

U.S. Department of Justice

United States Trustee Program



FY 2020 Performance Budget
Congressional Submission

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I. Overview of the United States Trustee Program

A. Introduction

The United States Trustee Program (USTP or Program) is a litigating component of the Department of Justice (Department) whose mission is to promote the integrity and efficiency of the nation's bankruptcy system for the benefit of all stakeholders – debtors, creditors, and the American public. The Program was established by the Bankruptcy Reform Act of 1978 (11 U.S.C. § 101, et seq.) as a pilot effort encompassing 18 judicial districts. Through the enactment of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986, the Program expanded to 21 regions nationwide, covering all federal judicial districts except those in Alabama and North Carolina.

The Program was established to address growing public concern about the lack of an impartial and neutral overseer to prevent fraud, dishonesty and overreaching within the United States bankruptcy system. It is the only organization to address multi-jurisdictional misconduct by national law firms, creditors, and fraudsters, while also combatting abuse committed by debtors. To faithfully carry out these duties, the Program conducts a broad range of administrative, regulatory, and enforcement activities, including the appointment and oversight of approximately 1,300 trustees.

*The nation's consumer bankruptcy laws are premised on the notion that **honest but unfortunate debtors should be able to receive a fresh start** and return to becoming economically productive members of society; and **business debtors should be provided a breathing spell to reorganize their debts and operations to become profitable, job-creating enterprises.***

To meet its mission, the USTP requests \$227,229,000, which supports 1,028 positions (371 attorneys) and 1,015 full-time equivalent employees (FTEs) for Fiscal Year (FY) 2020. This request will cover the most mission critical personnel and operational needs, statutory case administration and oversight responsibilities, and investigation into cases of fraud and abuse, along with associated litigation and enforcement activities.

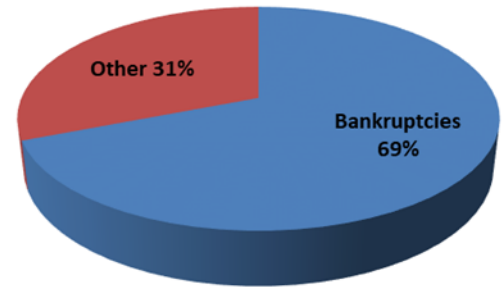
The USTP is funded through appropriations made by Congress that are offset primarily by a portion of fees paid by bankruptcy debtors and deposited into the United States Trustee System Fund (Fund). In October 2017, the Bankruptcy Judgeship Act of 2017, Pub. L. No. 115-72, was enacted, which adjusted quarterly fees for the largest chapter 11 debtors. As a result, the USTP's FY 2018 appropriation was fully offset by bankruptcy fees collected and deposited in the Fund, and the Program anticipates fully offsetting the FY 2019 and FY 2020 budget requests as well.¹

¹ The amended fee structure was effective January 1, 2018, and applies for each fiscal year through FY 2022. The fee schedule, however, will revert to the prior schedule for any fiscal year in which the balance of the Fund equals or exceeds \$200 million as of the end of the prior fiscal year. The USTP anticipates ending FY 2019 with a Fund balance below \$200 million, and therefore projects the amended fee structure will be in effect through FY 2020.

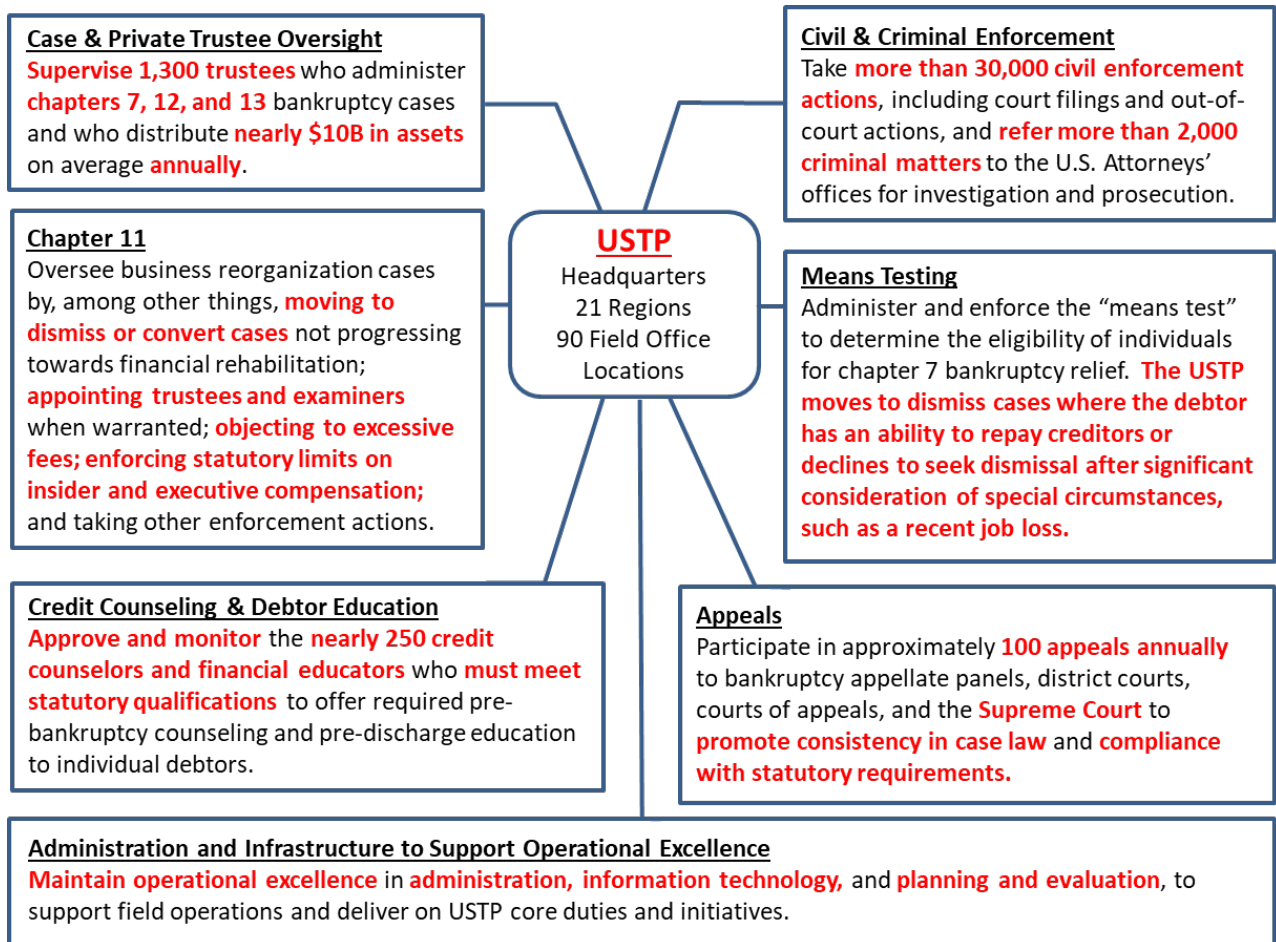
B. Core Duties and Recent Activities

The Program oversees the administration of about 1.5 million ongoing bankruptcy cases in 88 judicial districts. As illustrated in the adjacent chart, over the most recent three fiscal years, more than two-thirds of the cases in the federal judicial system at the end of the fiscal year were bankruptcy cases.² As further discussed below, Program activities are extensive, covering statutory requirements as well as initiatives in support of the USTP mission.

**Pending Cases:
Bankruptcies as % of Total Cases
Average FY 2016 to FY 2018**



1. Core Duties



² Data per the Administrative Office of the U.S. Courts, available at <http://www.uscourts.gov/statistics-reports/caseload-statistics-data-tables>. For bankruptcy caseload data see Table F. U.S. Bankruptcy Courts – Bankruptcy Cases Commenced, Terminated and Pending During the 12-Month Periods – Ending September 30, 2016 through September 30, 2018. For data on cases pending in district courts and number of appeals pending in the courts of appeals, see United States District Courts – National Judicial Caseload Profile; and U.S. Court of Appeals – Judicial Caseload Profile.

2. Recent Activities

- a. Debtor Fraud and Abuse.** The USTP combats debtor fraud and abuse primarily by seeking: dismissal of consumer cases when a debtor has an ability to repay debts under the means test or is found abusive under a bad faith or totality of the circumstances standard; dismissal of businesses cases when the debtor fails to file reports or show evidence of financial rehabilitation; appointment of an independent trustee to displace disgraced management in business reorganization cases; and denial of discharge for the concealment of assets and other misconduct. In FY 2018, the USTP took more than 13,000 formal and informal actions to address fraud and abuse by consumer debtors seeking chapter 7 relief, with a total financial impact of over \$2.75 billion. Additionally, the Program filed over 2,000 motions to convert or dismiss chapter 11 business cases because they were not progressing toward financial rehabilitation.
- b. Violations by Consumer Debtor Attorneys and Debt Relief Agencies.** Debtors, creditors, and the bankruptcy system alike are harmed when consumer debtor attorneys and debt relief agencies fail to comply with bankruptcy standards. The USTP's initiative to combat misconduct and abuse by these entities builds upon the USTP's traditional enforcement activities and addresses the special problems created by national consumer law firms whose system-wide violations create widespread, multi-jurisdictional issues. The Program also addresses related schemes, including instances of lawyers not merely failing to perform their duties, but misusing the client relationship to sell services that are of little or no value to the debtor. Since FY 2016, the USTP's enforcement actions against attorneys and debt relief agencies have been well above the pre-initiative total from FY 2015. Moreover, in FY 2018, the USTP successfully litigated and obtained favorable court decisions in several cases addressing misconduct in various districts.
- c. Creditor Abuse.** Creditor abuse cases often involve multiple victims, including debtors and other creditors whose distributions are diminished by overpayments to the violating creditor, and are an affront to the integrity of the bankruptcy system itself. The USTP's recent efforts in this area have sought to address the robo-signing of documents filed with the bankruptcy court that have the signature of a person who did not review the document, and other non-compliance with bankruptcy statutes and rules committed by both secured and unsecured lenders. In September 2018, the Bankruptcy Court for the Northern District of Georgia approved a national settlement agreement between the USTP and Citibank N.A. (Citibank), Department Stores National Bank (collectively, Citi), and FDS Bank, requiring Citi to pay \$5 million to remediate robo-signed proofs of claim filed in consumer bankruptcy cases in connection with more than 71,000 Macy's-branded credit card accounts. These proofs of claim were signed, under penalty of perjury, by employees of a third party vendor who had not reviewed and/or lacked knowledge of the contents of the proofs of claim or were filed using the electronic credentials of vendor employees who did not review the claim. These improper practices were identified when Citibank took over the servicing of the accounts in late 2015 from the third parties. Citi self-reported the errors to the USTP. In addition to providing

monetary remediation, Citibank has taken over the servicing responsibilities for the accounts, including the functions previously performed by the vendor. Two other settlements also completed in FY 2018 resulted in more than \$148 million in remediation to bankruptcy debtors.

