

**Substantive Changes to the
Handbook for Chapter 7 Trustees
Questions and Answers – Set #4**

Bonding Collection Agents and Other Third Parties Who Handle Estate Funds

- 38) Does the Handbook require that collection agents (and others who handle estate funds, property managers, for example) be bonded?**

No. However, this is a better practice. To clarify: on page 8-23, the Handbook states that “the *general* standards for supervising auctioneers apply equally to other professionals who take possession of estate funds and property [emphasis added].” The general standards appear on page 8-24. The section on bonding for auctioneers is on page 8-25; it is not part of the general standards.

Section 341(a) Meetings

- 39) Question 10 in Appendix A asks “Have you ever filed bankruptcy before?” Since the bankruptcy petition requests information only on cases filed within 6 years of commencement of the new case, may the trustee limit the question to six years, such as: “Have you filed bankruptcy in the past six years?”**

No. The trustee should ask the question without regard to when the filing occurred because the answer may lead to other areas of inquiry.

- 40) Can a paraprofessional (such as a paralegal or a petition preparer) sit next to the debtor at the table, advise the debtor, or stand-in for the debtor’s attorney at the meeting of creditors?**

No. To participate, represent, or assist the debtor in this manner would usually be considered the unauthorized practice of law.

Form 1 in Successor Trustee Cases

- 41) **There have been a number of successor trustees of late, and the trustees have been told that their Form 1 should not match the predecessor trustee's, but should only list the assets which the previous trustee did not liquidate and the funds received from that trustee. In other words, successor trustee cases have been treated like cases converted from Chapter 11.**

The Handbook is silent on this matter. Have these instructions been correct, or should the successor trustee copy the original trustee's Form 1 (presuming it is accurate)?

These instructions have been correct. The successor trustee's Form 1 should list all receipts or deposits turned over by the prior trustee as well as all property of the estate not administered by the prior trustee. The successor trustee's Form 2 should begin with the balance turned over by the previous trustee, thereby remaining consistent with the successor trustee's bank statements.

FRBP 2012(b) requires a successor trustee to file with the United States Trustee an accounting of the prior trustee's administration of the estate. This accounting should be a separate and distinct record of the activities which were solely within the control of the prior trustee. The rule does not have a deadline for submission of the accounting. Absent some evidence of defalcation or other harm to the estate, the accounting can be submitted in conjunction with the submission by the successor trustee of the standard reports required by the United States Trustee.