

Chapter 7 Trustee Asset Administration Questionnaire

Directions for the trustee: The purpose of the Asset Administration Questionnaire (AAQ) is to help the United States Trustee understand the chapter 7 trustee's procedures for administering estate assets and closing cases as expeditiously as is compatible with the best interests of the estates. Please complete and return the AAQ to this office by _____. References to "you" or "trustee" refer to the chapter 7 trustee personally. References to "staff" or "employees" include independent contractors. If you have not yet encountered the situation described, please indicate how you would handle the situation if it comes up in the future. Where possible, references to the *Handbook for Chapter 7 Trustees* are shown in parentheses. This questionnaire may be downloaded from the Program's web site: http://www.justice.gov/ust/eo/private_trustee/library/chapter07/index.htm.

I. General Information

Trustee name: _____ Other Profession (if any): _____

II. Asset Administration

A. General Case Administration Procedures

1. How have you implemented the case progress review described in *Chapter 4.C.13* of the *Handbook for Chapter 7 Trustees (Handbook)*?
2. How do you ensure that case administration deadlines are met? [E.g., deadlines such as due dates established for turnover of records or other information (*Handbook Chapters 3.B, 3.C, 4.C and 4.C.6*), time for objecting to exemptions or discharge (*Handbook Chapters 4.C.3.c and 4.G*), and time for filing avoidance actions (*Handbook Chapter 4.C.8*).]
3. To avoid undue delays in case closure, how do you ensure that:
 - a) Claims bar dates are timely established and claims are promptly review? (*Handbook Chapters 4.C.4 and 4.F*)
 - b) Tax returns are promptly filed? (*Handbook Chapter 4.C.5*)
 - c) Professional fee applications are timely filed? (*Handbook Chapters 4.C.10 and 4.C.13*)

4. How do you or your staff track new case assignments? (*Handbook Chapter 2.E*)
5. How do you screen new case assignments for possible conflicts of interest or lack of disinterestedness? (*Handbook Chapter 2.K.1*)
6. How and when do you determine that a case will be administered as an asset case? (*Handbook Chapter 4.C*)

B. Civil and Criminal Enforcement

1. How do you decide when to advise the United States Trustee that a case should be reviewed for potential abuse pursuant to 11 U.S.C. § 707(b)? (*Handbook Chapter 4.N.7*)
2. How do you decide when to make a criminal referral to the United States Trustee? (*Handbook Chapters 4.N.9*)
3. How do you decide whether or not to object to a debtor's discharge pursuant to 11 U.S.C. § 727 or to refer the case to the United States Trustee for review of a possible discharge denial action? (*Handbook Chapters 4.G*)
4. What do you do when a debtor's attorney performs in a substandard manner? (E.g., engages in misconduct, does an inadequate job of completing the bankruptcy schedules and statements, charges too much, appears to be grossly incompetent, routinely is non-responsive.) (*Handbook Chapter 3.D.14*)
5. What do you do to investigate the activities of bankruptcy petition preparers, and how do you decide when to advise the United States Trustee that a bankruptcy petition preparer's activities in a particular case should be reviewed? (*Handbook Chapter 4.N.6*)
6. How do you decide when to advise the United States Trustee that a case should be reviewed for potential abuse by a creditor?

C. Identifying and Valuing Estate Assets

1. How do you identify unscheduled assets? Include in your response:
 - a) Under what circumstances do you request debtor records in addition to what is required under Fed. R. Bankr. P. 4002(b)(2)?

- b) How do you evaluate whether the debtor has made any fraudulent or preferential transfers? (*Handbook Chapter 4.C.8*)
- 2. How do you inventory personal property that appears to have value for the estate (e.g., furniture, fixtures, autos, jewelry, business inventory)? (*Handbook Chapter 4.C.3.a*)
Include in your response:
 - a) Under what circumstances do you decide to personally conduct the inventory?
 - b) How do you document the inventory? (E.g., on the schedules, Form 1, separate written list, video tape.)
- 3. How do you determine whether or not property has consequential value to the estate? (*Handbook Chapter 4.C*) Include in your response:
 - a) How do you determine the market value of the property, including real property, vehicles, receivables, causes of action, securities, intangibles, and miscellaneous personal property? (*Handbook Chapter 4.C.3.d*)
 - b) How do you determine whether there will be sufficient proceeds to ensure a distribution to priority and general unsecured creditors? (*Handbook Chapter 4.C.1*)
 - c) When and how do you consider the tax consequences? (*Handbook Chapter 4.C.3 and 4.C.5.e*)
 - d) How do you investigate scheduled security interests to determine if they are valid? (*Handbook Chapter 4.C.3.d*)
 - e) How do you document your determination that an asset does or does not have consequential value to the estate? (*Handbook Chapter 4.C*)
- D. Securing and Protecting Real and Personal Property
 - 1. How do you promptly obtain control over real and personal property (including intangibles) that appears to have value for the estate? (*Handbook Chapter 4.C.3.f*)
Include in your response:
 - a) How do you secure bank accounts and receivables?
 - b) How do you secure buildings? (E.g., change the locks, hire security guards, etc.)
 - c) How do you secure personal property and under what circumstances do you personally gather and lock the property in a warehouse, storage facility, etc.?