- d. Streamlining and Standardizing Financial Reporting in Chapter 11 Reorganization Cases.** The USTP is engaged in an Administrative Procedure Act (APA) rulemaking on uniform financial reporting for the vast majority of business and individual debtors, and trustees in chapter 11 bankruptcy cases, including in the largest cases. The rule streamlines the financial reporting requirements for non-small businesses in chapter 11 and ensures consistency by replacing the regime of locally-prescribed reporting.
- e. Appellate Advocacy.** The USTP's appellate role often centers upon advocating for the most faithful reading of the Bankruptcy Code. The USTP applies the law as written and does not favor one group of stakeholders above others. Perhaps as a reflection of that, appellate courts will invite the USTP to file briefs setting forth its legal conclusions even though it is not a party. For example, in *21st Mortg. Co. v. Glenn (In re Glenn)*, 900 F.3d 187 (5th Cir. 2018), the U.S. Court of Appeals for the Fifth Circuit asked the USTP to file a brief in the appeal. The court's ruling agreed with the position of the USTP and affirmed a district court judgment that, in turn, affirmed a bankruptcy court's ruling that delivery and set-up costs should not be included in the valuation of a property that the debtor retains in a chapter 13 case.
- f. Marijuana Assets in Bankruptcy.** It has been the USTP's long-standing legal position that marijuana assets cannot be administered in bankruptcy. The Program's practice has been to move to dismiss, object to confirmation, or take other appropriate action when there are marijuana assets in a case or when a proposed plan will be funded with marijuana proceeds. The basic argument for dismissal is that the bankruptcy system cannot be used to facilitate illegal activity and the Bankruptcy Code does not provide a mechanism to administer assets that cannot legally be possessed or sold under federal law. Although small in number in relation to the many hundreds of thousands of bankruptcy cases filed each year, the USTP plays a vital role in these matters by reviewing the particular facts of each case referred to the Program by private trustees and deciding what enforcement action should be taken, if any. The USTP's goals are to ensure uniform application of the bankruptcy law and protect trustees from being placed in the untenable position of selling or otherwise administering an asset that cannot legally be possessed or sold under federal law.
- g. Post-Bankruptcy Asbestos Trusts.** The Program is focused on combatting growing concerns about fraud and abuse relating to asbestos trusts created in bankruptcy and engages in targeted enforcement action within its authority. Asbestos trusts operate and pay claims for years or even decades after a company with asbestos liability emerges from bankruptcy. Since 1994, more than 60 such trusts have been established. According to the Government Accountability Office, asbestos bankruptcy trusts have

paid \$17.5 billion from 1988 through 2011, and more recent studies estimate higher amounts. Most recently, the Program objected to the debtor company's proposed candidate for appointment as a representative for future claimants in three cases involving proposed asbestos bankruptcy trusts and will continue to exercise its enforcement authority in appropriate circumstances, such as by objecting to disclosure statements to require adequate information about the terms of proposed asbestos trusts and the post-bankruptcy claims process.

Electronic copies of the Department of Justice's Congressional Budget Justifications and Capital Asset Plan and Business Case exhibits can be viewed or downloaded from the Internet at <https://www.justice.gov/doj/fy-2019-congressional-budget-submission>

For more information on Program activities, see the written statement prepared by the USTP's Director for his testimony before the House Judiciary Committee's Subcommittee on Regulatory Reform, Commercial and Antitrust Law on June 8, 2017 at <https://www.justice.gov/ust/file/testimony06082017.pdf/download>

C. Program Structure

The USTP is a national program with broad administrative, regulatory, litigation and enforcement responsibilities under the Bankruptcy Code (title 11) and title 28 of the United States Code. The Program has a headquarters office in Washington, D.C., led by a Director; 21 regions managed by United States Trustees; and 90 field office locations in 44 states supervised by Assistant United States Trustees.³ In FY 2018, the Program had 981 FTEs, consisting of attorneys, financial analysts, paralegals, and professional support staff. More than 90 percent of the Program's employees are located in its field offices.

1. Executive Office for United States Trustees

The Executive Office for United States Trustees (EOUST) oversees the Program by providing leadership, central policy and management direction, and administrative and information technology (IT) support to its field offices. Within the EOUST, the Office of the Director directly supervises the United States Trustees and the operations of the EOUST, and has primary responsibility as the liaison with the Department, Congress, the judiciary, private trustee organizations, and other stakeholders in the bankruptcy system (e.g., professional associations). The EOUST also includes the Office of the General Counsel, the Office of Oversight, the Office of Criminal Enforcement, the Office of Planning and Evaluation, the Office of Administration, and the Office of Information Technology.

³ The number of field office locations excludes two offices that the USTP closed in FY 2019 as outlined in section F.

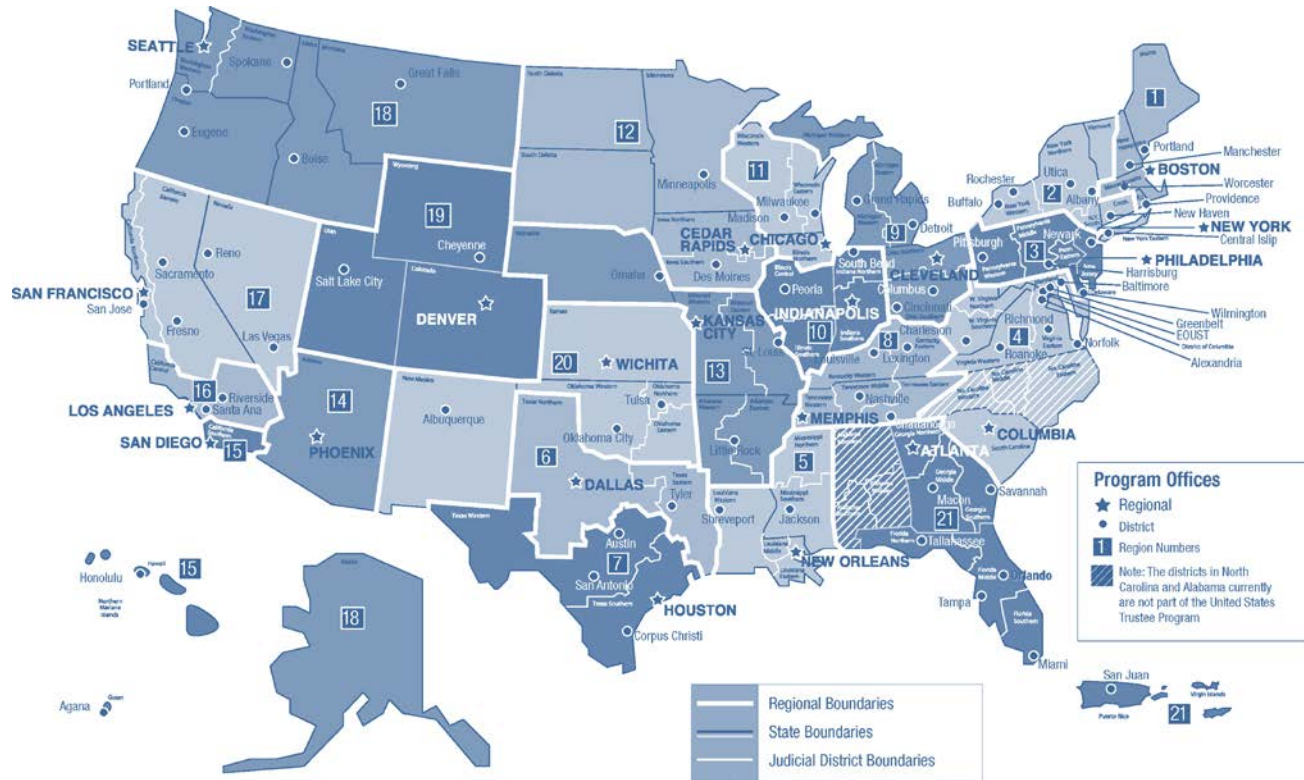
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2. USTP Field Offices

USTP field offices oversee bankruptcy case administration by supervising the private trustees who administer consumer bankruptcy estates under chapters 7, 12, and 13 of the Bankruptcy Code; litigating civil enforcement actions; monitoring financial reporting and ensuring that chapter 11 cases proceed toward rehabilitation, conversion, or dismissal; and carrying out other core responsibilities such as administration of the statutory means test.

United States Trustee Program Map of Regions and Offices

A **regional and field office structure** enables the USTP to participate in **300 bankruptcy courts**; preside over **statutory meetings of creditors** held in **400 locations**; detect and address **multi-jurisdictional violations** through **coordinated enforcement efforts**; and ensure **maximum accessibility** to the bankruptcy system by both debtors and creditors.



D. Challenges

The USTP, like other federal organizations, faces several external and internal challenges.

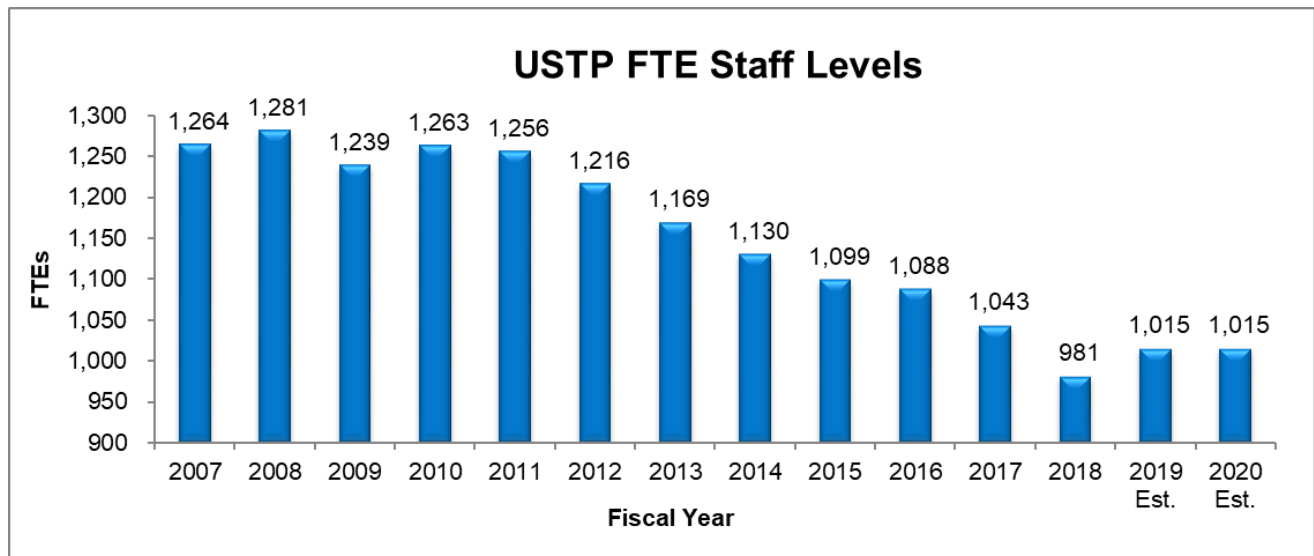
1. Maintaining Funding and Staffing to Support Operations

The largest immediate challenge facing the USTP is its ability to maintain the high level of enforcement activities, oversight and bankruptcy services for all stakeholders in a challenging

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budget environment. For more than a decade, the USTP took on substantial additional responsibilities conferred by statute and expanded its capacity to combat fraud and abuse committed by debtors, creditors, professionals, and other third parties while absorbing budget and staffing reductions. Despite this workload expansion, the Program's staffing is 26 percent below FY 2007 levels, a year which preceded the last surge in bankruptcy filings. In response, the Program has adopted innovative personnel, financial and work flow strategies. These have included the consolidation of functions; re-deployment of staff throughout the country to address local workload and national initiatives; use of shared services in partnership with other agencies and other divisions within the Department; reduction of space, including co-locating offices; and the centralization of IT staff reporting lines to more efficiently utilize personnel resources and eliminate backfill requirements for six vacant positions. These measures have enabled the USTP to achieve efficiencies while accomplishing the mission, allowing the Program to devote base budget resources towards key initiatives to address fraud and abuse in the bankruptcy system. While the FY 2020 budget request will allow the Program to maintain operations, the Program has maximized the use of its resources and will continue to explore further efficiencies within its work processes, technology systems and operating structure through FY 2020.

