

Handbook for Chapter 7 Trustees Summary of Significant Changes Effective October 1, 2012

Organization

- Reorganized and condensed nine chapters to six chapters.
- Moved Forms and Instructions, Sample Case, and appendices to a separate section entitled Supplementary Materials.

Language and Handbook References

- Replaced “should” with “must” where the Program specifically means “must”.
- The format of Handbook references has changed from referring to page numbers (i.e., Handbook page 9-5) to referring to chapters and sections (i.e., Handbook Chapter 5.A).

Policy Clarifications

-- Chapter 2

- Eliminated requirement that a trustee’s web site be separate from his firm’s website.
- Strengthened the provisions that a trustee may not purchase assets from an estate administered by another trustee.

-- Chapter 3

- Strengthened protection of personally identifiable information during meetings of creditors – trustees and those who swear in debtors at remote location must not ask the debtor to verbally recite their address and social security number on the record.
- Provided additional guidance on procedures to follow when a debtor asserts his Fifth Amendment privilege.
- Added guidance for preserving the chain of custody of 341 meeting records.
- Clarified when a trustee should proceed with questioning a represented debtor whose attorney is not present.

-- Chapter 4

- Clarified that if the trustee uses an auctioneer or appraiser to conduct an inventory of the debtor's property, this auctioneer or appraiser may not subsequently sell the property unless the trustee or a staff person was present when the auctioneer or appraiser took the inventory.
- Added section on the automatic stay.
- Added examples of when property should be abandoned.
- Amplified guidance on taxes.
- Added guidance on internet auctions and sales.
- Amplified guidance on supervision of auctioneers.
- Added guidance on objections to claims and trustees filing proofs of claim.
- Incorporated changes in Uniform Final Reports.
- Amplified discussion regarding DSO notices.
- Clarified policy on re-opened cases (trustees should not resume their duties without being appointed by the court).
- Updated section on review of petition preparers.

-- Chapter 5

- Amplified procedures for handling earnest monies.
- Provided additional guidance on investment of estate funds.
- Added that banks can assess charges for services if not prohibited by the Uniform Depository Agreement and subject to court approval as reasonable.
- Provided additional guidance on investment of estate funds.
- Amended the policy on use of a signature stamp to sign checks.
- Amended the policy on wire transfers out of estate accounts.
- Clarified the policy on Automated Clearing House (ACH) transactions and electronic funds transfers.
- Added financial policies for Internet auctions and sales.

- Amended the policy for changing passwords from annually to quarterly.
- Strengthened policies regarding safeguarding computer equipment from unauthorized access and use and incorporated a remote access policy.
- Added that the hard drives of all laptops must be encrypted and that mobile storage media or the files on them must be encrypted.
- Added that trustees must have a set of rules governing the use of the trustee's computer system by employees.
- Strengthened policies regarding protection of estate files, other bankruptcy papers, and portable equipment with memory capability when they are taken out of the trustee's office.

-- *Chapter 6*

- Updated the description of the chapter 7 trustee performance review to incorporate the additional areas covered in the new performance review effective October 1, 2012.
- Updated the section on procedures for suspension and termination pursuant to 28 C.F.R. § 58.6 to refer to seeking a judicial review of the decision by the Director to suspend or terminate the assignment of cases to the trustee.

Incorporation of BAPCPA and Previously Issued Memoranda Regarding Program Priorities

- BAPCPA provisions:
 - Review of documents filed by debtor for timeliness and sufficiency (Chapter 3)
 - Exemptions (Chapter 4)
 - Sale of assets that include personally identifiable information (Chapter 4)
 - Changes in the distribution priority scheme (Chapter 4)
 - Notices of domestic support obligations (Chapter 4)
 - Plan administrator and health care cases (Chapter 4)
 - Reviewing for abuse, 707(b) (Chapter 4)
 - Debtor audits (Chapter 4)

-- *Chapter 2*

- Elimination of references to one-year, renewal, and short-term appointments.
- Incorporation of the annual update to application of individual for appointment (or update to Background Questionnaire)

-- *Chapter 3*

- Added recent policies regarding individuals with limited English proficiency (LEP) and the Program's Language Assistant Policy (LAP), as well as the policy on debtors with a physical disability, including hearing impairment.

-- *Chapter 4*

- Incorporated USTP policies on trustee compensation.
- Updated for changes regarding Uniform Final Reports.

-- *Chapter 5*

- Incorporated USTP policies on trustee access and control of debtor tax returns.

Other

- Removed sections on reaffirmation and redemption as these sections were mainly informational.
- Removed duplicative recitations of Bankruptcy Code citations and case law references.