

The U.S. Trustee: An Essential Player in the Bankruptcy Process

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In keeping with the theme of this month's *Paraclete*, public service and the role of government attorneys, we wanted to share some insight into the specific role of the United States Trustee ("UST") and discuss how that position plays an integral part in the successful completion of a bankruptcy case. This article will briefly discuss the intended purpose of the UST's role in a bankruptcy case as well as the UST's typical responsibilities. This article is not intended to be an exclusive list, but merely illustrative of the variety of functions performed by the UST.

First and foremost, the United States Trustee Program ("Program"), created by the Bankruptcy Reform Act of 1978 and headquartered in Washington, D.C., is a component of the United States Department of Justice. The purpose of the Program is to ensure the integrity and efficiency of the bankruptcy system in the United States by enforcing federal bankruptcy laws, monitoring the conduct of parties to bankruptcy cases, and identifying and/or investigating bankruptcy fraud and abuse along with other federal agencies, such as the Federal Bureau of Investigation.

One of the responsibilities of the UST is appointing and supervising private trustees for Chapter 7 and Chapter 13 bankruptcy cases, and appointing and convening creditors' committees in Chapter 11 business reorganization cases. The UST has the legal authority to appear in each and every bankruptcy case filed in the United States.

The Chapter 11 Trustee is usually most active in Chapter 11 business reorganization cases. Unlike Chapter 7 and Chapter 13 cases, the UST conducts the 341 Meeting of Creditors in a Chapter 11 business reorganization case. This is the meeting where the UST questions the debtor about their assets, liabilities and ability to reorganize. Creditors also have an opportunity at that meeting to inquire on the same subjects. In addition, in larger Chapter 11 cases, the UST will appoint and convene creditors' committees, such as unsecured creditors' committees, whose purpose is to look out for the best interest of all unsecured creditors as a whole. Moreover, the UST appears in the Chapter 11 case to assure that the debtor is moving the case forward and truly has the ability to reorganize.

Another responsibility of the UST is to identify and address potential fraud and abuse of the bankruptcy system by debtors, creditors and attorneys. When such a finding occurs, the UST will initiate either a formal or an informal civil action; however, if applicable, the UST will make a criminal referral to the U.S. Attorney's office for criminal prosecution, as the UST deems necessary.

In conclusion, the role played by the UST is vital in order for the federal bankruptcy process to maintain efficiency, function properly and serve the purpose for which it was created.

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The primary areas of practice of **Iurillo & Associates, P.A.** are Commercial and Bankruptcy Litigation and Debtors'/Creditors' Rights.