The following chart reflects actual and projected FTE levels for FYs 2007 through 2020.



2. Funding Debtor Audits

Under the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA), the USTP is authorized to designate randomly for audit one out of every 250 consumer bankruptcy cases per federal judicial district and also conduct exception audits for cases in which debtors report income or expenditures outside of the statistical norm. In FY 2018, the USTP designated over 2,000 cases for audit. A similar level of selection is planned for FY 2019 and beyond, depending on budgetary constraints.

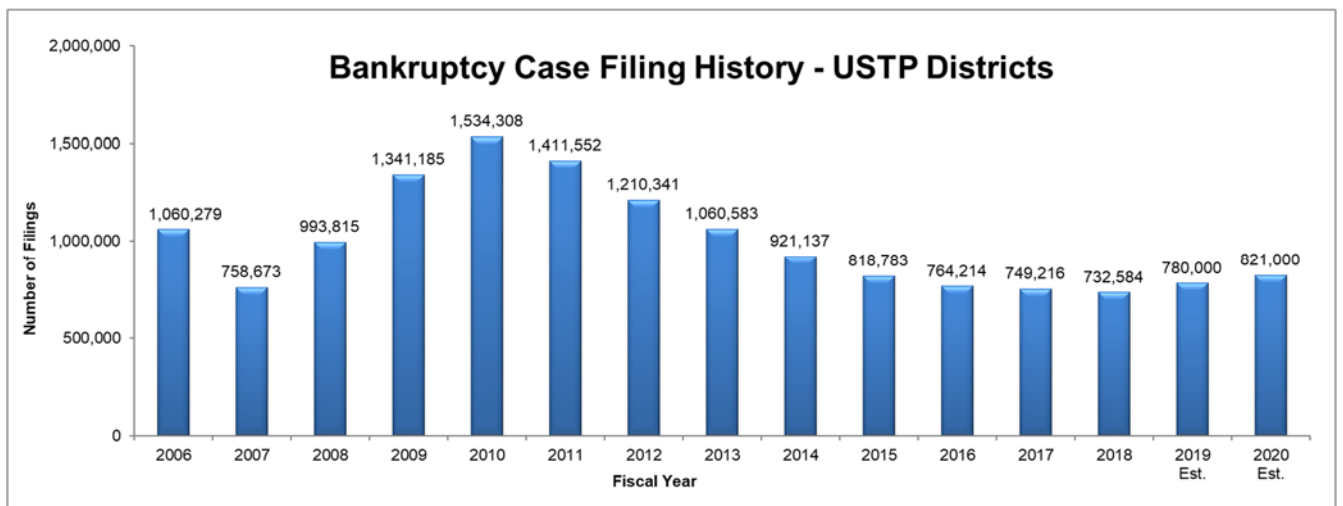
3. Programmatic Issues

Unpredictable Legal Challenges. Legal challenges relating to the Bankruptcy Code are unpredictable in scope and number. The USTP enforces the Bankruptcy Code and defends challenges to its provisions, including by litigating issues of first impression.

Evolving and Complex Caseload. The USTP’s sustained heavy workload in civil enforcement, along with the sheer sophistication of fraud schemes and abusive activities, present challenges for USTP staff to move cases through the system efficiently. In addition to carrying out statutory duties, including means testing and trustee oversight, the Program remains very much involved in new and complex issues associated with debtor fraud, creditor and professional misconduct, Internet law firms, and complex chapter 11 bankruptcy filings.

Potential for Volatility in Bankruptcy Filings. The potential for volatility in the number and location of bankruptcy filings creates challenges in case management. Historically, filings have generally increased about two-thirds of the time and decreased the other one-third. Following a doubling in the number of bankruptcy filings from FY 2007 to FY 2010, however, filing rates have been declining since FY 2011, with some experts attributing the drop to changes in the law, low interest rates, declining consumer credit, and the availability of distressed debt funding in the capital markets. Potential changes in these and other external factors continue to impact filings and pose an issue for workload planning.

The following chart reflects actual and projected filings for fiscal years 2006 through 2020.⁴ Compared to FY 2017, filing totals in FY 2018 were down by two percent with chapter 11 filings down slightly. Currently, the USTP anticipates a slight increase in overall filings beginning in FY 2019.



⁴ The chart reflects bankruptcy filings under all chapters of the Bankruptcy Code, as reported by the Administrative Office of the U.S. Courts (AOUSC). FY 2019 through FY 2020 reflect estimated filings. The FY 2019 estimate was updated for this FY 2020 Congressional Submission. The AOUSC has projected a bankruptcy filing increase for FY 2019.

Compatibility of USTP and Court Data Systems. The Program depends on the exchange of electronic data with the Bankruptcy Courts to ensure the timely administration of bankruptcy cases. As data systems are updated, the Program must work cooperatively with the Administrative Office of the U.S. Courts to ensure compatibility to support an effective and efficient bankruptcy process.

E. Offsetting Collections and the United States Trustee System Fund

From 1989 through FY 2016, the Program's appropriation was fully offset by bankruptcy fees paid primarily by those who use the bankruptcy system. Two categories of fees generate nearly all of the revenue for the Fund. The first category is the filing fee paid at the commencement of each case in chapters 7, 11, 12, and 13,⁵ and the second category is the quarterly fee paid by chapter 11 debtors. All fees are deposited into the Fund and offset the USTP's annual appropriation. Unlike other bankruptcy fees that are set administratively by the Judicial Conference of the United States, the filing fees and quarterly fees paid to the USTP are set in statute and cannot be adjusted by the USTP.

In FY 2016, a change in appropriation language was made such that the USTP's full appropriation is initially derived from the General Fund of the Treasury and subsequently offset by net fees received during the fiscal year and the balance in the Fund.

With a decline in bankruptcy filings over the past eight years, the unrestricted balance in the Fund was exhausted during FY 2017, and the Program fell short of offsetting the FY 2017 appropriation. In anticipation of this issue, the USTP set forth a proposal to adjust quarterly fees for the largest chapter 11 debtors. A modified version of the proposal was enacted in October 2017 with the passage of the Bankruptcy Judgeship Act of 2017. As a result, the Program's FY 2018 appropriation was fully offset by bankruptcy fees collected and on deposit in the Fund, and the Program anticipates fully offsetting the FY 2019 and FY 2020 budget requests as well.⁶ The fee increase will sunset after five years, so the USTP will need to re-evaluate the fee structure prior to FY 2023.

⁵ The USTP receives a portion of these filing fees as specified by statute.

⁶ The amended fee structure was effective January 1, 2018, and applies for each fiscal year through FY 2022. The fee schedule, however, will revert to the prior schedule for any fiscal year in which the balance of the Fund equals or exceeds \$200 million as of the end of the prior fiscal year. The USTP anticipates ending FY 2019 with a Fund balance below \$200 million, and therefore projects the amended fee structure will be in effect through FY 2020.

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The following table reflects actual and projected revenue and earnings on investments deposited into the Fund, by source, for the period FY 2015 – FY 2020.^{/A}

Bankruptcy Fees by Source (\$ in Thousands)	FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Est.	FY 2020 Est.
Bankruptcy Filing Fees	\$ 60,515	\$56,380	\$54,675	\$53,613	\$62,200	\$62,200
Chapter 11 Quarterly Fees	\$ 92,688	\$91,125	\$96,690	\$214,527	\$318,163	\$330,045
Interest on Earnings on Investments	\$ 650	\$523	\$210	\$808	\$465	\$2,500
Other	\$ 76	\$301	\$163	\$211	\$172	\$255
Total Deposits	\$ 153,929	\$148,329	\$151,738	\$269,159	\$381,000	\$395,000

^{/A} FY 2018 and beyond excludes two percent of chapter 11 quarterly fees deposited into the general fund of the Treasury as required by section 1004(b) of the Bankruptcy Judgeship Act of 2017, to fund additional bankruptcy judgeships.

The amended quarterly fee structure has enabled the Program to offset its annual appropriation. There has, however, been litigation testing the scope of the amendment. For example, in *Cranberry Growers Cooperative v. Patrick Layng*, Case No. 18-3289 (7th Cir. filed October 24, 2018), the U.S. Court of Appeals for the Seventh Circuit agreed to a direct review of an appeal from the bankruptcy court’s order that denied the United States Trustee’s claim on disputed delinquent quarterly fees. The court ruled that the financial transactions the debtor used in its dealings with its lender did not trigger a statutory duty to pay fees. At issue, is the definition of the term “disbursement.” The opening brief for the appellant, the United States Trustee, will be filed in February 2019.

F. Efforts to Maximize Appropriated Resources

In recent years, the USTP has developed innovative strategies to find cost-effective operational solutions as well as deployed traditional cost-saving measures. In FY 2020, the Program will continue to explore further efficiencies within its work processes, technology systems, and operating structure. The following are examples of the Program’s efforts to date.

Consolidation of Functions

The Program piloted and implemented nationwide a number of work process changes by consolidating at the regional level functions that were previously conducted in each field office. This freed valuable time for field office personnel to pursue other enforcement priorities and provide greater consistency in case administration. This consolidation includes certain administrative areas of trustee oversight, chapter 11 quarterly fee review, and bankruptcy case

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data extraction and download. For example, the USTP approves and files Trustee Final Reports (TFRs) that provide for the distribution of chapter 7 estate funds to creditors in accordance with statutorily prescribed priorities. TFRs must be reviewed and approved by the USTP, and filed with the Bankruptcy Court, within 60 days of receipt. Consolidation has resulted in more efficient and consistent review of TFRs, now conducted by only a few specially trained staff members in each region.

In FY 2018, the USTP further expanded regional functional consolidation to ensure mission critical work is done and now also shares work inter-regionally to ensure critical work is accomplished. Currently, more than half of the field staff are assigned some tasks that originate in other offices.

