

Chapter 7 Trustee's Duties under BAPCPA

During Case Review Prior to 341 Meeting

1. Make sure the Debtor(s) has checked box indicating that credit counseling has been completed or requesting an extension or waiver (See § 109(h) and 521(b)(1) and Rule 1007(b)(3)). If no certificate has been filed, direct Debtor(s) to provide you with copy. If Debtor(s) fails to provide proof, refer to U.S. Trustee.

2. Make sure that a Statement from Debtor's Attorney, BPP or Pro Se is filed indicating that §342 notice was given (See § 521(a)(1)(B)(iii)). If no §342 notice is filed, refer case to U.S. Trustee.

3. Make sure that a Mailing Matrix has been filed (See §521(a)(1)(A)) and if there are domestic support obligations noted in Schedule E, that a Domestic Support Obligation Matrix has been filed (See Standing Order #2). If no matrix is filed recommend dismissal pursuant to Local Rule 1007-2(a).

4. After 15 days from the filing of the petition, check to see whether a Means Test including calculation of Current Monthly Income has been filed with the Court (See § 707(b)(2) and Rule 1007(b)(4)). If no means test has been filed, refer case to U.S. Trustee.

5(a) After 15 days from the filing of the petition, check to see whether the Statement of Financial Affairs and Schedules have been filed with the Court (See § 521(a)(1)(B) and Rule 1007(b)(1)(A)(B)(C) and (D)). If no SoFA or Schedules are timely filed, refer case to U.S. Trustee.

(b) Compare the Current Monthly Income from Means Test Form, Line 12, with Schedule I, Line 3 and Statement of Financial Affairs, paragraph 1. If there is a discrepancy of any significance, refer case to U.S. Trustee.

6(a) After 15 days from the filing of the petition, check to see whether all Payment Advices for 60 days prior to filing or Declaration Regarding Payment Advices have been filed with the Court (See § 521(a)(1)(B)(iv) and Rule 1007(b)(1)(E)). If no payment advices or declaration regarding payment advices have been timely filed, refer case to U.S. Trustee.

(b) Compare Payment Advice to Current Monthly Income on Line 12 of the Means Test Form. If there is a discrepancy of any significance, refer case to U.S. Trustee.

7(a) During the week prior to the 341 meeting, check to see whether the Debtor has filed a Tax Return or Transcript for latest taxable period for which a return was filed or a Statement that such documentation doesn't exist (See § 521(e)(2)(A) and Rule 4002(b)(3)). If no tax returns, transcripts or statements have been timely filed, refer case to U.S. Trustee.

(b) Compare Dependents from Tax Return to Household Size on Means Test. If these numbers differ, refer case to U.S. Trustee.

(c) Compare Line 22 of Tax Return to Income on Line 12 of Means Test. If there is a discrepancy of any significance, refer case to U.S. Trustee.

During the 341 Meeting

1. Review Picture Identification (See § 521(h)(1) and (2) and Rule 4002(b)(1)(A)) and Evidence of Social Security Number or Statement that such documentation does not exist (See § 521(h)(1) and (2) and Rule 4002(b)(1)(B)). If Debtor(s) fails to provide such identification and verification of Social Security Number, continue meeting to obtain such documentation. If Debtor fails to provide such identification or verification at a continued meeting, refer case to U.S. Trustee.

2. Obtain the Debtor's Most Recent Payment Advice (See Rule 4002(b)(2)(A)). Compare Payment most recent Payment Advice to Current Monthly Income on Line 12 of the Means Test Form. If there is a discrepancy of any significance, refer case to U.S. Trustee.

3. Obtain Debtor's Bank Statement(s) which includes the date of filing (See Rule 4002(b)(2)(B)). Compare the Deposits on the Bank Statement(s) to Income on Line 12 of the Means Test Form. If there is a discrepancy of any significance, refer case to U.S. Trustee.

4. If the Debtor(s) have claimed any of the following expense claims on their Means Test Forms, collect the documentation to support the expense claims (See Rule 4002(b)(2)(C)) and refer such documentation to U.S. Trustee.

Home energy costs in excess of the IRS allowance

Education expenses for dependent children less than 18

Additional food and clothing expenses

5. If the Debtor(s) testify that they have an interest in an account or programs specified in section 521 of the Bankruptcy Code, determine whether they have filed their Record of interest in account or program specified in section 521 of Code in Schedule B (See § 521(c) and Rule 1007(b)(1)(F)). If they have failed to disclose this asset, refer case to U.S. Trustee.

6. **Collect all documentation provided in cases where the Debtor(s) are over the Median Income and provide to U.S. Trustee.**

7. Elicit testimony as to any "special circumstances" which would rebut the presumption of abuse.

8. **Collect all documentation provided in cases where the U.S. Trustee has notified you of a special interest in the case and provide to U.S. Trustee.**

9. Elicit testimony as to any discrepancies between documentation reviewed prior to and during the 341 meeting and the Means Test Form.

45 days after 341 Meeting

1. 45 days after the 341 meeting, check to see whether the Debtor(s) has filed a Statement Regarding Completion of Financial Management Course with the Court (See § 727(a)(11) and Rule 1007(b)(2)(7)). If no such Statement has been timely filed, refer case to U.S. Trustee.