



U.S. Department of Justice

Office of the United States Trustee
Region 5, Districts of Louisiana & Mississippi

400 Poydras Street
Suite 2110
New Orleans, Louisiana 70130

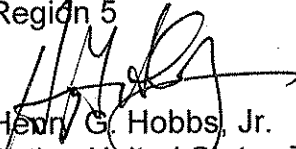
(504)589-4018
Fax: (504) 589-4096
Direct: (504)589-4094
www.usdoj.gov/ust/r05

January 24, 2011

BY ELECTRONIC MAIL ONLY

MEMORANDUM

TO: All Standing Trustees
Region 5

FROM: 
Henry G. Hobbs, Jr.
Acting United States Trustee
Region 5

SUBJECT: Approval of Substitute Presiding Officers

This letter will outline procedures for approval by our office of your current staff attorney(s) or outside attorneys, who have been approved within the current fiscal year, as substitute presiding officers ("SPOs") to conduct § 341(a) meetings ("341 meeting") of creditors on your behalf. It is our intention that SPOs will be approved on an annual basis at the beginning of the fiscal year.

This approval is subject to the requirement that you conduct random reviews of the performance of the SPOs' conduct of the 341 meetings and that you ensure they receive annual training regarding the conduct of meetings, system abuse, to include creditor abuse, and fraud.

Approval is also subject to a conflict check by each SPO prior to each meeting. If an SPO identifies an actual or potential conflict in conducting a meeting in any case, the SPO is not approved to conduct the meeting. You must have procedures in place to ensure conflict checks are occurring and that you have screened cases prior to assigning cases to specific SPOs.

The training, to be conducted at least annually, should be provided by you or, if available, by the NACTT or the Office of the U.S. Trustee, and should include, but not limited to, the following:

1. Ensure each SPO is in compliance with addressing the required statements and questions as updated 3/1/06. The list from the Handbook for Standing Trustees is enclosed;
2. Development and use of § 341 testimony as discovery for subsequent litigation;
3. The civil enforcement initiative, abuse of the bankruptcy system, and the responsibilities of the Standing Trustee;
4. Diligence in noting signs of creditor abuse, especially by mortgage servicers/lenders;
5. Bankruptcy fraud, criminal law, and identifying criminal activity;
6. Serial filers, identity theft, as well as requirements and procedures for examining the debtor's identification and verification of the debtor's social security number and the forms and procedures for reporting discrepancies;
7. The requirement that in joint cases both the debtors must attend a § 341 meeting and that a court order is required for appearance to be waived;
8. The requirement that debtor's counsel of record be present at the § 341 meeting;
9. Procedures for telephonic meetings and administration of the oath;
10. The requirement to review the § 341 docket for any potential conflict, actual or perceived.

Effective the date of this memorandum, no further approval by either the U.S. Trustee or Assistant U.S. Trustees prior to scheduled § 341 meetings is required for the remainder of FY 2011, subject to any issues that may arise. You must advise your SPOs that they have an affirmative obligation to immediately alert both you and the Office of the U.S. Trustee of the occurrence of any circumstances whatsoever that may arise that may cast objective doubt on their ability to serve effectively as an SPO at any point during the year (e.g., for an attorney, a notification of any disciplinary action by any bar or sanction by any court with which they may be affiliated or before whom they practice).

Requests for new SPOs will be considered on a case by case basis. For a new SPO, please include a resume and a cover letter summarizing the applicant's experience and training as well as the basis for needing an additional SPO.

Going forward, your annual request, to be submitted no later than mid-September 2011, should list the names of eligible SPOs with a statement that you have conducted random reviews of their performance and that they have received training in the matters listed above.

If you have any questions or need additional information regarding these procedures, please contact Linda L. Aguilar, Standing Trustee Coordinator.

