



U.S. Department of Justice
Office of the United States Trustee
Western District of New York

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Rochester, New York 14614

MEMORANDUM

TO: New Haven Chapter 7 Trustees

FROM: Lisa M. Penpraze, Assistant U.S. Trustee – Albany
Kathleen Dunivin Schmitt, Assistant U.S. Trustee – Rochester
Erin Hogan, Bankruptcy Analyst
TFR/TDR Consolidation Supervisors

SUBJECT: Reimbursement of Expenses

DATE: February 13, 2014

First, thank you for your cooperation these last few months as we implemented the regional consolidation of Trustee Final Reports and Trustee Distribution Reports. We have made good progress in ironing out many of the issues that arose in the very early stages of the Project.

One of the goals of consolidation is to achieve consistency in how Final Reports are reviewed and documented within the Region. With regard to fees and expenses, we are working toward more uniformity in procedure and greater compliance with 11 U.S.C. § 330, the U.S. Trustee Fee Guidelines and Chapter 7 Trustee Handbook, while continuing to take into consideration each Court's Local Rules and Standing Orders regarding fees and expenses.

During the initial rollout, we discovered several local practices throughout the Region that were inconsistent and/or not in compliance with the Code and Rules. One of the inconsistencies appears to be a long standing practice in New Haven regarding expenses. We understand from reviewing U.S. Trustee Office memoranda that trustees were told that no

receipts were required for an expense that did not exceed \$30. Over time, it appears this local policy was interpreted to mean that trustees could charge each asset estate a flat fee of \$30 for multiple expenses, and that no documentation would need to be provided. Instead, the trustees would note on the TFR that total expenses were less than \$30. While we understand this was a past practice, we need to change that practice going-forward.

As we all know, the Code allows Trustees to charge estates for expenses that are *actual, reasonable and necessary* to that specific case. In addition, Trustees are not permitted to charge estates for items that are considered overhead.

We are currently working within our Group to establish what is sometimes referred to as an “objection ceiling” for actual expenses that typically do not generate a receipt and/or is of an amount for a single expense that is deemed *de minimus*. We believe that number will be \$50, which is slightly higher than the \$30 currently allowed in New Haven. Under the new process, trustees will be required to break out individual expenses with an actual dollar figure. In other words, the practice of charging asset cases a flat minimum fee of \$30 for various undisclosed expenses is being discontinued. Each expense must be listed separately along with the dollar amount of the actual expense charged.

We understand that you may have TFRs currently being reviewed in our offices with this flat fee. These cases will be processed and filed if no other issues are noted. For any case received in our office after March 1, 2014, however, you must break out the expenses to the extent possible, like you do for cases where expenses exceed \$30.00. Below is an example of

the detail we expect.

- Postage \$11.95
- Copying (100 copies at 15 cents a page) \$15.00
- Overnight shipping (2) \$29.90

This additional detail noted above lets our reviewers and the Court know what the actual expenses were for this estate. It also helps us determine whether the expenses appear reasonable, whether the charges are in compliance with the Court's local rules or standing orders, and it allows us to eliminate the need for documentation where the amounts appear reasonable.

Generally, documentation should be provided for:

- Any single expense over \$50.00,
- Non-ordinary expenses related to administration of assets (locksmiths etc...),
- Charges from outside vendors such as copy services, process servers, Lexis, Westlaw

Please make sure to pass this information along to your staff. If you have any questions or concerns, please contact us or Regional Analyst, John Segreto.

cc: John Segreto
cc: William Harrington, US Trustee, Region 2
cc: Kim McCabe, AUST for New Haven