

From: [Drew, Richard H. III \(USTP\)](#)
To:
Cc:
Subject: Encumbered assets, follow up
Date: Monday, August 19, 2019 10:32:00 AM

Dear trustees,

Thanks to everyone for coming to training and participating so well Friday. I wanted to address one issue we didn't get to. The trustee handbook of course makes clear that in almost all circumstances fully encumbered assets should be abandoned, not administered. However, even if there is some equity in the asset, it should still be abandoned if administering the property would leave unsecured creditors with a lower distribution after payment of trustee compensation. For example, if you have property that can be sold for \$50,000 but has a \$49,000 lien, the trustee compensation for disbursement of the \$50,000 will take all of the \$1,000 in equity and also eat into other funds that could have gone to unsecureds, leaving them worse off than if the asset had been abandoned.

I don't think this has happened very often in this district, but avoiding this sort of harm to unsecureds will be a UST priority going forward, either at the sale motion stage or if necessary at the TFR/trustee compensation stage. This will be easy enough for situations with a definite sale price or offer. For a pure public auction of an encumbered asset, where the ultimate price is not known, the solution will likely need be to setting a reserve price that ensures some return for unsecureds.

If you have doubts about any proposed sale, we will be happy to talk about it, and I'm happy to also talk about the problem and ways to address it generally. Thanks again for all your hard work. As requested, I'm also attached a PDF of the pro se questionnaire. As stated, getting these filled out by all pro se debtors is a priority given the abuses out there right now.

Best,
Richard

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