
Statement for the Record

On Behalf of the

AMERICAN BANKERS ASSOCIATION

Before the

Subcommittee on Commercial and Administrative Law

Committee on the Judiciary

United States House of Representatives

For the Hearing

“Chapter 7 Bankruptcy Trustee Responsibilities and Remuneration”

July 27, 2011

The American Bankers Association (ABA) hereby submits this letter for the above-entitled hearing before the Subcommittee on Commercial and Administrative Law. ABA brings together banks of all sizes and charters into one association, and works to enhance the competitiveness of the nation's banking industry and strengthen America's economy and communities. Its members – the majority of which are banks with less than \$125 million in assets – represent over 95 percent of the industry's \$13.3 trillion in assets and employ more than 2 million men and women.

The ABA and its member banks support an increase in the so-called no-asset fee in Chapter 7 cases. The current statutory fee of \$60 has not been adjusted since the 1994 and, thus, does not accurately reflect the true value to the bankruptcy system of the work of Chapter 7 trustees in no asset cases.

The work of a Chapter 7 trustee can be complex and time consuming in no-asset cases, and there is no question among ABA members that Chapter 7 trustees police fraud and abuse, promote integrity in the bankruptcy system, and ensure that debtors receive debt discharge where appropriate under the Bankruptcy Code. Adequate compensation for Chapter 7 trustees is necessary to assure that there are sufficient numbers of qualified professionals to perform functions that are integral to the efficient and equitable functioning of the bankruptcy court system.

The ABA strongly believes that the appropriate mechanism for increasing compensation in no-asset Chapter 7 cases should be to increase the statutory fee contained in Section 330 of the Bankruptcy Code, which would necessitate an increase in filing fees. In contrast, proposals to increase overall trustee compensation by increasing commissions in the small percentage of Chapter 7 asset cases under Section 326 of the Bankruptcy Code would not help most trustees and would impose unnecessary costs on creditors without compensatory benefits. We are not aware of any data that suggests that increasing Section 326 commissions will do anything other than reduce collections for creditors as trustees retain a greater percentage of amounts distributed.

The issue that is the subject of this hearing, and that is faced by trustees in the field, is the lack of appropriate compensation for processing no-asset cases. Therefore, the solution to the problem should focus on increasing remuneration for no-asset cases, and not on raising compensation for other categories of Chapter 7 cases.

We respectfully submit that the Committee should address the lack of compensation for no-asset cases by increasing the amount in Section 330 because this will benefit trustees in all parts of the country equally and is the most equitable solution for all stakeholders.

Thank you for considering our views on this important matter.