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CHAPTER 13 QUARTERLY

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July 14, 2025

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Gentlemen:

I am the Standing Trustee for Chapter 13 matters in the Middle District of Tennessee and have been so for more than 40 years. I, along with Jason Wilson-Aguilar, a Standing Trustee from Seattle, Washington, serve as co-chairs of the Committee on Legislative and Legal Matters of the National Association of Chapter 13 Trustees ("NACTT").

The NACTT is a 60- year-old professional non-profit organization which serves to provide education, assistance, and legal research to trustees, courts, and practitioners in consumer bankruptcy matters, uniquely focusing on Chapter 13.

We are aware of the hearings currently scheduled for Tuesday, July 15, 2025 before the subcommittee relating to bankruptcy and an oversight of legislative reforms. We are grateful, as a profession, for the attention that your subcommittee is giving to consumer bankruptcy matters and the attention you are giving to the thousands of Americans who, due to financial difficulties, are compelled to seek bankruptcy relief. Although bankruptcy filings are currently low, largely due to the impact of the recent pandemic and the financial stimulus provided during the pandemic, we are also aware that there is a slow but steady increase in consumer bankruptcy filings. As trustees, we are looking ahead to further growth in filings and we want to be prepared.

While a number of matters may come to your attention as a result of the hearings, the NACTT would like to call your attention to issues we feel should be addressed.

NATIONAL ASSOCIATION OF CHAPTER 13 TRUSTEES
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I. Chapter 13 allows individuals and families to develop their own reorganization plan. Such a plan has provided millions of American families the opportunity to reorganize their finances, repay debts which they can afford to repay, restructure their relationships with their creditors, and obtain the benefits of a fresh start. Chapter 13 is an effective way for working Americans to pay for their needed assets – their automobile to retain a means of transportation, to cure defaults on their mortgages allowing more families to retain their homes, to provide a fair means to evaluate the ability of debtors to repay their debts and obtain a discharge when they simply cannot muster the capacity to repay. All of this is done under the supervision of professional trustees and experienced bankruptcy judges that man our courts. Please note that all of the operations of the Chapter 13 trustees are funded solely by the entities and individuals that participate in the program. No taxpayer funds are utilized to subsidize or pay the private Chapter 13 trustee program.

According to the provisions of 28 U.S.C. § 586(e), Chapter 13 trustees collect a commission, established by the Attorney General, to underwrite the costs of their operations from payments made by debtors in Chapter 13 plans. Pursuant to 11 U.S.C. § 1326(a), these payments must commence within thirty (30) days of the filing of the bankruptcy petition, even where the court has not confirmed the plan. In the initial stages of the case, the trustee is primarily responsible for collecting information on a debtor's financial position, the claims against them, a debtor's income, a debtor's expenses, and whether a debtor's proposed repayment mechanism is feasible and fair. Significant costs are borne by Chapter 13 trustees across the country.

Recent holdings by the Tenth Circuit (*Goodman v. Doll, (In re Doll)*, 57 F.4th 1129 (10th Cir. January 18, 2023)), the Ninth Circuit (*Evans v. McCallister, (In re Evans)*, 69 F.4th 1101 (9th Cir. June 12, 2023)), the Seventh Circuit (*Marshall v. Johnson*, 100 F.4th 914 (7th Cir. May 3, 2024)), and the Second Circuit (*Soussis v. Macco*, 136 F.4th 415 (2nd Cir. May 9, 2025)) have all held that the statutory scheme created by Congress dealing with cases that are dismissed before reorganization plans are approved requires the Chapter 13 trustee to return to the debtor the funds that the trustee has collected while actively pursuing a judicial resolution, including those fees set by the Attorney General. Such situation does not exist in Chapter 12 (see 11 U.S.C. § 1226) or SubChapter V (see 11 U.S.C. § 1194(a)(3)). The Circuit Court holdings have resulted in financial hardship for many trustees in the four circuits involved. After expending significant resources in dealing with cases in order to bring them to confirmation, to be deprived of any resources to fund such costs, compel the trustee to pass those costs on to other participants in the system, including the debtors who are performing well under their plans. If a case is dismissed, the trustee must provide these services anyway.

The NACTT encourages the Committee to examine whether the absence of a provision in 11 U.S.C. § 1326 was intentional (impose these additional costs on performing reorganization plans) or an oversight. We believe it is the later and encourage the Committee to recommend that the language included in Chapter 12 and SubChapter V of Title 11 be incorporated into 11 U.S.C. § 1326.

II. During the past several years, real estate values have increased substantially. This has resulted in increased mortgage balances, leaving many families denied the opportunity to cure defaults after a financial crisis. The Chapter 13 trustees feel that these individuals and families deserve the opportunity to keep their homes while still paying their mortgages and curing any default. This is easy and relatively inexpensive in a Chapter 13. Because, however, their total debts may exceed the limitations of 11 U.S.C. § 109(e) they may be denied the opportunity to retain their homes. During COVID, the CARES Act increased the debt limits so that individuals with significant debts can nonetheless qualify to reorganize under Chapter 13.

The NACTT encourages the subcommittee to examine the wisdom and the feasibility of returning the debt limits to the debt limits contained in the CARES Act, if not greater.

The CARES Act also eliminated the distinction between secured and unsecured debts. By doing so, Congress temporarily eliminated the costs of litigating an issue as to whether a particular debt was secured or was unsecured. Spending limited resources just to determine whether a debt is secured or unsecured imposes costs on working families seeking Chapter 13 relief. The expiration of the CARES Act has resulted in the re-emergence of this litigation.

If, at any time, the subcommittee has any desire to further explore consumer bankruptcy and Chapter 13 in particular, we stand ready to assist and provide meaningful information relative to the administration of these cases.

Very truly yours,

Henry E. Hildebrand, III
Standing Chapter 13 Trustee
Middle District of Tennessee

Jason Wilson-Aguilar
Standing Chapter 13 Trustee
Seattle Division
Western District of Washington

cc: Subcommittee Members