Centralization of Reporting Lines

Following a comprehensive review of IT work processes and organizational structure, the USTP will be realigning reporting lines for its IT functions in FY 2019. IT Specialists that provide support to field personnel and that currently report to the United States Trustee for their respective region will instead report to the Program's Chief Information Officer (CIO). The CIO oversees all USTP information technology resources, infrastructure and IT projects as well as the IT Specialists that provide support to the EOUST. This centralization will enable the Program to more efficiently utilize its IT staff resources and eliminate the need to backfill six vacant positions.

Shared Services

To mitigate staffing shortages and benefit from economies of scale, the USTP has implemented shared services in partnership with other agencies and divisions within the Department. Shared human resource services are provided by the Justice Management Division, shared litigation support is provided by the Civil Division of the Department, and shared services provided by the Department of the Interior address issues related to background investigations for the Program. Further, Help Desk operations for Tier 1 support and call management are provided via a contract managed by the Bureau of Alcohol, Tobacco, Firearms and Explosives that is also utilized by the United States Marshals Service as well as the Antitrust Division of the Department. Use of this contract has allowed the Program to save over \$100,000 a year in resources.

Reduction of Physical Footprint

- The USTP closed its two field offices in Anchorage, Alaska and Sioux Falls, South Dakota in FY 2019 due to declines in caseload and staff attrition. The USTP has worked with the courts in these districts to be able to attend non-evidentiary hearings via telephone or video teleconference. In addition, staff in other offices within the respective regions have

successfully covered the workload, which requires making several trips a month to attend court and section 341 meetings of creditors.⁷

- By FY 2021, through relocations and space consolidations, the USTP estimates it will have returned approximately 64,000 usable square feet of office and meeting room space. In addition, in a concerted effort to comply with federal guidelines to reduce the federal footprint and make the best use of existing federal space, this process will result in the relocation of 18 office or joint office and meeting room sites into secure federal space.

Use of Technology for Streamlining and Cost Savings

The Program is always examining ways to maximize its use of technology to improve operations while reducing costs.

- The USTP has been recognized as a leader in the Department's efforts to transform IT operations by shifting to a sustainable cloud infrastructure. As a result of the Program's migration to cloud services, the USTP achieved both significant savings and efficiencies. The USTP Atlanta Data Center, which cost more than \$300,000 annually to maintain, was closed in FY 2017, and the Program's Rockville Data Center, which had an annual cost of \$420,000, was closed in FY 2018. By migrating to cloud services instead of one of the Department's Core Enterprise Facilities, the USTP was able to avoid at least \$500,000 in costs associated with procuring and installing new hardware and software solutions. The Program avoided additional costs by training its IT staff to triage, resolve, and implement preventative measures for the migration process rather than obtaining contractor assistance. To achieve operational efficiencies, the USTP developed automated scripts and playbooks for the majority of workloads that were migrated to the cloud. This approach reduced the time required to deploy servers and services to Program employees from hours to minutes, allowing the USTP to increase mission agility, reduce costs, and conduct faster testing of new technologies.
- The Program has completed the enhancement of its underlying network operational performance by tripling its internal bandwidth capacity in all of its offices at no net cost increase.
- The USTP continues to expand its use of video teleconferencing equipment in its field offices nationwide to reduce travel costs to attend court hearings and for meetings and training programs.

G. Program Efforts Toward Integrating Environmental Accountability

The USTP continues its work to improve its environmental management activities. The Program actively participates in a number of recycling and other greening initiatives and ensures

⁷ The USTP's Congressional Relocation Request for these closures was approved in July 2018.

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compliance with existing Federal Acquisition Regulations. The following activities reflect the Program's continuing efforts toward managing and improving its environmental and health safety matters.

- The USTP's Facilities Management Division works with the General Services Administration to ensure the use of environmentally preferable building products and materials for the design, construction, and operation of commercially owned office space occupied by the Program.
- The Program makes every effort to purchase electronic products that are Electronic Product Environmental Assessment Tool registered, or EnergyStar Compliant products. Such products include computers, computer monitors, printers, and copiers.
- The Program purchases supplies that are environmentally preferable products made from recycled content, such as copier paper, file folders, pens, and remanufactured toner cartridges.
- Recycling of paper products, cans, bottles, and plastics is encouraged throughout the Program – an effort highlighted through the use of signage, posters, and the continual availability of appropriate recycling receptacles.

II. Summary of Program Changes

The FY 2020 budget does not request program changes.

III. Appropriations Language and Analysis of Appropriations Language

United States Trustee System Fund

For necessary expenses of the United States Trustee Program, as authorized, \$227,229,000, to remain available until expended: Provided, That, notwithstanding any other provision of law, deposits to the United States Trustee System Fund and amounts herein appropriated shall be available in such amounts as may be necessary to pay refunds due depositors: Provided further, That, notwithstanding any other provision of law, fees deposited into the Fund pursuant to section 589a(b) of title 28, United States Code (as limited by section 1004(b) of the Bankruptcy Judgeship Act of 2017 (division B, Public Law 115–72)), shall be retained and used for necessary expenses in this appropriation and shall remain available until expended: Provided further, That to the extent that fees deposited into the Fund in fiscal year 2020, net of amounts necessary to pay refunds due depositors, exceed \$227,229,000, those excess amounts shall be available in future fiscal years only to the extent provided in advance in appropriations Acts: Provided further, That the sum herein appropriated from the general fund shall be reduced (1) as such fees are received during fiscal year 2020, net of amounts necessary to pay refunds due depositors, (estimated at \$395,000,000) and (2) to the extent that any remaining general fund appropriations can be derived from amounts deposited in the Fund in previous fiscal years that are not otherwise appropriated, so as to result in a final fiscal year 2020 appropriation from the general fund estimated at \$0.

Note.—A full-year 2019 appropriation for this account was not enacted at the time the budget was prepared; therefore, the budget assumes this account is operating under the Continuing Appropriations Act, 2019 (Division C of P.L. 115–245, as amended). The amounts included for 2019 reflect the annualized level provided by the continuing resolution.

Analysis of Appropriation Language

No substantive changes proposed.

IV. Program Activity Justification

A. Administration of Cases

The USTP budget is contained in one decision unit, the Administration of Cases, which encompasses all operational activities and includes the direct cost of all outputs, indirect costs, and common administrative systems. The USTP’s work encompasses two main activities: (1) enforcement; and (2) case and trustee administration. The FTEs and associated funding are allocated to these Program activities based upon the direct hours of the USTP staff, and the resources directly related to performing these activities. Administrative and other overhead costs are allocated based upon the direct hours expended for the two activities.

<i>Administration of Cases</i>	Direct Pos.	Estimated FTE ^{/1}	Amount (\$ in thousands)
2018 Enacted	1,028	981	\$225,908
2019 Continuing Resolution	1,028	1,015	\$225,908
Adjustments to Base and Technical Adjustments	-	-	\$1,321
2020 Current Services	1,028	1,015	227,229
2020 Request	1,028	1,015	227,229
Total Change 2019 - 2020	-	-	\$1,321

<i>Administration of Cases</i> Information Technology Breakout	Direct Pos.	Estimated FTE ^{/1}	Amount (\$ in thousands)
2018 Enacted	30	29	\$32,325
2019 Continuing Resolution	31	31	\$27,014
Adjustments to Base and Technical Adjustments	-	-	\$180
2020 Current Services	31	31	\$27,194
2020 Request	31	31	\$27,194
Total Change 2019 - 2020	-	-	\$180

/1 FY 2018 FTE is actual.

1. A Balanced Approach to Civil Enforcement

As the vigilant “watchdog” of the bankruptcy system, the USTP is the only national enforcement agency that can identify significant fraud and abuse trends in, and marshal resources against emerging threats to the integrity of, the bankruptcy system. The Program takes an aggressive, but balanced, approach to address violations by debtors, creditors, attorneys, and others in the bankruptcy system.

*In FY 2018, the USTP took **more than 30,000 civil enforcement actions against debtors and creditors**, including court filings and out of court actions, with a potential monetary impact of **\$2.8 billion** in debts not discharged, fees disgorged, and other relief. **Since 2003**, the USTP has taken **more than 781,000 actions with a monetary impact in excess of \$21 billion**.*

The USTP is uniquely positioned to execute its role and address widespread problems in the bankruptcy system. The EOUST provides critical policy and management direction on all fraud and abuse initiatives and relies on the investigative and litigation expertise of staff across its headquarters and 90 field office locations. This has permitted the USTP to aggregate enforcement efforts, as necessary, to optimally address national or multi-jurisdictional violations. This flexibility in resource allocation has for some years enabled the Program to mitigate the impact of continued staffing reductions. The result has been an effective service model that has allowed the USTP to detect patterns of abuse, advance consistent legal arguments, and develop coordinated and sustained enforcement efforts against threats to the bankruptcy system.

Debtor Abuse

The Program combats debtor fraud and abuse primarily by seeking case dismissal if a debtor has an ability to repay debts and by seeking denial of discharge for the concealment of assets and other misconduct that harms creditors or the integrity of the bankruptcy process.

Means Testing. Under the means test, which was adopted under BAPCPA, individual debtors with primarily consumer debt and income above their state median are subject to a statutorily prescribed formula to determine disposable income. The formula is based partially on allowable expense standards issued by the Internal Revenue Service for its use in tax collection. The primary purpose of the means test is to help determine eligibility for chapter 7 bankruptcy relief. In FY 2018, a case with disposable income above \$214.17 per month would be presumed abusive and subject to dismissal.

CASE EXAMPLE: The Bankruptcy Court for the Middle District of Florida **granted a motion** filed by the Orlando office **to dismiss** a debtor's chapter 7 case after finding that her monthly expenses were excessive and her filing was an abuse of the bankruptcy system. The debtor listed **monthly expenses** that were **more than three times the applicable IRS Standards**, including **over \$1,700 for food, housekeeping, and personal care**. She also **claimed \$1,450 in monthly expenses for country club membership, vacations, and recreation**.

The effectiveness of the means test largely depends on the United States Trustees' identification of cases that are presumed abusive under the statutory formula and filing of actions to dismiss those cases when appropriate. The USTP is required by law to file with the court either a motion to dismiss a presumed abusive case or a statement explaining the reasons for declining to file such a motion – that is, special circumstances that justify an adjustment to the current monthly income calculation. Common reasons to decline to seek dismissal of a case that is presumed abusive include recent job loss or continuing medical debt.

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In FY 2018, the USTP declined to file a motion in over 60 percent of presumed abusive cases as a result of special circumstances that justified an adjustment to the current monthly income calculation. The percentage of declinations has exceeded 60 percent in recent years as debtors and their counsel better understand the requirements of the statute and file presumed abuse cases only if special circumstances apply.

Bad Faith or Totality of the Circumstances. Even if a case is not presumed abusive under the means test, the Bankruptcy Code permits the USTP to seek dismissal for bad faith or the totality of the circumstances. These enforcement actions are filed in cases where, among other things, the debtor makes extravagant purchases right before filing bankruptcy or fails to provide accurate financial information.

Denial of Discharge. In addition to seeking case dismissal, the USTP may file a complaint to deny or revoke a debtor's discharge, which constitutes one of the most serious civil remedies against fraud and abuse by individual debtors in the bankruptcy system. Examples of debtor conduct that could lead to this action include transferring, concealing, or destroying property to hinder or defraud a creditor or the trustee; knowingly and fraudulently making a false oath; refusing to obey a court order; or failing to keep or preserve financial records.

