BANKRUPTCY LAW NEWSLETTER

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PREFERENCES: PRELIMINARY DEFENSIVE CONSIDERATIONS

By: Larry A. Ver Merris[1]

Undoubtedly, the most heavily used weapon in the trustee's arsenal is that found under §547[2] of the Bankruptcy Code, which relates to avoidance of preferential transfers. How you respond to such demand will effect whether or not said claim will be dropped, settled or taken to litigation. This article examines some of the defensive considerations that should initially be made when representing a client who has received a demand for return of a preference.[3]

WHO IS MAKING DEMAND

One of the initial inquiries which should be made is who is making the demand. The trustee is given the power to recover preferential transfers under §547, as is a debtor-in-possession under §1107 or §1203. However, such is not the case for a Chapter 13 debtor. See In re Mast, 79 BR 981 (Bankr. WD Mi, 1987). In Mast, a Chapter 13 debtor filed a §547 complaint to avoid a transfer received by the defendant as the result of a garnishment. The trustee was not joined in the adversary proceeding as a party plaintiff. The defendant filed a motion for summary judgment claiming the chapter 13 debtor lacked the authority to avoid a preferential transfer. Although recognizing a split of authority on this question, Judge Gregg found in favor of the defendant and dismissed the adversary proceeding holding that the Chapter 13 debtor had no independent standing to exercise the trustee's power to avoid a preferential transfer. Such dismissal was made without prejudice to the trustee to file a complaint to avoid the alleged preferential transfer. By way of dicta, Judge Gregg recognized that a Chapter 13 trustee may consent to the debtor's possible intervention as an additional party plaintiff pursuant to Rule 7024 or, alternatively, the Chapter 13 Plan may propose that the debtor, on behalf of the estate, and in conjunction with the trustee, utilize such avoidance powers. Accord In re Walls, 17 BR 701 (Bankr. SD W Va, 1982). In either case, however, it would appear that the Chapter 13 trustee would have to at least be a nominal party to any litigation which was commenced.

Other courts have recognized the inherent power of a Chapter 11 Creditors' Committee[4] to pursue recovery of preferential transfers under special circumstances, usually where the debtor-in-possession has failed to act. In re Hass, ____ BR ____ (Bankr. ED Mi 1986); In re Philadelphia Light Supply Co., 39 BR 51 (Bankr. ED Pa 1984); In re Monsour Center, 5 BR 715 (Bankr. WD Pa 1980). In Hass, an unreported decision out of the Eastern District of Michigan, Judge Spector recognized a qualified right of a creditor or an official Creditors' Committee to sue on behalf of a debtor-in-possession to recover preferential transfers. There the Chapter 11 debtor was unwilling and did not intend to attempt to recover a certain transfer principally because the debtor's chances of successfully reorganizing were dependent upon his maintaining an amicable and ongoing business relationship with the recipient of the putative preference. A similar conclusion was earlier reached by the Sixth Circuit Court of Appeals in In re Automated Business Systems, Inc., 642 F2d 200 (CA 6th Cir, 1981), where in a liquidating proceeding under the Bankruptcy Act, the Court held that a creditor had standing to pursue a preferential claim which the trustee refused to pursue because he had no funds with which to do so. Notice that in Hass, the right of a creditor to pursue such claim was predicated upon first seeking leave of the court. Other cases have held that the avoiding powers of a Chapter 11 debtor-in-possession are not assignable, nor are they "property of the estate" which may be transferred under §1123(a)(5)(B), which allows a Chapter 11 plan to provide for transfer of property of the estate. In re Sweetwater, 55 BR 724 (DC D Ut, 1985).

STATUTE OF LIMITATIONS

Assuming that the party demanding return of a preference has authority to act, the next inquiry should be whether or not the claim has been timely made. Section 546 states:

> (a) An action or proceeding under §544, 545, 547, 548, or 553 of

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2 11 USC 547. Hereinafter, all references to the Bankruptcy Code, 11 USC 101 et seq., will be made only to the section number. Likewise, references to the Bankruptcy Rules of Procedure will make reference only to the rule number.

