

## TRUSTEE SPOTLIGHT

### **Problems to Avoid When Filing Chapter 7 Consumer Cases in the Middle District of Florida**

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Office of the U.S. Trustee, with input from the Chapter 7 Panel  
Trustees in the Middle District of Florida

Section 521 of the United States Bankruptcy Code contains a list of the debtor's duties in bankruptcy cases, which includes a duty to cooperate with the trustee as necessary and to surrender to the trustee all property of the estate, including books, documents, records, and papers relating to property of the estate. Rule 4002 of the Federal Rules of Bankruptcy Procedure requires that the debtor, among other things, provide the trustee with (i) a statement for each of the debtor's depository and investment accounts that includes the transactions as of the date of filing the petition, and (ii) the debtor's most current tax return at least 7 days before the meeting of creditors.

Many of the inconveniences which occur early in a case, such as repeated requests for additional documents or information or the requirement to attend a continued meeting of creditors, could be avoided if the bankruptcy forms were completed as intended and the documents required or requested by the trustee were provided in advance of the meeting of creditors. The new bankruptcy forms, which became effective on December 1, 2015, are detailed and were designed to increase the accuracy and completeness of the information contained in the documents. The forms are accompanied by a booklet of instructions which provides guidance, examples, and a glossary of terms. The instructions and forms are specific in that they instruct you to provide an answer to ALL questions.

The trustees for the Middle District of Florida highlight the following areas where increased attention and cooperation would be appreciated:

1. Use data-enabled pdfs to complete the schedules and statements (as opposed to scanning these documents) so that trustees can directly import the data using their software.
2. Complete the bankruptcy forms fully and accurately as required. Avoid leaving blanks and using zeros for values unless appropriate. (Helpful Hint: Be sure to include the date a debt is incurred and whether it is an individual or joint debt.)
3. The information on the bankruptcy forms should be current and reflect the debtor's assets and financial condition as of the date of filing. (Helpful Hint: The information should be updated if there is a delay in filing it with the court.)
4. Asset descriptions should be specific, including real property parcel numbers, make and model of vehicles, vehicle VIN numbers, and basis for valuation. (Helpful Hint: Provide the source document for valuation and disclose any defects in the property.)

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5. Creditor information should be as accurate as possible, ensuring that the amount listed for a secured debt is not overstated, that a secured claim provides sufficient information to link the claim to the asset on Schedule A/B, that the date the debt was incurred is completed, and that all persons responsible for payment of the debt are identified. (Helpful Hint: Have the credit report available for the trustee if requested.)
6. On Schedule A/B list the names of all financial institutions and each account where the debtor has an open account. “Money in Bank” is not an acceptable description.
7. Provide bank statements for ALL scheduled accounts, ensuring the statements are complete, organized, and include the date of filing information. (Helpful Hint: If bank statements do not contain daily balances, ask the debtor to provide an ATM slip with a balance as of the date of filing.)
8. Ensure that you provide the trustee with the tax return for the most recent tax year ending immediately before the commencement of the case for which a tax return was filed. Be prepared to provide the tax return later, if not filed on the date of the petition, and to instruct your client regarding the estate’s interest in any anticipated refund.
9. Check for consistency among information entered on the schedules and statements. For example, an interest in an on-going business included on the SOFA should be listed and valued on Schedule A/B.
10. In appropriate cases, you may wish to consider requesting that the client obtain an appraisal of personal property. An appraisal might allow you to better advise the client regarding exemptions and options available to retain assets.
11. Please provide documents that are required in advance of the meeting of creditors unless otherwise requested.
12. On the date of the meeting of creditors, be prompt, ensure your clients are prepared and have their proof of identity and social security number, and advise the trustee in advance as to any problems or delays.