CASE EXAMPLE: Granting a motion filed by the USTP's Norfolk office, the Bankruptcy Court for the Eastern District of Virginia **dismissed a debtor's case** with prejudice, **preventing the current or future discharge of \$107,891 in unsecured debt** listed in this case. The U.S. Trustee alleged the **debtor used multiple Social Security numbers to file bankruptcy petitions and obtain lines of credit**. Additionally, the debtor **failed to disclose multiple businesses** and a pending employment discrimination lawsuit. Finding that the debtor manipulated the bankruptcy system, the **court** ordered dismissal with prejudice and **barred the debtor from refiling bankruptcy within five years in any district**.

CASE EXAMPLE: Ruling for the U.S. Trustee's Detroit office after a two-day trial, the **Bankruptcy Court** for the **Eastern District of Michigan** issued a written opinion **denying a debtor's discharge of more than \$3.74 million in unsecured debt**. The **debtor had been a successful area restaurateur**, but claimed that she was out of the business and that a restaurant bearing a slightly altered but familiar name belonged to her daughter. In her bankruptcy case, the **debtor omitted transfers to her daughter, showed zero income, underreported her liabilities, failed to list all of her assets, and testified falsely at the section 341 meeting of creditors**. The court found that the debtor engaged in continuing concealment of transfers, that her subsequent amendment of the schedules did not excuse her false original filings, and that her admission in her answer to the U.S. Trustee's complaint objecting to her discharge was binding.

Misuse of the Bankruptcy System to Administer Marijuana Assets

The Program moves to dismiss cases that are filed by active marijuana businesses or involve marijuana assets on a variety of statutory grounds. In all instances, the basic argument for dismissal is that the bankruptcy system cannot be used to facilitate illegal activity and the Bankruptcy Code does not provide a mechanism to administer assets that cannot legally be possessed or sold under federal law. It does not matter if the state in which the case was filed has legalized marijuana in any way. Under federal law, marijuana is designated as an illicit

substance. The USTP's position has largely prevailed in court, including in successfully defending against an appeal in *Arenas v. United States Trustee*, 535 B.R. 845 (B.A.P. 10th Cir. 2015), of the bankruptcy court's favorable decision. Only one appellate court has ruled against the USTP's position, and that ruling is currently on review before a higher appellate court. Although small in number compared to total bankruptcy filings, the USTP has seen an increase in marijuana cases. In response to this, and in recognition of the wide variety of fact scenarios in which marijuana assets may be present, in FY 2017, the Program directed private trustees to inform the United States Trustee when they become aware that a case assigned to them includes assets or income derived from marijuana. The Program's field offices analyze every case that is referred, as well as those uncovered through their routine oversight activities. This practice not only ensures uniform application of the bankruptcy law, but also protects trustees from being placed in the untenable position of selling or otherwise administering an asset that cannot legally be possessed or sold under federal law.

Violations by Consumer Debtor Attorneys and Debt Relief Agencies

The USTP has a long history of addressing attorney violations of the Bankruptcy Code and Rules. In recent years, in response to feedback from Program staff, bankruptcy judges and private trustees that such violations were on the rise, the USTP adopted a successful national strategy to address these violations through appropriate civil enforcement actions.

Misconduct and substandard practice by debtors' attorneys include failing to meet with clients, causing costly delays by not appearing at section 341 meetings or court proceedings, and engaging in a range of other unprofessional behavior. Debtor clients are not the only victims of these improper, fraudulent, and abusive practices. Courts and creditors are victims as well.

CASE EXAMPLE: Attorney Enjoined, Ordered to Pay \$15,000 for Abuses in "No Money Down" Fee Arrangements. The Bankruptcy Court for the Central District of California entered a stipulated judgment between the U.S. Trustee's Riverside office and a bankruptcy attorney, sanctioning him \$5,000 and ordering him to pay \$10,000 in penalties to the U.S. Trustee. The **attorney adopted a "no money down" business model, in which debtors may be improperly charged for legal services typically performed before a debtor files for bankruptcy (pre-petition).** The attorney **then** increased his customary billing rates and **charged clients higher fees for the minimal work he performed post-petition.** His firm also **altered pre-petition bankruptcy documents to give the appearance that the firm had prepared them post-petition to justify the excessive fees.** The stipulated judgment also cancels the attorney's engagement contracts with more than 75 clients, enjoins him from engaging in the abusive practices described in the complaint, and requires him to fulfill remedial education and training requirements.

*In **FY 2018**, the Program's **actions against debtors' attorneys** under the disgorgement provisions of section 329 and the debt relief agency provisions of section 526 of the Bankruptcy Code **were over 15 percent above the pre-initiative totals from FY 2015.** The Program also utilized other statutory tools to combat this abuse.*

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For example, courts and creditors are forced to expend resources in proceedings that are unnecessarily lengthy or complex due to the failure of debtors' counsel to do their jobs properly. The USTP utilizes the statutory tools available to it under the Bankruptcy Code to combat such misconduct, and the USTP's enforcement actions may lead to remedies including refunds of attorneys' fees already paid, cancellation of retention contracts, civil penalties, injunctions, and other sanctions.

Beyond the traditional enforcement actions, the USTP also addresses special problems created by national consumer law firms whose system-wide violations create widespread, multi-jurisdictional issues. These include national law firms who advertise through the Internet and use high-pressure sales tactics to turn debtors into clients. The Program also tackles related misconduct by non-lawyers who collaborate with consumer lawyers. Among the more noteworthy allegations the Program is investigating are instances of lawyers not merely failing to perform, but misusing the client relationship to sell services that are of little or no value to the debtor. Some of these schemes may be abusive and others may be fraudulent.

CASE EXAMPLE: Following a trial on a complaint filed by the USTP's Shreveport office, **a high-volume consumer law firm and its principal** were ordered by the Bankruptcy Court for the Western District of Louisiana to **disgorge all fees in 11 cases and pay a \$5,000 civil penalty**. They were also suspended from practice in the district for 90 days (the maximum the bankruptcy court could impose) and **referred to the district court for consideration of further disciplinary action**. The bankruptcy court agreed with the USTP's allegations, finding that in all 11 cases the firm violated the Bankruptcy Code and Rules as well as state ethical rules **by having the firm's staff, rather than the debtors, complete the mandatory pre-filing credit counseling course and by filing false credit counseling verifications**.

CASE EXAMPLE: **National Law Firm Banned from Practice, Ordered to Refund Fees and Pay \$20,000 Penalty**. The Bankruptcy Court for the Eastern District of Tennessee entered agreed orders in four cases resolving enforcement actions brought against a national law firm by the U.S. Trustee's Chattanooga office. The agreed orders impose sanctions against the firm that include a **four-year practice ban** in the district, the **refund of all fees paid by clients** in the district **for whom the firm never filed a bankruptcy case**, a \$20,000 civil penalty, and **payment of the U.S. Trustee's attorney's fees and costs**. The firm admitted that in these four cases its **client consultants, who generally are not attorneys, made statements to the firm's clients that were improper, untrue, and misleading**, and that those statements violated the firm's own policies. The firm also admitted that its **lawyers failed to make certain disclosures or take certain actions required under the Bankruptcy Code**, and that it failed to adequately supervise a local "partner" to prevent her own additional misconduct, including forgery of a client signature and backdating court documents, in violation of the Bankruptcy Code and the Tennessee Rules of Professional Conduct.

Creditor Abuse

The USTP continues to monitor compliance by national creditors for fraud and abuse issues. Three settlements completed in FY 2018 provided more than \$153 million in remediation to bankruptcy debtors. Additional enforcement efforts include USTP investigations into the robo-signing of documents filed with the bankruptcy court, violations of the discharge injunction, and other failures to comply with bankruptcy statutes and rules committed by both secured and unsecured lenders.

CASE EXAMPLE: In September 2018, the Bankruptcy Court for the Northern District of Georgia approved a **national settlement agreement** between the USTP and Citibank N.A. (Citibank), Department Stores National Bank (collectively, Citi), and FDS Bank, requiring **Citi to pay \$5 million** to **remediate robo-signed proofs of claim** filed in **consumer bankruptcy cases** in connection with **more than 71,000 Macy's-branded credit card accounts**. These proofs of claim were **signed**, under penalty of perjury, **by employees of a third party vendor** who **had not reviewed** and/or **lacked knowledge of** the **contents of the proofs of claim** or were **filed using** the **electronic credentials of vendor employees who did not review the claim**. These improper practices were identified when Citibank took over the servicing of the accounts in late 2015 from the third parties. **Citi self-reported the errors to the USTP**. In addition to providing monetary remediation, **Citibank has taken over** the **servicing responsibilities for the accounts**, including the functions previously performed by the vendor.

2. Combatting Abuse in Post-Bankruptcy Asbestos Trusts

The Program is focused on combatting growing concerns about fraud and abuse relating to asbestos trusts created in bankruptcy. After the Code's enactment, the rapid development of widespread litigation by victims exposed to asbestos prompted a number of the asbestos companies to file for bankruptcy relief. In 1994, Congress enacted a new Code provision, 11 U.S.C. § 524(g), to create a comprehensive mechanism to address the unique issues associated with asbestos liability. Under section 524(g), asbestos claims by both existing and future victims are channeled to a special trust created under the plan of reorganization, which then assumes responsibility for both the defense and payment of those claims outside the auspices of the bankruptcy court. This allows asbestos companies to set aside money for personal injury claims while continuing to operate as going concerns.

Asbestos trusts operate and pay claims for years or even decades after an asbestos company emerges from bankruptcy. Since 1994, more than 60 such trusts have been established. According to the Government Accountability Office, asbestos bankruptcy trusts have paid \$17.5 billion from 1988 through 2011, and more recent studies estimate higher amounts.

In recent years, the structure of the asbestos bankruptcy trust system became subject to public concerns about fraud and overreaching. Because the Program, as well as the bankruptcy courts, have limited oversight authority following confirmation of the plan, the standards and mechanisms of accountability and transparency that pertain to chapter 11 debtors do not apply to post-confirmation asbestos trusts. And trustees are usually required to obtain support for major

decisions from an advisory committee, which often includes the same attorneys who represented asbestos claimants during the bankruptcy. This structure, and its attendant lack of oversight or accountability, has given rise to increasing concerns that the trusts may be paying fraudulent claims and mismanaging funds.

The Program continues to engage in targeted enforcement activity within its authority regarding asbestos trusts. For example, the Program recently objected to the debtor company's proposed candidate for appointment as a representative for future claimants in three cases involving proposed asbestos bankruptcy trusts. The objections raised concerns about the candidates' apparent conflicts of interest and close connections with lawyers representing current claimants. The Program will continue to exercise its enforcement authority in appropriate circumstances, such as by objecting to disclosure statements to require adequate information about the terms of proposed asbestos trusts and the post-bankruptcy claims process.