Enclosure

c: Assistant United States Trustees
Region 5

APPENDIX C SECTION 341(a) MEETING OF CREDITORS

REQUIRED STATEMENTS/QUESTIONS¹

1. State your name and current address for the record.
2. Please provide your picture ID and Social Security number card for review.
 - a. If the documents are in agreement with the § 341(a) meeting notice, a suggested statement for the record is:

“I have viewed the original State of _____ drivers license (or other type of original photo ID) and original Social Security card (or other original document used for proof) and they match the name and Social Security number on the § 341(a) meeting notice.”
 - b. If the documents are not in agreement with the § 341(a) meeting notice, a suggested statement for the record is:

“I have viewed the original Social Security card (or other original document used for proof) and the number does not match the number on the § 341(a) meeting notice. I have instructed the debtor (or debtor’s counsel) to submit to the court an amended verified statement by [date], with notice of the correct number to all creditors, the United States Trustee, and the trustee; and to file with the court a redacted copy of the notice, showing only the last four digits of the Social Security number, and a certificate of service.”
 - c. When the documents do not match the petition, the trustee shall attempt to ascertain why and shall report the matter to the United States Trustee.
 - d. If the debtor did not bring proof of identity and Social Security number, the trustee shall determine why.
3. Did you sign the petition, schedules, statements, and related documents and is the signature your own? Did you read the petition, schedules, statements, and related documents before you signed them?
4. Are you personally familiar with the information contained in the petition, schedules, statements and related documents? To the best of your knowledge, is the information contained in the petition, schedules, statements, and related documents true and correct? Are there any errors or omissions to bring to my attention at this time?

¹ These statements/questions are required. The trustee shall ensure the debtor answers the substance of each of the questions on the record. The trustee may exercise discretion and judgment in varying the wording of the statements/questions, if the substance of the questions is covered.

5. Are all of your assets identified on the schedules? Have you listed all of your creditors on the schedules?
6. Have you previously filed bankruptcy? (If so, the trustee must obtain the case number and the discharge information to determine the debtor(s) discharge eligibility.)
7. What is the address of your current employer?
8. Is the copy of the tax return you provided a true copy of the most recent tax return you filed?
9. Do you have a domestic support obligation? To whom? Please provide the claimant's address and telephone number, but do not state it on the record. Are you current on your post-petition domestic support obligations?
10. Have you filed all required tax returns for the past four years?

SAMPLE GENERAL QUESTIONS
(To be asked when deemed appropriate.)

1. Do you own or have any interest whatsoever in any real estate?

If owned: When did you purchase the property? How much did the property cost? What are the mortgages encumbering it? What do you estimate the present value of the property to be? Is that the whole value or your share? How did you arrive at that value?
If renting: Have you ever owned the property in which you live and/or is its owner in any way related to you?
2. Have you made any transfers of any property or given any property away within the last one year period (or such longer period as applicable under state law)?
If yes: What did you transfer? To whom was it transferred? What did you receive in exchange? What did you do with the funds?
3. Does anyone hold property belonging to you?
If yes: Who holds the property and what is it? What is its value?
4. Do you have a claim against anyone or any business?
If there are large medical debts, are the medical bills from injury?
Are you the plaintiff in any lawsuit?
What is the status of each case and who is representing you?
5. Are you entitled to life insurance proceeds or an inheritance as a result of someone's death?
If yes: Please explain the details.

If you become a beneficiary of anyone's estate within six months of the date your bankruptcy petition was filed, the trustee must be advised within ten days through your counsel of the nature and extent of the property you will receive. FRBP 1007(h)

6. Does anyone owe you money?
If yes: Is the money collectible? Why haven't you collected it? Who owes the money and where are they?
7. Have you made any large payments, over \$600, to anyone in the past year?
8. Were federal income tax returns filed on a timely basis? When was the last return filed? Do you have copies of the federal income tax returns? At the time of the filing of your petition, were you entitled to a tax refund from the federal or state government ?

If yes: Inquire as to amounts.
9. Do you have a bank account, either checking or savings?
If yes: In what banks and what were the balances as of the date you filed your petition?
10. When you filed your petition, did you have:
 - a. any cash on hand?
 - b. any U.S. savings bonds?
 - c. any other stocks or bonds?
 - d. any certificates of deposit?
 - e. a safe deposit box in your name or in anyone else's name?
11. Do you own an automobile?
If yes: What is the year, make, and value? Do you owe any money on it? Is it insured?
12. Are you the owner of any cash value life insurance policies?
If yes: State the name of the company, face amount of the policy, cash surrender value, if any, and the beneficiaries.
13. Do you have any winning lottery tickets?
14. Do you anticipate that you might realize any property, cash or otherwise, as a result of a divorce or separation proceeding?
15. Have you been engaged in any business during the last six years?
If yes: Where and when? What happened to the assets of the business?