

Chapter 7 Blanket Bond

The US Trustee in Region 6 maintains a chapter 7 blanket bond which is currently written by George Adams Insurance Company. The blanket bond covers up to \$300,000 in estate funds, i.e. cash and assets liquidated into cash, per case.

The chapter 7 blanket bond renews every year on April 1st and the cost of the bond premium will be allocated to each trustee. The surety company will send invoices to each trustee for the allocated bond premium which normally runs around \$350 per trustee. In Region 6 the bond premium is not considered an expense of the estate and it cannot be allocated to individual estates as suggested in the Handbook for chapter 7 Trustees.

The trustee is a principal on the bond, and all bonds are written in favor of the United States of America. The bonding company will generally require indemnification from the trustee for any payments the bonding company is required to make to third parties.

Since the bond protects the estate beneficiaries and not the trustee, the trustee may wish to consider obtaining professional liability insurance and employee fidelity coverage. The cost of this insurance is paid by the trustee and cannot be paid from estate funds.

A claim on the trustee's bond is made via an adversary proceeding (Fed. R. Bankr. P. 9025) and may be commenced up to two years after the date on which the trustee is discharged. 11 U.S.C. § 322(d). As soon as the trustee becomes aware of an incident which may give rise to a bond claim, the trustee must notify the United States Trustee and the bonding company. 28 U.S.C. § 586.

A blanket bond might not cover the trustee in a case that involves operating a business in chapter 7. In such instances, the trustee must consult the United States Trustee and bonding company for further information, including whether an individual case bond is appropriate. 28 U.S.C. § 586.

Provided in the training under item #20, is the blanket bond endorsement for new trustees.

Chapter 7 Separate Case Bonds

Once the trustee determines funds will exceed \$300,000, the trustee must obtain a separate bond for 100% of the funds in the estate. The cost of the separate bond is considered an expense of the estate.

The funds must always be bonded, so obtaining the separate bond prior to receiving the funds is best practice.

The trustee has an obligation to continually review the adequacy of bond coverage and to inform the United States Trustee of any situation, such as an upcoming asset sale, which may necessitate an increase in bond coverage. The trustee may not cancel or decrease the amount of the bond without United States Trustee authorization.

In your training materials under item #18, there is a list of the surety companies our trustees have dealt with in the past, but you are not limited to just these companies.

All original bonds (two copies) must be signed by the trustee and forwarded to the United States Trustee. The US Trustee approves the bond, retaining the original and providing the duplicate copy to the Clerk's office. A sample bond is provided in your training materials under item #19.

Auctioneer Bonds

Auctioneers are entrusted with estate property, and as a result, they must be bonded. The trustee must ensure that auctioneers are adequately bonded, prior to auction or taking possession of estate property, in an amount that is sufficient to cover all receipts from the sale. 11 U.S.C. § 704(a)(2), 28 U.S.C. § 586.

The United States Trustee for Region 6 has established a blanket bond for auctioneers up to \$100,000, which renews on July 1st of each year. Auctioneers who subscribe to the blanket bond are placed on a list which is available on our website and is also included under item #8 in the training materials. If a trustee wants to hire an auctioneer who is not covered under the blanket bond (for example, for an out-of-state sale), the trustee must contact the United States Trustee's office in advance of the filing of an application to employ to arrange bonding for the proposed auctioneer.

The bond must be in favor of the United States of America and is distinct from any other auctioneer's bond required under state law. All original bonds must be forwarded to the United States Trustee.

Chapter 11 Case Bonds

Should you be appointed as a chapter 11 trustee, our office will send you documents which will include a \$10,000 personal recognizance (PR) bond. The PR bond is essentially a pledge that indicates the trustee is personally liable for faithful performance for up to \$10,000 in estate funds.

If the estate funds exceed \$10,000, you must obtain a separate chapter 11 bond for 150% of the funds in the estate. The cost of the separate bond is considered an expense of the estate.

The trustee is a principal on the bond, and all bonds are written in favor of the United States of America.

All original bonds (two copies) must be signed by the trustee and forwarded to the United States Trustee. The US Trustee approves the bond, retaining the original and providing the duplicate copy to the Clerk's office.

The trustee has an obligation to continually review the adequacy of bond coverage and to inform the United States Trustee of any situation which may necessitate an increase in bond coverage. The trustee may not cancel or decrease the amount of the bond without United States Trustee authorization.

Once the plan in the case has been confirmed, the separate bond is no longer required by the US Trustee.

If the chapter 11 case is converted to chapter 7, the chapter 11 bond should be canceled, and a separate chapter 7 bond may be required if the estate funds exceed \$300,000 or the trustee is not otherwise covered by the chapter 7 blanket bond.

Provided in the pages following is a sample PR bond and a sample separate chapter 11 bond.