



UNITED STATES TRUSTEE'S CORNER

By: Nicole Peair, Tampa Office
& Jill Kelso, Orlando Office

TARA TWOMEY APPOINTED DIRECTOR OF U.S. TRUSTEE PROGRAM



Attorney General Merrick B. Garland selected Tara Twomey to serve as Director of the U.S. Trustee Program (USTP) at the Department of Justice. Ms. Twomey assumed her duties on February 27, 2023.

“The United States Trustee Program plays a critical role in ensuring the fairness of the bankruptcy process — including by providing impartial oversight and protecting consumer debtors from fraud and abuse,” said Attorney General Merrick B. Garland. “I am confident that Ms. Twomey’s leadership will advance USTP’s mission to promote the integrity and efficiency of the bankruptcy system for debtors, creditors, and the public.”

Ms. Twomey has over 20 years of experience working on bankruptcy and consumer credit issues. Prior to her appointment, she served as the Executive Director of the National Consumer Bankruptcy Rights Center, which advances the rights of consumer bankruptcy debtors. She was also Of Counsel at the National Consumer Law Center. From 2021 to 2023, Ms. Twomey served as a member of the Judicial Conference Advisory Committee on Bankruptcy Rules. She is the author of numerous books and articles on bankruptcy law and practice, and has served as an instructor at Boston College Law School, Harvard Law School, and Stanford Law School. Ms.

Twomey is a fellow of the American College of Bankruptcy, a conferee of the National Bankruptcy Conference, and served as a director of the National Association of Consumer Bankruptcy Attorneys. She earned her Bachelor of Arts in Political Science from the University of California, San Diego, and her Juris Doctor, summa cum laude, from Boston College Law School.

“Throughout her career as a practitioner, scholar, and teacher, Tara Twomey has been a leader in the bankruptcy bar and a passionate voice for making the bankruptcy system accessible to all,” said Associate Attorney General Vanita Gupta. “She will bring energy, experience, and judgment to her new role as USTP Director. I look forward to working with her in this new role.”

The USTP is the only neutral party in the bankruptcy process and brings a national perspective to every bankruptcy matter. USTP also plays a critical role in protecting consumer debtors against fraud and abuse. USTP consists of the Executive Office for U.S. Trustees, located in Washington, D.C., and 21 regions with 90 field offices throughout the country. The Director of USTP is responsible for leading approximately 1,000 employees to implement USTP’s core mission to protect the integrity of the bankruptcy system.

DEBTOR AUDITS TO RESUME ON MARCH 13, 2023

The United States Trustee Program (USTP) will resume audits of individual chapter 7 and chapter 13 bankruptcy cases under the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 on March 13, 2023. The USTP contracts with independent firms, utilizing certified public accountants and independent licensed public accountants, to perform audits of individual chapter 7 and chapter 13 cases randomly selected by the USTP. The purpose of the audit is to determine the accuracy, veracity, and completeness of petitions, schedules, and other information required to be provided by the debtor under sections 521 and 1322 of title 11. The audits are designed to provide baseline data to gauge the magnitude of fraud, abuse, and error in the bankruptcy system; to assist the USTP in identifying cases of fraud, abuse, and error; and to enhance deterrence.

The USTP randomly designates for audit one out of every 250 consumer bankruptcy cases per federal judicial district and cases for exception audit in which the income or expenditures of a debtor deviate from the statistical norm of the district where the case was filed. An audit consists of a comparison between selected items on a debtor’s originally filed bankruptcy papers and documents produced by the debtor at the request of the audit firm. The audit firms also conduct public record searches to look for unreported assets and to verify the market value of assets.

After reviewing information provided by the debtor, the audit firm contacts the debtor, through counsel if represented, to provide the debtor an opportunity to offer an explanation or supply additional information that may negate any negative findings. A material misstatement indicates the audit produced information that challenged the accuracy, veracity, or completeness of a debtor's petition, schedules, or other filed bankruptcy documentation. After an audit has been completed, the audit firm files a Report of Audit with the court and transmits a copy to the United States Trustee. If the audit firm cannot complete the audit because the debtor did not produce documents requested in connection with the audit, the audit firm files a Report of No Audit.

If a material misstatement is identified in a Report of Audit, the bankruptcy court gives notice to all creditors in the case. Additionally, the United States Trustee determines what action is appropriate based on the material misstatement(s) or Report of No Audit, if the debtor fails to satisfactorily explain the failure to make available the documentation requested for the audit, and may pursue a variety of actions depending on the circumstances of the case.