</b>	<b>97.5%</b>	<b>97.2%</b>	<b>97.1%</b>	<b>96.0%</b>	<b>96.7%</b>	<b>96.4%</b>	<b>94.3%</b>

N/A – Data are not available for the year indicated.

**Table 4 – Potential Financial Impact (\$1,000's)**

Type of Formal and Informal Action (1) (Includes Fines and Fees Recovered)	Total (2) FY04–10	FY 2010	FY 2009	FY 2008	FY 2007	FY 2006	FY 2005	FY 2004
<b>General Civil Enforcement</b>								
§ 707(a) Dismissal for Cause	\$1,491,908	\$888,759	\$138,007	\$108,015	\$161,277	\$168,060	\$27,790	N/A
§ 707(b) Dismissal for Abuse	\$2,422,544	\$475,168	\$394,186	\$375,162	\$320,267	\$299,064	\$283,683	\$275,014
§ 727 Denial of Discharge	\$2,843,448	\$976,044	\$505,748	\$326,140	\$326,927	\$297,004	\$219,084	\$192,501
§ 1328 (f) Denial of Discharge	\$58,381	\$12,646	\$10,872	\$25,732	\$9,131	N/A	N/A	N/A
§ 110 Actions - Fines Imposed	\$13,356	\$4,219	\$2,874	\$668	\$443	\$259	\$2,143	\$2,750
§ 110 Actions - Fees Recovered	\$1,596	\$622	\$210	\$160	\$130	\$88	\$218	\$168
§ 329 Attorney Fee Disgorgement	\$23,320	\$2,466	\$1,776	\$1,060	\$1,955	\$11,079	\$663	\$4,321
Attorney Sanctions	\$2,065	\$230	\$220	\$34	\$50	\$1,144	\$78	\$309
<b>Creditor Abuse and Debt Relief Agencies</b>								
§ 526 Debt Relief Agencies	\$58	\$4	\$18	\$10	\$25	\$1	N/A	N/A
Creditor Claims Reduced or Withdrawn, Sanctions, and Fines	\$11,052	\$6,855	\$3,296	\$166	\$729	\$6	N/A	N/A
<b>Case Administration</b>								
§ 330 Professional Fee Requests	\$378,119	\$44,480	\$28,525	\$66,074	\$46,862	\$90,989	\$57,207	\$43,982
§ 326 Trustee Fees	\$25,083	\$1,883	\$4,139	\$1,231	\$2,228	\$10,473	\$2,636	\$2,493
<b>Debtor Identification</b>								
Debtor Identification - Objection to Discharge	\$4,795	\$1,776	\$155	\$552	\$508	\$552	\$417	\$835
<b>Total</b>	<b>\$7,275,721</b>	\$2,415,152	\$1,090,027	\$905,003	\$870,531	\$878,718	\$593,918	\$522,372

N/A – Data are not available for the year indicated.

- (1) Some enforcement activities of U.S. Trustees, even when successful, do not have a directly measurable financial impact. Therefore, there are fewer categories listed on this table than on the previous three tables.
- (2) Due to rounding, total potential financial impact by type of action or fiscal year may vary slightly from the sum of the row or column table entries.