



The United States Trustee Program: Celebrating 30 Years

By Charles R. Sterbach, Asst. U. S. Trustee

Between 1987 and 1988, the United States Trustee Program opened more than seventy offices, enhancing fourteen existing offices that had been opened earlier during a pilot phase, and commenced its nationwide efforts to serve as the “watchdog” of the national bankruptcy system with the singular goal of promoting the integrity and efficiency of the bankruptcy system. This year marks the 30th anniversary of the Program. For three decades, the Program has endeavored to provide an impartial and independent process for oversight of bankruptcy cases—a mission made possible only with the invaluable contributions by panel and standing trustees, as well as Program employees. This article will recap the bankruptcy system before the advent of the Program, highlight the Program’s growth and development, and recognize the Program employees who have been here for the entire 30 years.

The Bankruptcy Act of 1898 lacked the means for effectively monitoring the actions of debtors, creditors, and fiduciaries. This was particularly evident during the 1920s, when multiple and widespread bankruptcy fraud, scandals, and abuses resulted in an exhaustive investigation by the Southern District of New York. The grand jury investigation covered six cities, nineteen federal judges, and more than 200 then current and former bankruptcy receivers or trustees across several federal districts. It encompassed 1,000 cases and approximately 4,000 witnesses. While the investigation triggered numerous resignations, disbarments, and criminal convictions, the comprehensive report submitted in the wake of the investigation traced many abuses to the lack of supervision over bankruptcy cases. The report also recommended bankruptcy reforms, including setting trustee qualifications, conducting initial examinations of debtors, and overseeing case administration. Unfortunately, without reform, the bankruptcy abuses continued until the 1970s.

In 1970, Congress created a Commission on the Bankruptcy Laws to investigate the bankruptcy process and propose structural changes. Three years later, the Commission concluded that the bankruptcy system lacked adequate oversight. So it recommended that Congress create an oversight agency with a network of local offices. But rather than create a national program under the Bankruptcy Act of 1978, Congress instead authorized a pilot program in a handful of judicial districts with directives to: prevent fraud, dishonesty, and overreaching; establish trustee qualifications; and develop a structure for trustee supervision.

After the pilot program received positive evaluations in 1983 and 1985, as well as support from the bankruptcy community, including the National Bankruptcy Conference and the Commercial Law League, Congress took the Program to the national stage under the Bankruptcy Judges, United States Trustees, and Family Farmer Act of 1986. The Program then accepted the challenge of building a federal

agency from the ground up. The key to developing and maintaining a crucial infrastructure would be the employees who came on board during the formative years and are still serving today. (More on that later.)

The Program's mission (promoting and protecting the integrity and efficiency of the bankruptcy system for the benefit of all stakeholders, especially the American public), is premised on the nationwide expansion of the impartial and independent role of the United States Trustee and the removal of the bankruptcy courts from case administration. The United States Trustee has a unique role in the bankruptcy system: administrator; regulator; and enforcer. *See* 28 U. S. C. § 586 (duties of the United States Trustee).

As an administrator, the United States Trustee designates chapter 7 trustees and chapter 13 standing trustees, approves credit-counseling education providers, and appoints committees in chapter 11 cases. As a regulator, the United States Trustee promulgates formal guidelines for trustee financial reporting, selects cases for audit, and conducts trustee performance reviews. As an enforcer, the United States Trustee acts to ensure that all parties comply with the Bankruptcy Code and Rules and, when necessary, takes action against abusers of the bankruptcy system.

Since 1988, the Program has evolved in many ways. From removing ineffective trustees to addressing changes in the nation's economy to enhancing flexibility in the wake of wide fluctuations in bankruptcy case filings and compressed federal budgets, the Program has accepted all challenges. In 2005, Congress passed sweeping reform called BAPCPA and initiated changes or additions to more than 130 Code sections. Many of the changes affected the Program's administrative, regulatory, and enforcement roles. BAPCPA required the Program to:

- Prevent abuse (mostly through the means test)
- Protect consumer-debtors from petition preparers and debt relief agencies who preyed on them
- Appoint trustees in chapter 11 cases when management was suspected of financial irregularities
- Report criminal activity to law enforcement agencies

After 30 years, the Program continues to face new challenges, including mortgage and foreclosure rescue abuses, internet law firms and document preparation services, and individual chapter 11 debtors. As new abuses come to the fore, the Program will continue to undertake concentrated and coordinated efforts to deal with these problems.

Thirty-Year Employee: Cynthia Burnett

As referenced above, the key to building an effective federal agency is its employees. The Program has been blessed with having ten percent of its current employees along for the entire thirty years of its existence. The Middle District can boast having one of these employees: Assistant United States Trustee Cynthia (Cindy) Burnett in the Tampa Division.

Cindy started working for the Program as a brand new Honors Attorney Advisor in 1987. In 2001, she became Acting Assistant U.S. Trustee, and she later became Assistant U.S. Trustee in 2005. She has remained with the Program over the years primarily because the bankruptcy field is constantly changing and is thus always interesting. In the early days, Cindy's travel to other field offices throughout the country for temporary assignments offered her an attractive variety of legal work. She also commented that while it has changed over the years, the bankruptcy bar is generally comprised of a small, intimate group of professionals practicing with a high level of respect, civility, and professionalism.

Cindy can recall the early days when the Tampa Bankruptcy Court and the U.S. Trustee Program shared a private space in a building near the Tampa International Airport. The additions of new Bankruptcy Judges Glenn and Baynes forced a move to an adjacent building, and in 1999, both the Court and the Program relocated to downtown Tampa. Cindy can still name all the U.S. Trustees during her thirty-year tenure: Robert Coley; David Butler; Felicia Turner; Don Walton; Guy Gebhardt; and Dan McDermott.

Cindy has enjoyed working with and supervising many panel trustees over the years and would like to specifically recognize Panel Chapter 7 Trustees Stephen Meininger and Larry Hyman, both of whom have been on the Panel since the Program's inception.

As many of you can appreciate, when she started, Cindy wielded the hottest technology available in 1980: the IBM Selectric Typewriter. It was a world of typed pleadings, carbon paper, manual records, and lots of white out. While technology has changed a lot over the years, Cindy's dedication to public service has remained constant. We are thankful for her guidance and leadership!



Cindy is pictured here with Chapter 7 Panel Trustees Stephen Meininger (left) and Larry Hyman (right).