

## **MEMORANDUM**

United States Department of Justice  
United States Trustee  
Region 12  
Minnesota, Iowa, North & South Dakota



May 21, 1018

Chapter 7 Panel Trustees  
Region 12

I recently became aware of a practice utilized in some districts in which: duplicate claims; issues of security or priority; and claim amounts are being “resolved” by letter agreement with the creditor. The letter is then attached to the TFR. After reviewing the matter, I believe the letter resolution procedure is contrary to both the Code and the Trustee Handbook. Specifically:

- A. Withdrawal of claims are governed by Federal Rules of Bankruptcy Procedure, Rule 3006. In shorthand and as applicable to chapter 7 that Rule provides that absent an objection a creditor may withdraw a claim as a matter of right. If an objection or adversary proceeding has been filed the claim can only be modified by order of the court after a noticed hearing. This section seemingly restricts claims resolution to withdrawal or order of the court.
- B. The Handbook at Page 4-26 under Review of Claims provides that a trustee **may not submit** a TFR unless they have **previously completed** the claims examination **and** determination process. As set forth on Page 4-27 the handbook provides that a trustee’s claims determination process includes filing objection to, among other things, “the claim is a duplicate of another claim.” These sections clearly require that claims be resolved before submitting a TFR.

The current “letter determination process” attempts to resolve claim issues using the TFR as a substitute for an objection to the claim. First, that practice fails to resolve the claim prior to the submission of the TFR as required by the Handbook. Further, this process appears to violate of Rule 3006’s restrictions requiring claims be resolved by either “withdrawal” or “order.”

Based on the foregoing, effectively immediately, trustees are to cease the practice of “letter determinations” of claims. Accordingly, and also effective immediately, the United States Trustee’s office will no longer approve a TFR if claims have not been resolved prior to submission of the report.

James L. Snyder  
Acting United States Trustee  
Region 12