

USTP Enforcement Activity

FY06-12

As of September 30, 2012

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 2006 through Fiscal Year 2012 (October 1, 2005 through September 30, 2012). 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

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 FY06–12	FY 2012	FY 2011	FY 2010	FY 2009	FY 2008	FY 2007	FY 2006
General Civil Enforcement								
§ 707(a) Dismissal for Cause	25,557	2,084	2,260	2,672	3,107	3,709	5,248	6,477
§ 707(b) Dismissal for Abuse	27,295	2,743	3,323	3,809	3,912	4,372	4,835	4,301
§ 727 Denial of Discharge	12,779	1,717	1,937	1,966	2,006	1,810	1,639	1,704
§ 1328(f) Denial of Discharge	744	17	39	51	91	313	233	N/A
§ 1307(c) Dismissal or Conversion	4,713	193	271	367	331	958	1885	708
§ 110 Bankruptcy Petition Preparers	2,535	552	504	520	301	167	245	246
§ 327 & § 1103 Appointment of Professionals	5,327	1,025	930	979	751	660	485	497
§ 329 Attorney Fee Disgorgement	3,862	592	635	667	542	540	465	421
Other Attorney Misconduct	784	164	127	142	41	53	66	191
Referrals to State Bar	195	72	22	39	13	19	19	11
Creditor Abuse and Debt Relief Agencies								
§ 526 Debt Relief Agencies	117	9	47	5	6	39	9	2
Abusive Conduct by Creditors	1,633	428	559	122	318	130	57	19
Case Administration								
§ 1112(b) Conversion or Dismissal	24,332	4,423	4,566	4,400	3,459	2,766	2,289	2,429
§ 1125 Disclosure Statements	4,607	1,094	1,037	812	489	362	405	408
§ 1129 Plan Confirmation	2,476	495	531	446	291	235	241	237
§ 1104 Appointment of Trustee or Examiner	785	110	107	150	125	122	108	63
§ 330 Professional Fee Requests	4,280	699	684	629	511	546	581	630
§ 326 Trustee Fees	368	18	27	26	29	73	97	98
§ 503(c) Key Employee Retention Plans	85	34	23	28	N/A	N/A	N/A	N/A
Debtor Identification								
Debtor Identification - Motions/Objections	446	35	36	37	38	45	43	212
Total	122,920	16,504	17,665	17,867	16,361	16,919	18,950	18,654

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

Table 2 – Informal Actions

Type of Informal Action	Total FY06–12	FY 2012	FY 2011	FY 2010	FY 2009	FY 2008	FY 2007	FY 2006
General Civil Enforcement								
§ 707(a) Dismissal for Cause	26,562	2,213	2,448	3,106	3,946	4,211	6,014	4,624
§ 707(b) Dismissal for Abuse	178,576	15,002	17,654	22,629	24,817	31,480	40,130	26,864
§ 727 Denial of Discharge	22,992	2,176	2,635	3,733	3,765	4,259	3,598	2,826
§ 1328(f) Denial of Discharge	2,076	240	262	253	327	541	453	N/A
§ 1307(c) Dismissal or Conversion	1,595	83	85	145	207	340	456	279
§ 110 Bankruptcy Petition Preparers	5,444	809	1,119	965	667	597	470	817
§ 327 & § 1103 Appointment of Professionals	6,491	1,281	1,239	1,162	1,024	725	551	509
§ 329 Attorney Fee Disgorgements	8,831	1,328	1,443	1,438	1,464	1,103	1,158	897
Other Attorney Misconduct	2,184	307	366	364	430	232	227	258
Creditor Abuse and Debt Relief Agencies								
§ 526 Debt Relief Agencies	224	74	39	33	13	21	25	19
Abusive Conduct by Creditors	11,106	1,947	2,924	2,780	3,207	190	44	14
Case Administration								
§ 1112(b) Conversion or Dismissal	9,169	1,851	1,706	1,608	1,187	1,009	1,012	796
§ 1125 Disclosure Statements	2,576	586	540	422	292	260	226	250
§ 1129 Plan Confirmation	1,393	293	292	246	170	123	142	127
§ 1104 Appointment of Trustee or Examiner	338	39	47	70	49	57	51	25
§ 330 Professional Fee Requests	5,317	937	782	707	656	702	735	798
§ 326 Trustee Fees	1,426	151	179	105	142	224	325	300
§ 503(c) Key Employee Retention Plans	62	26	20	16	N/A	N/A	N/A	N/A
Debtor Identification*								
Debtor Identification – Problems Identified	14,908	1,752	2,085	2,171	2,109	2,084	1,633	3,074
Total	301,270	31,095	35,865	41,953	44,472	48,158	57,250	42,477

