

[illegible]

Case No. 97-25645-BKC-PGH.

In this case the U. S. Trustee failed to adhere to any fiduciary responsibilities entrusted by the appointment, including, but not limited to:

- The U.S. Trustee failed to monitor the estate assets with timely reporting and oversight.
- The U.S. Trustee failed to procure proper applications for appointments.
- The U.S. Trustee failed to procure proper fee applications.
- The U.S. Trustee failed to monitor asset distributions.
- The U.S. Trustee failed to prevent the distribution of estate assets to an insider in a sweetheart deal.
- The U.S. Trustee failed to prevent the payment of fees to a **defacto** debtors counsel in addition to a debtors counsel.
- The U.S. Trustee failed to prevent payment to **special counsel** on a contingency basis in complete deference to a court order awarding fees on a general retainer.
- The U.S. Trustee failed to perfect and protect the true value of the debtor estate.
- The U.S. Trustee failed to prevent pre-petition costs to be reimbursed in full.
- The U.S. Trustee failed to correct these failures, having been given notice.

The failures of Judge Paul G. Hyman, Jr. raised in the Judicial Complaint against him:

- Judge Hyman violated the Bankruptcy Code and Bankruptcy Rules by waiving the requirements enacted by Congress.
- Judge Hyman hired professionals under a General Retainer Agreement and paid them under a Contingency Agreement including pre-petition costs.
- Judge Hyman waived the requirement of Bankruptcy Rule 2016.
- Judge Hyman paid a conflicted attorney whom, by his own admission, represented the Unsecured Creditors Committee and was **defacto** Debtor's Counsel.
- Judge Hyman denied me due process by ignoring my Affidavit whereby alerting the Court to the conflicts of interests of the attorneys.
- Judge Hyman signed an Order containing false information pursuant to the hearing on my Affidavit.
- Judge Hyman bifurcated the case into liability and remedy after liability was established by the attorneys' admission against interests.
- Judge Hyman ignored the admissions by the attorneys thereby preventing me from discovery of nineteen witnesses who knew or should have known about the intent of the attorneys' fraud.
- Judge Hyman ignored my request for fiduciary assistance on behalf of a bereft Debtor, and caused me further financial damage.
- Judge Hyman acted as a witness at the evidentiary trial.

The conclusion any person would draw from the **Baron's** case is that Organized Criminal Activity occurred, perpetrated by the U.S. Trustee, Bankruptcy Attorneys and the Bankruptcy Judge. It may never be shown that the U.S. Trustee got illegal funds - too smart for that. It may never be shown that the Bankruptcy Judge got illegal funds - too smart for that. But it can be shown that the assets of **Baron's** estate were improperly accounted for, improperly evaluated, improperly distributed, and that the beneficiaries were the Attorneys, and an insider Creditor, all to the detriment of the other Creditors and the Debtor.

The revelations in the **Baron's** case should come as no surprise. Examining the history of Congress reveals that continual problems in the bankruptcy courts still existed and Congress stated its concern in the Matter of Arkansas Co., (cites are available in the written version, 798 F.2d 645, 649 (3d Cir. 1986)).

It is significant that Congress chose to place the requirement of court approval for the employment of an attorney, accountant, or other professional directly in the Bankruptcy Code in 1978 - 11 U.S.C. 1103(a). The legislative history makes clear that the 1978 Code was designed to eliminate the abuses and detrimental practices that had been found to prevail. Among such practices was the cronyism of the **bankruptcy ring** and attorney control of bankruptcy cases. In fact, the House Report noted that **in practice...the bankruptcy system operates more for the benefit of attorneys than for the**

benefit of creditors. ♦ (H.R. No. 595, 95th Cong., 2d Sess. 92, reprinted in 1978 U.S. Code Cong. & Ad. News 5963, 6053).
In January, 1993, a review of the effectiveness of the Justice Department oversight was presented in the form of a Report to Congress:
United States General Accounting Office Report to the Chairman, subcommittee on Economic and Commercial Law, Committee on the Judiciary, House of Representatives
♦ BANKRUPTCY TRUSTEES - OVERSIGHT IMPROVED BUT EXTENT OF TRUSTEE FRAUD IS UNKNOWN ♦
The Report dealt with FRAUD in the oversight of Bankruptcy cases by U.S. Trustees appointed to do just that.
- The Report focused on the ♦ wrong ♦ conflicts of interest as a problem. It is not the U.S. Government that the Trustees would be helping.
- The Report focused on embezzled money, primarily, and not the damage done by mishandling, misdirecting and fraudulently conveying assets to improper parties.
- The Report assumes that the appointed U.S. Trustees are stupid and would make the finding of their impropriety an easy task.
- The Report focused on Chapter 7 ♦s and did not consider Chapter 11 liquidations; these are the most lucrative for the criminal activity. These are companies that have a chance to reorganize which, through the manipulation by the trusted parties, become their financial windfalls. Do these have the worst exposure because they are a bastardization of a Chapter 7 and therefore fall outside the protections that should be afforded a Chapter 7? Is the U.S. Trustee ♦s role different because it starts as a Chapter 11?
Further evidence of cumulative, rampant Bankruptcy Fraud and Abuse was published in a March 2003 Report, No. 03-17, Office of the Inspector General
The U.S. Trustee Program ♦s Efforts to Prevent Bankruptcy Fraud and Abuse APPENDIX 10
U. S. Department of Justice
Executive Office for United States Trustees
Office of the Director, Washington, D.C. 20530
February 27, 2003
MEMORANDUM
TO: Guy K. Zimmerman
Assistant Inspector General for Audit
FROM: Lawrence A. Friedman (original signed)
Director
SUBJECT: Draft OIG Report on ♦ The United States Trustee Program ♦s Efforts to Prevent Bankruptcy Fraud and Abuse ♦
This Report is an insult to the public. It should offend every Congressman to the core. If one reads this Report, and reflects back to the premise upon which the Trustee program was founded, ♦ to be the first line in identifying improper conduct ♦ in the Bankruptcy process, one has to grasp the simple enormity of the failure. The Report is a classic example of misinformation through misdirection. The purpose of the Trustee program is to uncover and prosecute fraud and abuse. If we were to set the analogy with other first responders, for example, firemen, it will become clear as to how absurd the Report is. The Trustees ♦ job is to identify criminal conduct. The identification of criminal conduct is prompted by a formal or informal report. The Trustees don't have to do anything to uncover the fraud. The prompt is from a report made by an interested party. To play on naivete that says such a report is meaningless, and that such reports do not require a systematic investigation of some type, is patently absurd. It would be like someone calling 911 to report a fire and the dispatcher referring the report to find out if there was really smoke; is the reporter capable of identifying a fire, what kind of fire is it, what is it burning, etc etc . The first response system, in the instance cited, would send a first responder to put out the fire. That is not the case in the U. S. Trustee program. The Report discusses creating uniform management control procedures to detect the ♦ more common and higher risk types of fraud, concealment of assets and serial filers. ♦ This is the wrong target and ignores the patient screaming he ♦s in pain. In fiscal year 2002, field offices received 30,000 formal and informal reports of enforcement action. This number tells the story in a nutshell. So