3. A Criminal Enforcement Mandate

Bankruptcy cases may involve conduct that violates both civil and criminal laws. The USTP pursues available civil enforcement remedies to address fraud and abuse issues and refers alleged wrongdoers, as required by statute, to the United States Attorneys and other law enforcement partners for potential criminal prosecution. As bankruptcies cross all industries and levels of American society, they often can be the last step in a criminal's chain of wrongdoing. Detection of bankruptcy fraud can, therefore, lead to the detection and prosecution of other serious crimes.

*Annually, the Program makes more than 2,000 criminal referrals on matters that include allegations of **bankruptcy fraud**, tax fraud, **identity theft or use of false or multiple Social Security numbers**, mail and wire fraud, bank fraud, and **mortgage fraud**.*

The USTP is required by statute to refer potential criminal violations to the United States Attorney and, on the request of the United States Attorneys, to assist in criminal prosecutions. In this capacity, the Program works closely with the United States Attorneys' Offices, the FBI, and our other law enforcement partners. Program attorneys contribute to the prosecution of bankruptcy and bankruptcy-related crimes by serving as Special Assistant United States Attorneys in cases, consulting on bankruptcy law and related issues, drafting charging documents, and providing support as expert and fact witnesses at trial.

The USTP further contributes to the Department's ability to detect criminal activity by participating in bankruptcy and fraud working groups with federal and state law enforcement partners, as well as providing training to approximately 3,000 federal, state, and local law enforcement personnel, Program employees, private bankruptcy trustees, and members of the bar and other professional associations throughout the country on average each year. In FY 2018, the Program, in partnership with the Federal Bureau of Investigation (FBI) Economic Crimes Unit at FBI Headquarters, began a series of videoconference bankruptcy and bankruptcy-related fraud training sessions for FBI agents and staff, Assistant United States Attorneys, and USTP

staff. Through these joint training sessions, the USTP has reached more than 600 personnel in approximately 50 locations across the country. The Program also provides input on Department publications related to Bankruptcy and Bankruptcy Fraud, contributing to a U.S. Attorneys' Bulletin on these subjects, published in FY 2018.

The following recent case examples illustrate the wide array of prosecutions that result from USTP referrals.

CASE EXAMPLE: FOUR DEFENDANTS SENTENCED IN \$20 MILLION MORTGAGE FRAUD SCHEME. Four defendants in the Central District of California were sentenced for their roles in a foreclosure rescue scheme. Over an **approximate 10-year period**, the defendants, along with others, engaged in a scheme to **defraud financially distressed homeowners** by **offering to prevent foreclosure** on their properties **through short sales**. Instead, the **conspirators rented out the properties** to third parties, did not pay the mortgages on the properties, and submitted false and fraudulent documents to mortgage lenders and servicers in order to delay foreclosure. The conspirators also **obtained mortgages in the names of stolen identities** and used additional tactics, including **filing bankruptcy in the names of distressed homeowners without their knowledge** and **fabricating liens on the distressed properties**. **One defendant was sentenced to 20 years in prison** after pleading guilty to one count each of conspiracy to commit wire fraud, false statements to a federally insured bank or mortgage lending business, and identity theft; five counts of wire fraud; six counts of false statements to federally insured banks; and six counts of aggravated identity theft. **A second defendant was sentenced to four years and nine months in prison** after previously pleading guilty to one count each of conspiracy to commit wire fraud, false statements relating to loan applications, identity theft and filing a false tax return. Two other defendants were both convicted after trial on one count each of conspiracy to commit wire fraud, making false statements to federally insured banks, and identity theft. **One defendant was sentenced to 11 years and three months in prison** and the **other was sentenced to 14 years in prison**. All four defendants were **ordered to pay more than \$12 million in restitution and are jointly and severally liable for the entire amount**. The U.S. Trustee's Woodland Hills office referred the criminal matter and assisted with the investigation.

CASE EXAMPLE: BANKRUPTCY PETITION PREPARER SENTENCED FOR MULTIPLE COUNTS OF BANKRUPTCY FRAUD. A defendant was sentenced in the Southern District of Illinois to **18 months in prison** and **three years of supervised release** after previously pleading guilty to **21 counts of bankruptcy fraud**, causing false statements to be made under penalty of perjury, and falsifying records in a bankruptcy case. She also was **ordered to pay \$13,200 in restitution** to the *pro se* debtors. The **defendant defrauded the debtors by routinely charging excessive fees**, concealed her involvement in cases by **failing to disclose her name on documents she prepared** and **instructing clients not to mention her name**, and **caused the filing of false pre-bankruptcy credit counseling certificates**. The U.S. Trustee's Peoria office referred the criminal matter and assisted with the investigation.

CASE EXAMPLE: DEBTOR ADMITS BANKRUPTCY CONCEALMENT, TAX EVASION. In the Southern District of California, an **accountant and disbarred attorney** was **sentenced to 34 months in prison** and **ordered to pay more than \$7.3 million in restitution** after pleading guilty to the concealment of assets in bankruptcy and tax evasion. The defendant admitted that during his bankruptcy case he **failed to disclose assets and income** including his stock interest in a **real estate venture valued at approximately \$1 million**, a **luxury yacht** valued at approximately \$150,000, **antique silver items** valued at approximately \$165,139, and **nearly \$139,000 in unauthorized salary payments and other benefits** in violation of a Bankruptcy Code order. He also admitted to the **evasion of tax payments of more than \$5.9 million**. **His wife** was **sentenced to four months in federal custody** for **bank fraud** and was **ordered to pay more than \$145,000 in restitution**. The U.S. Trustee's San Diego office referred the criminal matter and assisted in the investigation.

For more information on criminal referrals, see the annual reports to Congress:
http://www.justice.gov/ust/eo/public_affairs/reports_studies/index.htm

4. Chapter 11 Oversight

The USTP carries out significant responsibilities in chapter 11 reorganization cases. These responsibilities include: appointing official committees of creditors; appointing trustees and examiners when warranted, such as when there is suspected financial wrongdoing; objecting when appropriate to the retention and compensation of professionals; and moving to dismiss or convert about one-third of chapter 11 cases each year because they are not progressing toward financial rehabilitation. While the USTP does not substitute its business judgment for that of management, the Program's role is critical to protecting the interests of all stakeholders by advocating for strict compliance with the law and promoting management and professional accountability. The following sections highlight several of the USTP's key activities in chapter 11 cases.

CASE EXAMPLE: Court Sustains U.S. Trustee's Objection to Sealing of Employment Agreement. In an **effort to uphold transparency** in the bankruptcy system, the Bankruptcy Court for the District of Delaware sustained an objection by the U.S. Trustee's Wilmington office to the sealing of an employment agreement for the former principal of a corporate chapter 11 debtor. The **former principal's alleged abuse victims filed the employment agreement with a court pleading.** The corporate chapter 11 debtor sought to have the agreement sealed from public view under Section 107(b) of the Bankruptcy Code. The court found that the **agreement is not confidential commercial information, as the business is no longer operating and the principal is no longer employed** there. The court also found that the **employment agreement did not meet the standard for sealing, as it cannot be viewed as scandalous or defamatory.**

Review of Proposed Executive and Other Insider Bonuses

The USTP reviews executive bonuses and other compensation requests for compliance with the Bankruptcy Code. In the BAPCPA, Congress curtailed the lingering practice of chapter 11 debtors' executives awarding themselves lavish bonuses during the bankruptcy case, which were often styled as "retention programs" that ostensibly dissuaded those executives from seeking employment elsewhere. In many cases, the United States Trustee's formal or informal objections have resulted in substantial voluntary changes to the debtor's proposed executive compensation programs. Other cases have required formal court action.

CASE EXAMPLE: Ruling for the USTP's Wilmington office, the Bankruptcy Court for the District of Delaware denied approval of \$2.85 million in bonus compensation sought by the management of a nationwide sporting goods retailer in chapter 11 bankruptcy. The debtor argued that the bonuses should be allowed because they would be paid by a secured lender rather than by the bankruptcy estate. The **court sustained the U.S. Trustee's objection, holding that the proposed bonuses were inappropriate where high-level management executives were merely staying in their positions after the business had been liquidated and rank-and-file employees were losing their jobs.**

Review of Professional Retention Applications for Conflicts of Interest

The Program rigorously reviews applications to retain professionals to ensure the adequate disclosure of connections and the absence of disqualifying conflicts of interest, filing over 600 objections on average annually over the past five fiscal years. In one case, the USTP objected to fees after it was revealed that there was a strong personal connection between principals in a law

firm and the financial firm that was engaged to review the work performed by the law firm. Even though some expressed the view that the USTP should excuse the failure to disclose with minimal penalty, after a court hearing, the financial firm ultimately relinquished all its fees, which totaled more than \$2 million.

5. Appellate Practice and Challenges to the Bankruptcy Code

The USTP is the only participant in the bankruptcy system with a national perspective and a responsibility to develop consistent case law across the nation. The Program handles a large number of appeals annually, many of which have a profound and long-standing effect on the bankruptcy system.

In FY 2018, the Program participated in 103 appellate matters beyond the bankruptcy court, including two dozen matters at the United States court of appeals level and five before the Supreme Court.

Enforcement of the bankruptcy laws is a priority for the USTP, and the Program ensures that they are followed as Congress has written them. This responsibility often presents itself in chapter 11 cases where some parties understandably seek to advance their interests over the rights of other parties. In 2017, the Supreme Court handed down *Czyzewski v. Jevic Holding Corp.*, 580 U.S. ___, 137 S. Ct. 973 (2017) where the court agreed with the position of the United States and held that the Bankruptcy Code precludes a bankruptcy court from authorizing a final distribution of proceeds from an estate claim settlement through a structured dismissal that violates the Bankruptcy Code's statutory priority scheme. Since then, the USTP has successfully litigated several post-*Jevic* cases. For example, in *In re Constellation Enterprises, LLC*, No. 16-11213 (Bankr. D. Del. May 16, 2017), the USTP successfully objected to a settlement between the chapter 11 unsecured creditors' committee and a purchaser of the debtor's assets that would have "skipped" a distribution to higher priority creditors in favor of lower priority creditors. The court sustained the USTP's objection based on *Jevic*, and the USTP sought and obtained dismissal of the committee's appeal on other grounds. After the chapter 11 creditors' committee appealed the bankruptcy court's ruling upholding *Jevic* and the Code, the USTP preserved it by convincing the district court that the committee lacked standing to appeal, as the case had converted to chapter 7. *Official Committee of Unsecured Creditors v. Constellation Enterprises, LLC (In re Constellation Enterprises, LLC)*, Civ. No. 17-757-RGA, 17-1430-RGA, Misc. No. 17-276-RGA, 2018 WL 1419886 (D. Del. Mar. 22, 2018). In accomplishing that, the USTP successfully rebutted the committee's troubling and novel arguments that chapter 11 committees continue to exist after cases convert to chapter 7 and that they may transfer their claims to successors in interest. Defeating those expansive arguments ensures that committees' statutory roles are not extended beyond what the Bankruptcy Code authorizes.

The Jevic and Constellation cases stand on their merits as a good example of the role the USTP can play in reorganization cases. As the only neutral party and one without a pecuniary interest, the Program is able to ensure that the provisions of the Bankruptcy Code are followed by all parties to the case. Sometimes, the USTP sides with employees, and other times it sides with major lenders. But at all times, the Program advocates for the most faithful construction of the Code.

