



U. S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

October 5, 2005

The Honorable F. James Sensenbrenner, Jr.
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your letter, dated September 27, 2005, concerning implementation of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA). The United States Trustee Program, along with other components of the Department of Justice, has reviewed its administrative and discretionary responsibilities to determine how these duties may be performed in a manner that takes into account the hardships that may be encountered by victims of recent hurricanes in the Gulf Coast region.

The United States Trustee Program (Program) has taken the following steps to address the impact of BAPCPA on victims of a natural disaster:

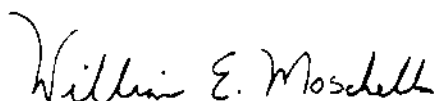
- The United States Trustee for Region 5 has exercised his authority under 11 U.S.C. § 109(h)(2)(A) to except the following districts from credit counseling requirements: Eastern, Middle and Western Districts of Louisiana; and the Southern District of Mississippi.
- The General Counsel of the Program has issued formal guidance to field personnel to ensure that the Program exercises appropriate restraint and discretion favorable to hurricane victims in the following matters:
 - Means Test - The Program will consider income loss, expense increase, and other adverse impacts of a natural disaster to constitute "special circumstances" in determining whether to file an enforcement motion on grounds of presumed abuse.
 - Documentation - Program attorneys will not file motions to compel or seek other relief against debtors who are unable to produce documents required under 11 U.S.C. § 521(a)(1)(B), but who are otherwise eligible for relief. Such documents include payment advices and statements of income.

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- Small Business Duties - The Program will refrain from taking enforcement actions against chapter 11 debtors who cannot reasonably be expected perform their duties under 11 U.S.C. § 1116, such as attendance at an initial debtor interview and filing financial reports, as a result of a natural disaster. In addition, the Program will not file motions to convert or dismiss cases under 11 U.S.C. § 1112 if the grounds for filing the motion are attributable to a natural disaster and there are reasonable prospects for reorganization.
- Small Business Deadlines - The Program will not oppose necessary and reasonable extensions of time for a small business debtor to file a disclosure statement and confirm a plan of reorganization beyond the time frames established under 11 U.S.C. § 1121(e) and § 1129(e), if the small business debtor can show that it is unable to comply due to a natural disaster.
- Attendance at Section 341 Meeting - The Program will exercise flexibility and provide alternative means for debtors to attend the mandatory meeting of creditors under 11 U.S.C. § 341, if the debtor is unable to appear personally and testify in the venue where the case was filed because of dislocation or other adverse impact of a natural disaster.
- Venue - Program attorneys will not raise or support venue objections under 28 U.S.C. § 1408 in cases in which the debtor was displaced due to a natural disaster unless the filing constitutes a systemic abuse or presents extraordinary circumstances.
- The Program is in the process of reviewing debtor education applications. It will soon announce approvals of debtor educators and make exceptions to the debtor education requirements in any districts in which debtor education cannot reasonably be provided because of a natural disaster or other reason.

We hope this letter is responsive to your inquiry. If we can be of further assistance regarding this or any other matter, please do not hesitate to contact this office.

Sincerely yours,


William E. Moschella
Assistant Attorney General

cc: The Honorable John Conyers, Jr.
Ranking Minority Member