

January 19, 2006

The Consumer Bankruptcy Committee of the Debtor Creditor Section met on January 19, 2006 and discussed the following matters:

Chapter 13 Trustee's announcements:

- Brian Lynch handed out a new form that his office will be using to calculate the disposable income for below median debtors. This form has been attached to the minutes.
- Mr. Lynch reminded counsel to use the pre con and post con e mail addresses and to send any attachments to these e mail addresses, not to other individuals in the department. If you e mail the Trustee's office, you do not need to also fax in a copy.
- The Trustee's office does not need hard copies of documents unless they are required to have an original signature.
- Please refer to the Chapter 13 Trustee's web site at www.portland13.com for new language in Chapter 13 plans on sales or refinances of real property.

Chapter 7 Trustees' announcements:

- Chapter 7 Trustees, Thomas Renn and Michael Grassmueck, attended the meeting. They indicated that for now they, and some of the other Chapter 7 Trustees, are not dismissing cases for failure to provide the last year's tax returns or tax transcripts that the debtor should have provided seven days prior to the 341(a) Hearing. However, 11 U.S.C. 521 (b)(2)(b) indicates that if a debtor fails to comply with this provision of the code, the Court shall dismiss the case unless the debtor is able to demonstrate that the failure to comply with the code section is beyond the control of the debtor.
- The Court is considering modifying its 341(a) Notice to include a request for pay advices and tax returns to better prepare a pro se debtor.
- While the code only requires that a debtor provide tax returns or tax transcripts for the last year that the debtor was required to and did file tax returns, be aware that the individual Chapter 7 Trustee may request that the debtor file any unfiled taxes. The Trustees want to see both federal and state tax returns or tax transcripts.
- Most Trustees are open to accepting the tax returns or tax transcripts and pay advices through e mail or the mail. Remember to redact social security numbers as well as identifying information for minors.
- If the debtor does not have pay advices for the last 60 days, it is helpful if you send a letter to the Trustee indicating that none exist for the debtor prior to the hearing.
- The Chapter 7 Trustees will be meeting to discuss changes in the new laws and how they will conduct their 341(a) Hearings. They are working to be as consistent from Trustee to Trustee as possible.
- Mr. Renn and Mr. Grassmueck indicated that they would discuss at their next meeting with the other Trustees a policy to announce at the end of a 341(a) Hearing whether they believe it to be an asset case, a no asset case, or whether they are unsure of the disposition of the case.
- As a reminder, if a case has been open for an extended period of time, you can call the Trustee to check on the status of the case and seek abandonment of property of the estate that may be appreciating while the case is open.
- Mr. Grassmueck indicated that factors prompting an inquiry into the value of personal property include high credit card debt, expensive or large homes, and high income. In these cases, he has an appraiser that can go to the debtor's home to value the personal property. In addition, he cautioned that comparative market

analyses on real property can vary greatly, so to be cautious in selecting a realtor to value real property.

- In new cases with an outstanding domestic support obligation, at least some of the Chapter 7 Trustee's understand that they are encouraged to collect on exempt assets to satisfy the DSO obligation. However, the Trustee cannot get paid a commission out of the homestead of the debtor. Counsel should watch this issue closely for developments in the law.

Miscellaneous:

- Thank you to the Chapter 13 office for providing snacks. Laura Donaldson and Chris Kane will provide food at our next meeting on February 16, 2006.
- The IRS announced that they are sending some of their work to Washington State while they are currently short staffed in their Oregon office.
- The IRS again reminded counsel that they will be more aggressively pursuing exempt assets.
- Comments on the general order can be directed to the Honorable Elizabeth Perris.
- The Honorable Judge Trish Brown reminded debtor's attorneys to use new Orders Confirming Plans only on cases filed after October 17, 2006. Pre October 17th cases still require the old Orders Confirming Plans. The pre October 17th Order Confirming Plan is form number 1350. The post October 17th form number is 1350.05.
- Judge Brown discussed a new case that came out in the end of September in the BAP regarding revocation of discharge called Roberts (331 B.R. 876). In this case, the Court held that the debtors' reckless disregard for the truth did not necessarily indicate fraudulent intent, such as to indicate that revocation of a discharge was appropriate. Counsel should review this decision carefully before relying on this synopsis.
- During previous meetings, the sub committee discussed the creation of a form checklist for post October 17th filings. This issue will be discussed more in depth at a CLE being held on February 15, 2006 at 2:30 p.m. at the Standard Insurance Building