The Program also acts vigorously to defend statutory powers that Congress has given it from constitutional attacks. Recently, in *Cadwell v. Kaufman, Englett & Lynd, PLLC*, 886 F.3d 1153 (11th Cir. 2018), the Program successfully encouraged the government to intervene before a U.S. court of appeals to defend a congressional enactment, 11 U.S.C. § 526(a)(4), against a First Amendment challenge. Under 11 U.S.C. § 526(a)(4), debtors' attorneys are prohibited from advising their clients to incur debt to pay for their legal work. USTP staff assisted with the drafting of the *amicus curiae* brief filed by the government in the case.⁸ The Eleventh Circuit agreed with the government's interpretation of the statute and upheld the constitutionality of section 526. This is the second time the Program has assisted with the successful defense of section 526 against a constitutional challenge.⁹ *Cadwell* represents a significant victory because the Program relies on this statutory provision to police the conduct of debtors' attorneys in bankruptcy cases and take action against incompetent or overreaching bankruptcy practitioners.

Below are other notable case examples from the USTP's appellate practice:

- The USTP assisted the Solicitor General in successfully arguing that a bankruptcy court's determination under 11 U.S.C. § 1129(a)(10) of insider status with respect to a particular claimholder is reviewed for clear error. *U.S. Bank Nat'l Ass'n ex rel. CWC Capital Asset Mgmt. LLC v. Vill. at Lakeridge, LLC*, 583 U.S. ___, 138 S. Ct. 960 (2018).
- The Bankruptcy Code establishes eligibility requirements that debtors must satisfy in order to obtain chapter 13 relief. Disregarding the law, a bankruptcy court allowed an ineligible debtor to pursue chapter 13 relief under an expansive theory, which received public attention and would have allowed other ineligible debtors to do the same. The USTP appealed and the appellate court reversed that ruling. It did so because the USTP correctly argued that the Bankruptcy Code unambiguously barred the debtor from pursuing chapter 13. *Stearns v. Pratola (In re Pratola)*, Case No. 18-cv-213, 2018 WL 4181498 (N.D. Ill. Aug. 31, 2018).
- The U.S. Court of Appeals for the Fifth Circuit agreed with the position of the USTP and affirmed a district court judgment that, in turn, affirmed a bankruptcy court's ruling that

⁸ When the USTP acts as *amicus curiae*, it is not a party to the case. Instead, it files a brief as a neutral party that shares its views about the legal issues presented by the appeal and its proposed solutions. As a neutral party, courts often give weight to the USTP's views.

⁹ For further details, please see *Milavetz, Gallop & Milavetz, P.A. v. United States*, 559 U.S. 229, 247 (2010) (which rejects the argument that section 526(a)(4) is impermissibly vague).

delivery and set-up costs should not be included in the valuation of a property that the debtor retains in a chapter 13 case. The USTP submitted a brief at the court's request and the court's ruling agreed with the USTP's position. *21st Mortg. Co. v. Glenn (In re Glenn)*, 900 F.3d 187 (5th Cir. 2018).

- The USTP successfully defended a bankruptcy court order denying a debtor's discharge of her debts for failing to disclose two lawsuits she filed shortly before filing for bankruptcy relief. The debtor, who is an attorney, tried to evade the consequences of her misconduct by placing the blame elsewhere. *Zizza v. Harrington (In re Zizza)*, 875 F.3d 728 (1st Cir. 2017).
- The USTP successfully defended the permanent suspension of an underperforming attorney. Following a lengthy disciplinary hearing, the bankruptcy court found, among other things, that the attorney signed his clients' names as though they had reviewed and signed the documents, reused client signatures to ghost-sign for them, submitted petitions on behalf of an ineligible debtor, and submitted inaccurate documents to the bankruptcy court. The court of appeals agreed that these findings provided grounds for permanent suspension. *In re Husain*, 866 F.3d 832 (7th Cir. 2017).

6. Private Trustee Oversight

The Program appoints and supervises private trustees, who are not government employees, to administer bankruptcy estates and distribute payments to creditors in cases filed under chapters 7, 12, and 13. Chapter 7 trustees collect the debtor's assets that are not exempt from creditors, liquidate the assets, and distribute the proceeds to creditors. Chapter 12 and chapter 13 trustees evaluate the financial affairs of the debtor, make recommendations to the court regarding confirmation of the debtor's repayment plan, and administer the court-approved plan by collecting payments from the debtor and disbursing the funds to creditors in accordance with the priorities of the Bankruptcy Code.

The Program instructs trustees concerning their duties to debtors, creditors, other parties in interest, and the United States Trustee; trains trustees and evaluates their performance; reviews their financial operations; ensures the effective administration of estate assets; and intervenes to investigate and recover the loss of estate assets when embezzlement, mismanagement, or other improper activity is suspected or alleged.

The Program supervises the activities of approximately 1,300 trustees, including 1,073 chapter 7 trustees, 32 chapter 12 trustees, and 175 chapter 13 trustees, who distribute nearly \$10 billion in assets on average annually, and handle approximately 1.5 million ongoing cases.

7. Credit Counseling and Debtor Education

To ensure that debtors are aware of alternatives to bankruptcy, and to provide tools to avoid future financial problems when they exit bankruptcy, the Bankruptcy Code requires individual debtors to receive credit counseling (including a discussion of options outside of bankruptcy) before filing, and to complete a personal financial management education course before receiving a discharge of debts. The USTP is charged with the responsibility to approve providers who must meet statutory qualifications to offer these services to debtors, and it also monitors their operations through quality service reviews. Currently, nearly 90 credit counseling agencies and 150 debtor education providers are approved to offer these services. Historically, around 20 percent of credit counseling certificates and debtor education certificates have been issued at no or reduced cost. Of those paying the full fee, the average combined cost of pre-bankruptcy credit counseling and post-discharge debtor education is under \$50, making these services accessible at a relatively modest cost.

United States Trustee Program

B. Performance Tables

1. PERFORMANCE AND RESOURCES TABLE											
Appropriation:		United States Trustee Program									
Decision Unit:		Administration of Cases									
Strategic Goal:		4. Promote Rule of Law, Integrity and Good Government									
Strategic Objectives:		4.1 Uphold the rule of law and integrity in the proper administration of justice 4.3 Pursue reform initiatives 4.4 Achieve management excellence									
WORKLOAD/ RESOURCES		Target		Actual		Projected		Changes		Requested (Total)	
		FY 2018		FY 2018		FY 2019		Current Services Adjustments & FY 2020 Program Changes		FY 2020 Request	
Total Costs and FTE		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
TYPE / Strategic Objective	Performance /Resources	1,015	\$225,908	981	\$225,908	1,015	\$225,908	0	\$1,321	1,015	\$227,229
Activity	1. Civil and Criminal Enforcement and Appellate Matters	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		531	\$116,339	506	\$116,569	524	\$116,569	0	\$681	524	\$117,250
Efficiency Measure	No. of 707(b) inquiries per successful outcome	7.0		5.4		7.0		0.0		7.0	
	Percent of Trustee Final Reports reviewed within 60 days	95%		100%		95%		0%		95%	
Activity	2. Case and Trustee Administration	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		497	\$109,348	475	\$109,339	491	\$109,339	0	\$640	491	\$109,979
Outputs	Number of successful actions related to consumer protection ¹	N/A		2,723		N/A		N/A		N/A	
	Number of successful discharge actions ¹	N/A		472		N/A		N/A		N/A	
	Potential Additional Returns to Creditors through Civil Enforcement and Related Efforts ¹	N/A		\$2,838,701,547		N/A		N/A		N/A	
	Litigation success rate	95%		97%		95%		0%		95%	

1/ For FY 2018 and beyond, the USTP is not including targets for numerical performance measures due to the uncertain effects of anticipated staffing reductions. The FY 2018 actual figure for potential additional returns to creditors through civil enforcement and related efforts is due to a case with \$2.2 billion in debts not discharged.

Data Definitions:

Chapter 7: A liquidation case. A trustee is appointed to sell the debtor's non-exempt assets and distribute the proceeds to creditors in accordance with the priorities of the Bankruptcy Code. Generally, absent fraud or abuse, the remaining debts of individual debtors are discharged. Chapter 7 cases include individuals and businesses.

Chapter 11: A reorganization case. The debtor usually remains in possession of its assets, continues to operate its business, and repays and/or readjusts debts through a plan that must be approved by creditors and the bankruptcy court. Chapter 11 cases are generally business cases although individuals are also eligible to file.

Chapter 12: A debt adjustment case by a family farmer or family fisherman. The debtor usually remains in possession of its assets, continues to operate its business, and repays creditors, in part or in whole, through a court-approved chapter 12 plan over a period not to exceed five years.

Chapter 13: A debt adjustment case by an individual with regular income. The debtor retains property, but repays creditors, in whole or in part, through a court-approved chapter 13 plan over a period not to exceed five years.

Number of Section 707(b) inquiries per successful outcome: Inquiries made under 11 U.S.C. § 707(b)(2) and (b)(3) help the Program assess an individual debtor's eligibility for chapter 7 relief. If the debtor's income is above the applicable state median and calculations show disposable income above a specified amount, there is a presumption of abuse. In many cases, this requires the debtor to either agree to convert the case to chapter 13 or dismiss (cancel) the chapter 7 bankruptcy petition, voluntarily or through contested litigation. This efficiency measure is calculated by dividing the sum of all section 707(b)(2) and (b)(3) inquiries made by the Program to debtors or their attorneys in a fiscal year by the number of successful outcomes relating to 707(b)(2) and (b)(3). A successful outcome is defined as a conversion to a more appropriate bankruptcy chapter, a dismissal of the bankruptcy case, or an abuse motion granted. A lower ratio suggests the Program is doing a better job of focusing staff effort (inquiries) on bankruptcy petitions requiring Program action.

Percent of Trustee Final Reports reviewed within 60 days (new measure in FY 2017): This measure is the efficiency rate for Trustee Final Reports (TFRs). Under the Memorandum of Understanding with the Administrative Office of the U.S. Courts, TFRs must be reviewed and approved by the USTP, and filed with the bankruptcy court, within 60 days of receipt. Case trustees distribute chapter 7 estate funds to creditors in accordance with USTP-approved TFRs.

Number of successful actions related to consumer protection: This measure consists of formal motions and complaints granted in a bankruptcy court and successful inquiries made by the United States Trustee to prevent fraud, abuse, and error resulting from the inappropriate actions of creditors, petition preparers, attorneys, mortgage servicing agencies, and mortgage rescue scam operators. The measure includes actions under 11 U.S.C. §§ 110, 526 and 329,

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False/Inaccurate/Improper Claims, Discharge/Stay Violations under 11 U.S.C. § 524, Abuse of Reaffirmation Procedures, Improper Solicitation, Objection to Relief from Stay Motions, and Other Actions for Attorney Misconduct.