much abuse is going on because the abusers know they can get away with it. If the first report was properly attended to on a first responder basis, and the wrongdoer found out, or it was found that no wrongdoing occurred, the very least that would be accomplished is deterrence. The present system does not deter any fraud or abuse. It has no teeth. The program has an incentive to join the gravy train, not to stop it. As a result of this purposeful laxity a case like Baron's occurs.

Boldly apparent and unacceptable for the American taxpayer to endure for one more day is the recycling of official catering and compliance to esoteric and powerful insider demands. For nearly a century, solutions have been neutralized, laws violated, and takings against the Fifth Amendment accelerated to the point that the American citizen has no protection or right to property ownership that will be enforced under the intent and letter of the law in bankruptcy. The organized criminals do not sneak and hide to steal. They fearlessly step up using taxpayer supported systems and take their bounty leaving creditors unpaid, businesses destroyed, while stealing the productive moments of life that Americans are promised. Furthering the outrage, Debtors pay for this racketeering enterprise to thrive. The U.S. Trustee Program is supported by DEBTORS. In Chapter 11, the quarterly fees support the system. In Chapter 7, the panel trustee, presiding over the meeting of creditors, is paid out of the filing fee if the case has no assets. In Chapter 7 asset cases, panel trustees receive a sliding scale commission from the assets. In Chapter 13, trustees receive 10 percent of amounts paid into the plan. Debtors, no matter what Chapter, are disemboweled by using their own assets against them.

HOW DOES THE PROBLEM OF FRAUD AND ABUSE IN BANKRUPTCY GET RESOLVED?

The first step is to stop fraud on the court by members of the Judiciary. The laws that are in place in bankruptcy are sufficient. It is the corruption of the machinery of the Court, by its Officers, that allows Organized Criminal activity in the profession to flourish. First we need to pass legislation that clearly defines fraud on the court that provides strict remedies that are non-negotiable, and that creates a failsafe method to stop proceedings where an allegation of fraud on the court has been made. Secondly, we need a responsive first line of defense to act upon each and every formal or informal complaint filed by an interested party. Only then will the fraud and abuse stop.

Legal Victim Assistance Project - Mission:

To assist individuals who have been victimized (or damaged) by the legal system and unscrupulous attorneys

Legal Victim Assistance Project (LVAP) sponsors research primarily into areas of the law that create an unusually high number of legal victims. Legal victims are individuals who have been wrongfully damaged in a legal matter due to, but not limited to, a fraud on the court being perpetrated by an officer of the court. One area of the law that has been the focus of our research is Bankruptcy.

The attached report was written by independent contributors in collaboration with, and at the direction of, the firm Meryl Lanson Consulting, Inc. Meryl Lanson Consulting, Inc. is a firm contracted by Legal Victim Assistance Project to direct and carry out its mission.

The Report concerns Organized Criminal activity occurring in Region 21 of the U.S. Trustee Program.

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comments:

Laserhaas said... Everyone deeply appreciates efforts to halt the mindset of "nolle prosequi" concerning "bankruptcy rings" that benefit cronies at the

expense of equitable justice and innocent good faith citizens.

 For years many have suffered from tremendous hardship due to erroneous findings of facts and conclusions of law that seem to be profusely occurring at the benefit of conflicted counsels who have, at the barest of minimums, enjoyed the security of willfully blind US Trustee parties. The system of justice and Congress has supplied proper statutory requisites to assure the integrity of the judicial process. The controversy arises from the fact that those within the System of Justice, like rogue US Trustee's arrogantly hold themselves to be above the Law, abusing their esteemed levels of public trust shamefully. The perpetrators of fraud and their cronies who are willfully blind have long since forgotten the fact that willfully disobeying or circumvention of statutory requisites is, in all senses of the word, breaking the Law.

 It is high time that such hypocritical public servants and officers of the Court are reminded of this basic premise and we commend Meryl Lanson and her team for their bold efforts to separate red apples from green apples and the sour apples that abuse our good faith.
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