- d) How do you keep the debtor and third parties from liquidating estate assets without your knowledge (e.g., by filing a notice, if needed, to protect your interest in real property)?
2. In connection with securing the assets of a business:
 - a) If the continued operation of the business would benefit the estate, do you promptly discuss this possibility with the United States Trustee and seek an order to operate the business? (*Handbook Chapter 4.I*)
 - b) If continued operation would not benefit the estate, do you verify that the business operations have ceased? (*Handbook Chapter 4.C.3*)
 - c) Is business mail promptly re-directed to your office?
 3. If you cannot obtain casualty insurance in an amount sufficient to protect real and personal property that has value for the estate, what steps do you take to preserve and protect the estate's assets? (*Handbook Chapter 4.C.3.f*)
 4. What do you do if uninsured property has no or nominal value to the estate (i.e., fully secured property)? (*Handbook Chapters 4.C.3.e and f*)
 5. What do you do if estate property is lost, stolen, or damaged? (*Handbook Chapters 4.C., generally, and 4.C.10.g*)
 6. How do you abate or prevent environmental contamination by or to estate property? (*Handbook Chapter 4.C.3.g*)
- E. Abandoning Estate Property
1. How do you decide which assets to formally abandon under 11 U.S.C. § 554(c)? (*Handbook Chapter 4.C.3.e*)
 2. During what point in case administration do you abandon property? (*Handbook Chapter 4.C.3.e*)
 3. How do you document your abandonment decisions? (*Handbook Chapter 4.C.3.e*)
- F. Asset Sales/Receivables/Settlements and Supervision of Related Professionals
1. Are sales and settlements properly noticed and authorized by court order, if required? (*Handbook Chapter 4.C.9*)
 2. Is a court order always obtained prior to the employment of professionals who liquidate estate assets on your behalf? (*Handbook Chapter 4.C.9.a*)

3. If you sell an asset under an installment contract or agree to a settlement with payments over time:
 - a) How do you decide upon a repayment period that does not unduly delay case closure? (*Handbook Chapter 4.C.9.h*)
 - b) When do you obtain and perfect a security interest? (*Handbook Chapter 4.C.9.h*)
 - c) How do you follow-up on delinquent payments? (*Handbook Chapter 5.G.1*)
4. How do you track the collection of receivables? (*Handbook Chapter 5.G.1*)
5. Do you or your staff send initial demand letters before referring the collection of assets, such as receivables or preferences, to an attorney or collection agent? (*Handbook Chapter 5.G.1*)
6. For assets sold on the Internet, is a separate Internet commerce account established for each estate so funds from different estates are not commingled? (*Handbook Chapter 5.G.2*)
7. How do you supervise professionals such as appraisers, auctioneers/liquidators, brokers, collection agents, and attorneys/accountants who value, pursue, and/or take physical possession of estate assets and funds on your behalf? (*Handbook Chapter 4.C.10.e*)
8. How do you ensure that auctioneers/liquidators are adequately bonded in an amount sufficient to cover all receipts from the sale? (*Handbook Chapter 4.C.10.g*)
9. How do you ensure that auctioneers/liquidators maintain insurance coverage for lost or stolen property? (*Handbook Chapter 4.C.10.g*)
10. If an Internet auctioneer collects deposits or sales proceeds, or takes possession of estate property, how do you verify that the auctioneer is bonded and insured? (*Handbook Chapter 5.G.2*)
11. How do you monitor sales to ensure that your employees, the estate's professionals, the professionals' employees, and any family members do not bid on or buy estate property? (*Handbook Chapter 2.K.4*)
12. If you sell assets directly to buyers via the Internet, describe your procedures for handling payments and shipping goods. (*Handbook Chapter 5.G.2*)
13. Do you file reports of sale, or ensure that they are filed, within 30 days of sales or in accordance with local rules? (*Handbook Chapter 4.C.9.g*)

14. If auction sale proceeds are not remitted by the auctioneer/liquidator within 30 days or in accordance with local rules, what are your procedures for securing the funds? *(Handbook Chapter 4.C.10.g)*
15. If you use a collection agent or other third party to collect receivables or other periodic payments, how do ensure that all proceeds are timely turned over to you? *(Handbook Chapters 4.C.10.e and 5.G.1.b)*
16. If you suspect that an auctioneer, liquidator, collection agent, or other third party misappropriated assets, do you promptly notify the United States Trustee and file a bond claim (if applicable)? *(Handbook Chapter 4.C.10.g)*

G. Other Issues

1. How do you or your staff review professional fee applications for reasonableness, and do you object or negotiate reductions, as appropriate? *(Handbook Chapter 4.C.12)*
2. How do you handle inquiries and complaints from debtors, creditors, and other interested parties? *(Handbook Chapter 4.H)*

I certify that the foregoing responses are accurate and correct to the best of my knowledge.

Trustee's signature: _____ Date signed: _____