Number of successful discharge complaints (discontinued in FY 2018): This measure consists of successful formal discharge complaints filed by the USTP in a bankruptcy court to prevent fraud and abuse by individual debtors. These complaints result in waiver, denial, or revocation of a discharge of debt. It is one of the most serious civil remedies against fraud and abuse by individual debtors in the bankruptcy system and is taken to resolve issues such as hidden assets and unreported income. (This measure does not include successful discharge complaints against debtors who are ineligible due to a prior discharge or who failed to complete a debtor education course.)

Number of successful discharge actions (new measure in FY 2018): The Program added this new measure in FY 2018 to replace the number of successful discharge complaints, which was discontinued in FY 2018. This measure consists of successful formal and informal discharge actions that result in waiver, denial, or revocation of discharge of debt. These actions are taken to resolve issues such as hidden assets and unreported income and represent one of the most serious civil remedies against fraud and abuse by individual debtors in the bankruptcy system. (This measure does not include successful discharge actions against debtors who are ineligible due to a prior discharge or who failed to complete a debtor education course.)

Potential additional returns to creditors through civil enforcement and related efforts: the Program's actions have a significant financial impact, and this measure tracks the amounts involved as the result of the Program's formal and informal actions. The majority of this total is attributable to debts not discharged in chapter 7 and potentially available to creditors. Other amounts included are fee requests and claims reduced or withdrawn, fees disgorged, and sanctions and fines against professionals.

Litigation success rate (new measure in FY 2017): This measures the Program's aim for excellence in litigation, including exercising sound judgment, diligence, and discretion to bring the strongest actions given limited Program resources. The success rate is calculated as the number of actions favorably resolved (granted or sustained) divided by the total number of actions decided (granted, sustained, overruled, or denied) in any given year.

United States Trustee Program

PERFORMANCE MEASURE TABLE									
Appropriation:		United States Trustee Program							
Decision Unit:		Administration of Cases							
Strategic Goal:		4. Promote Integrity, Good Government, and the Rule of Law							
Strategic Objectives:		4.1 Uphold the rule of law and integrity in the proper administration of justice 4.3 Pursue reform initiatives 4.4 Achieve management excellence							
Performance Report and Performance Plan Targets		FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2018	FY 2019	FY 2020
		Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Efficiency Measure	No. of 707(b) inquiries per successful outcome	4.8	5.2	5.2	5.1	7.0	5.4	7.0	7.0
	Percent of Trustee Final Reports reviewed within 60 days ¹	New Measure FY 2017	New Measure FY 2017	New Measure FY 2017	100%	95%	100%	95%	95%
Outputs	Number of successful actions related to consumer protection ²	2,829	2,545	2,503	2,483	N/A	2,723	N/A	N/A
	Number of successful discharge complaints ³	410	395	462	424	Discontinued FY18	Discontinued FY18	Discontinued FY18	Discontinued FY18
	Number of successful discharge actions ^{2/3}	New Measure FY 2018	New Measure FY 2018	New Measure FY 2018	New Measure FY 2018	N/A	472	N/A	N/A
	Potential additional returns to creditors through civil enforcement and related efforts ²	\$1,071M	\$1,168M	\$965M	\$884M	N/A	\$2,839M	N/A	N/A
	Litigation success rate ¹	New Measure FY 2017	New Measure FY 2017	New Measure FY 2017	98%	95%	97.0%	95%	95%

1/ The Program added two new measures in FY 2017: the percent of Trustee Final Reports reviewed within 60 days and the Program's overall litigation success rate.

2/ For FY 2018 and beyond, the USTP is not including targets for numerical performance measures due to the uncertain effects of anticipated staffing reductions. The FY 2018 actual figure for potential additional returns to creditors through civil enforcement and related efforts is due to a case with \$2.2 billion in debts not discharged.

3/ The number of successful discharge complaints measure was discontinued in FY 2018, and replaced by the number of successful discharge actions.

C. Performance and Strategies

1. Performance Plan and Report for Outcomes

The Program's dedicated professionals have continued to fulfill mission priorities despite a 26 percent decrease in staffing since FY 2007. In FY 2018, this included making more than 2,200 criminal referrals to United States Attorneys and law enforcement; participating in 103 appellate

matters beyond the bankruptcy court, including two dozen matters at the United States court of appeals level and five before the Supreme Court; reviewing approximately 68,000 Trustee Final Reports; conducting nearly 500 on-site audits and field reviews for chapter 7, 12 and 13 trustee operations; and filing over 2,000 motions to convert or dismiss chapter 11 cases. In addition, the USTP took more than 30,000 formal and informal civil enforcement actions.

In FY 2018, the Program began reporting totals for numerical measures (including the new successful discharge actions measure) without including targets. Targets for the existing percentage and ratio-based measures remained unchanged, and in FY 2018, the Program met all three of its performance goals.

2. Strategies to Accomplish Outcomes

The USTP's work to protect the integrity and ensure the effective operation of the nation's bankruptcy system supports the Department's Strategic Plan Goal of Promoting Integrity, Good Government, and the Rule of Law. Program activities further align under the following Strategic Objectives:

- 4.1 – Uphold the rule of law and integrity in the proper administration of justice.
- 4.3 – Pursue regulatory reform initiatives.
- 4.4 – Achieve management excellence.

To fulfill these objectives, the USTP employs the following strategies:

a. Enforce compliance with federal bankruptcy laws and take responsible civil actions against parties who abuse the law or seek to defraud the bankruptcy system.

The USTP's anti-fraud and abuse efforts focus on wrongdoing by debtors, creditors, professionals, and other third parties.

Debtor Abuse. The USTP combats fraud and abuse by debtors who, among other things, attempt to conceal assets; evade the repayment of debts when they have disposable income available to pay them; or commit other violations of the Bankruptcy Code primarily by seeking case dismissal or by seeking denial of discharge. Civil enforcement actions include taking steps to dismiss abusive filings, deny discharges to ineligible or dishonest debtors, and limit improper refilings.

Underperforming Consumer Debtor Attorneys. The Program anticipates continuing to prioritize its national enforcement efforts to address continuing concerns regarding underperforming consumer practitioners, particularly among national law firms that advertise on the Internet. Debtors, creditors, and the court are all victims of improper, fraudulent, or abusive practices by those who represent debtors in bankruptcy courts.

Creditor Abuse. The USTP continues to monitor compliance by national creditors for fraud and abuse issues. Three settlements completed in FY 2018 resulted in more than \$153 million in

remediation to bankruptcy debtors. The USTP is addressing the robo-signing of documents filed with the bankruptcy court, violations of the discharge injunction, and other non-compliance with bankruptcy statutes and rules committed by both secured and unsecured lenders.

b. Pursue violations of federal criminal laws pertaining to bankruptcy by identifying, evaluating, referring, and providing investigative and prosecutorial support of cases.

The integrity of the bankruptcy system depends upon the honesty and truthfulness of all participants and deterrence against those who would abuse the system to defraud others. Integral to protecting the system is the USTP's statutory responsibility to refer suspected criminal activity to the United States Attorneys, and to provide assistance to law enforcement when appropriate, including serving as Special Assistant United States Attorneys. Program staff dedicate significant time to assisting its law enforcement partners in the investigation and prosecution of bankruptcy fraud and related crimes. Referrals from the USTP cover a broad spectrum of criminal activity including bankruptcy fraud, tax fraud, identity theft or use of false or multiple Social Security numbers, mail and wire fraud, bank fraud, mortgage fraud, and real estate fraud.

c. Promote the effectiveness of the bankruptcy system by appointing and supervising private trustees who administer bankruptcy cases expeditiously and maximize the return to creditors.

Pursuant to the Bankruptcy Code, the United States Trustee appoints and supervises private trustees who administer bankruptcy estates and distribute payments to creditors in cases filed under chapters 7, 12, and 13. Trustees have a fiduciary responsibility to the bankruptcy estate. It is a fundamental duty of the United States Trustee to regulate and monitor the activities of these private trustees to ensure the effective distribution of funds and compliance with standards put in place to safeguard those funds. The USTP selects and trains trustees and evaluates their overall performance and financial operations to ensure that cases are handled efficiently, effectively, and in accordance with applicable law and Program policy.

d. Ensure financial accountability, compliance with the Bankruptcy Code, and prompt disposition of chapter 11 bankruptcy cases.

The USTP monitors and takes enforcement actions in reorganization cases within its jurisdiction, ranging from small, single proprietorships to multi-billion dollar conglomerates. Without substituting its judgment for that of parties with a monetary stake, the USTP focuses its attention on areas such as the following: filing motions and appointing trustees to replace management that engaged in egregious or improper activity; prescribing and monitoring financial reports to ensure that the debtor is not dissipating assets and is otherwise progressing toward financial rehabilitation; and reviewing and objecting to professional compensation applications to ensure that fees do not exceed market rates and comply with other statutory requirements. Currently, the USTP is engaged in an APA rulemaking on uniform financial reporting for the vast majority of chapter 11 business and individual debtors, and trustees, including in the largest

reorganization cases.¹⁰ The rule streamlines the financial reporting requirements for non-small businesses in chapter 11 and ensures consistency by replacing over one hundred different report forms that currently exist under the regime of locally-prescribed reporting. This streamlining makes the rule deregulatory in nature.

e. Achieve management excellence by promoting ethical conduct across Program staff, fostering workforce performance, and pursuing cost savings in technology.

The USTP is committed to ensuring the highest ethical conduct and performance of its diverse workforce. Integrity and ethical values in decision-making are expected at all levels of the organization, and standards are communicated by management as well as through a comprehensive ethics and financial disclosure program. Program operations are assessed via a robust management review system for regional performance and a peer evaluation protocol that ensures field offices comply with Program priorities, objectives and policy. Further, continuous training opportunities are provided via formal training plans as well as through mentoring programs that allow long serving staff to share knowledge with newer employees. In the area of technology, the USTP continuously reviews its operations for cost-saving opportunities, and over FY 2017 and FY 2018, moved systems to the cloud, and implemented shared services for its Help Desk and litigation support, resulting in annual cost savings and operational efficiencies for the Program. In FY 2019, the USTP will centralize IT staff reporting lines under its CIO, enabling the Program to more efficiently utilize staff resources and eliminate the need to backfill six vacant positions.

V. Program Increases by Item

The FY 2019 budget does not request program increases.

VI. Program Offsets by Item

The FY 2019 budget does not request program offsets.

¹⁰ In FY 2017 and FY 2018, the USTP devoted resources to addressing the Strategic Plan Objective 4.3 through its work to implement the regulation for “Procedures for Completing Uniform Periodic Reports in Non-Small Business Cases Filed Under Chapter 11 of Title 11” (the Rule). This work included analysis to ensure the Rule was in compliance with various Executive Orders governing the development of rules. Further, the USTP assessed the costs and benefits and costs savings of this Rule and determined that the regulatory approach selected maximizes net benefits and, after minimal initial costs, will yield cost savings. The final Rule would impose no new obligations on the general public, as it would apply only to non-small business debtors in possession or trustees in bankruptcy cases under chapter 11 of title 11. For FY 2019 and beyond, the USTP projects continuing to expend resources for Objective 4.3, to include finalizing work on the implementation of and compliance with the Rule.

VII. Exhibits