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 FY06–12	FY 2012	FY 2011	FY 2010	FY 2009	FY 2008	FY 2007	FY 2006
General Civil Enforcement								
§ 707(a) Dismissal for Cause	97.5%	98.6%	98.5%	97.9%	97.9%	96.9%	96.4%	97.3%
§ 707(b) Dismissal for Abuse	97.3%	98.9%	98.7%	98.1%	97.1%	97.1%	95.1%	96.8%
§ 727 Denial of Discharge	99.1%	98.7%	99.1%	99.2%	99.0%	99.2%	98.8%	99.3%
§ 1328 (f) Denial of Discharge	99.9%	100.0%	100.0%	100.0%	100.0%	99.7%	100.0%	N/A
§ 1307(c) Dismissal or Conversion	97.9%	98.7%	97.2%	99.3%	96.9%	98.1%	97.8%	97.4%
§ 110 Bankruptcy Petition Preparers	98.4%	97.3%	98.8%	99.2%	98.1%	99.4%	98.5%	97.8%
§ 327 & § 1103 Appointment of Professionals	90.9%	91.6%	89.2%	90.9%	90.9%	91.7%	88.7%	93.4%
§ 329 Attorney Fee Disgorgement	94.3%	97.1%	95.7%	96.2%	92.6%	93.9%	92.5%	89.4%
Other Attorney Misconduct	93.8%	97.4%	95.2%	96.7%	94.9%	90.9%	91.8%	85.4%
Creditor Abuse and Debt Relief Agencies								
§ 526 Debt Relief Agencies	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Abusive Conduct by Creditors	98.1%	99.3%	99.0%	98.8%	96.9%	93.7%	93.2%	100.0%
Case Administration								
§ 1112(b) Conversion or Dismissal	98.0%	97.9%	98.0%	98.1%	98.7%	98.2%	97.1%	97.5%
§ 1125 Disclosure Statements	98.4%	98.6%	98.2%	98.2%	98.9%	98.9%	97.8%	98.4%
§ 1129 Plan Confirmation	94.3%	95.3%	94.6%	95.7%	93.1%	93.5%	92.2%	92.7%
§ 1104 Appointment of Trustee or Examiner	92.4%	90.3%	93.5%	90.4%	94.1%	93.2%	95.4%	89.8%
§ 330 Professional Fee Requests	93.3%	94.7%	95.1%	94.5%	91.9%	93.0%	91.0%	92.0%
§ 326 Trustee Fees	86.6%	93.8%	85.7%	100.0%	73.1%	85.5%	75.0%	93.0%
§ 503(c) Key Employee Retention Plans	72.5%	66.7%	75.0%	77.3%	N/A	N/A	N/A	N/A
Debtor Identification								
Debtor Identification - Motions/Objections	98.5%	100.0%	100.0%	96.2%	100.0%	100.0%	96.7%	98.5%
Total	97.1%	97.6%	97.5%	97.5%	97.2%	97.1%	96.0%	96.7%

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) FY06–12	FY 2012	FY 2011	FY 2010	FY 2009	FY 2008	FY 2007	FY 2006
General Civil Enforcement								
§ 707(a) Dismissal for Cause	\$1,887,326	\$93,899	\$329,309	\$888,759	\$138,007	\$108,015	\$161,277	\$168,060
§ 707(b) Dismissal for Abuse	\$2,716,524	\$375,464	\$477,213	\$475,168	\$394,186	\$375,162	\$320,267	\$299,064
§ 727 Denial of Discharge	\$5,462,568	\$1,432,140	\$1,598,565	\$976,044	\$505,748	\$326,140	\$326,927	\$297,004
§ 1328 (f) Denial of Discharge	\$69,350	\$4,384	\$6,585	\$12,646	\$10,872	\$25,732	9131	N/A
§ 110 Actions - Fines Imposed	\$12,052	\$1,673	\$1,916	\$4,219	\$2,874	\$668	\$443	\$259
§ 110 Actions - Fees Recovered	\$2,128	\$499	\$419	\$622	\$210	\$160	\$130	\$88
§ 329 Attorney Fee Disgorgement	\$25,470	\$4,518	\$2,616	\$2,466	\$1,776	\$1,060	\$1,955	\$11,079
Attorney Sanctions	\$2,056	\$199	\$179	\$230	\$220	\$34	\$50	\$1,144
Creditor Abuse and Debt Relief Agencies								
§ 526 Debt Relief Agencies	\$153	\$44	\$51	\$4	\$18	\$10	\$25	\$1
Creditor Claims Reduced or Withdrawn, Sanctions, and Fines	\$60,968	\$30,815	\$19,101	\$6,855	\$3,296	\$166	\$729	\$6
Case Administration								
§ 330 Professional Fee Requests	\$412,434	\$36,055	\$99,449	\$44,480	\$28,525	\$66,074	\$46,862	\$90,989
§ 326 Trustee Fees	\$21,728	\$1,147	\$627	\$1,883	\$4,139	\$1,231	\$2,228	\$10,473
Debtor Identification								
Debtor Identification - Objection to Discharge	\$4,307	\$669	\$95	\$1,776	\$155	\$552	\$508	\$552
Total	\$10,677,062	\$1,981,506	\$2,536,125	\$2,415,152	\$1,090,027	\$905,003	\$870,531	\$878,718

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.