3 Because of space limitations, discussion of §547(c) defenses (contemporaneous exchange for new value, ordinary course of business, subsequent advance, etc.) will largely be left to future articles.

4 Although Creditors Committees are recognized in Chapter 7 cases pursuant to §705, this author knows of no instance where a Chapter 7 Creditors' Committee sought permission to avoid a preferential transfer. This is most likely because there is no Code provision regarding compensation of professionals acting on behalf of a Chapter 7 Creditors Committee.

this title may not be commenced after the earlier of:

> (1) two years after the appointment of a trustee under §702, 1104, 1163, 1302, or 1202 of this title; or
>
> (2) the time the case is closed or dismissed.

In Matter of Silver Mill Frozen Foods, Inc., 23 BR 179 (Bankr. WD of MI, 1982), Judge Howard recognized that the two-year statute of limitations is inapplicable to an action commenced by a debtor-in-possession. Accord In re One Marketing Co., 17 BR 738 (Bankr. SD Texas, 1982). However, the same is not true in regard to the second portion of the test; i.e., the time the case is closed or dismissed. In Silver Mill, the preferential transfer defendants argued that since a Chapter 11 plan had been previously confirmed by the court, the case was essentially closed, since the court retained only limited jurisdiction. Judge Howard disagreed, indicating that §350(a) requires the court to close a case after the estate is "fully administered" and thereafter found that the case was not closed upon confirmation, since the court retained the power to determine claims, compel compliance with a plan, and over other matters. The court also found that the equitable doctrine of laches is inapplicable to a preference cause of action, since the same is governed by a statute of limitations. See also Royal Air Properties v. Smith, 312 F2d 210 (9th Cir, 1962) and Thropp v. Bache Halsey Stuart Shields, Inc., 650 F2d 817 (6th Cir, 1981).

Insofar as a trustee is concerned, however, an examination of the running of the two-year statute of limitations is critical. In In re Butcher, 829 F2d 596 (CA 6th Cir, 1987), the 6th Circuit Court of Appeals stated that the Trustee's preferential and fraudulent transfer cause of action was time barred because of the running of the two-year statute of limitations. There the trustee was appointed at the 341 meeting on August 17, 1983 and filed a complaint to avoid certain preferences and fraudulent transfers on August 19, 1985. The trustee attempted to utilize Rule 9006(a), which provides, inter alia, that in computing any period of time prescribed by any applicable statute, the last day of the period so computed shall be included unless it falls on a weekend or a legal holiday, in which event the period runs until the end of the next business day. The Bankruptcy Court did not include the day of the trustee's appointment in the computation of the two-year period, which placed the end of the period on Saturday, August 17, 1985. As the complaint was filed on the following Monday, the Bankruptcy Court found the action to be timely filed. The District Court reversed and was affirmed by the 6th Circuit, which held that the two-year limitations period begins to run on the date of the trustee's appointment and expires 24 months later, irrespective of whether the last day falls on a Saturday, Sunday, or holiday. Because the Trustee's complaint was not filed by Friday, August 16, 1985, two years after the date of the trustee's appointment, the 6th Circuit held that the action was time barred.

Note that the two-year statute of limitations dates from the appointment of the permanent, not interim, trustee. See In re Killian Construction Company, 24 BR 848 (Bankr D Idaho, 1982). This seems clear from §546 which uses the word "trustee" and not "interim trustee" as used in Code § 701.[5] This also appears to be implicit in the Butcher ruling where the Court computed the time deadlines from the time the trustee was appointed, which was at the 341 meeting held on August 17, 1983.

When there is a secondary insolvency (e.g., Chapter 11 converted to Chapter 7), it is also extremely important to examine whether or not a trustee may have been appointed in the preceding case before the same was converted to Chapter 7. If this is the case and the Chapter 7 trustee commenced his preference action more than two years after the appointment of a Chapter 11 trustee, it may, again, be time barred. This is because §546 refers to the appointment of a trustee under various sections of Chapters 7, 11, 12 and 13. In an unreported bench opinion of Judge Nims in In re House of Furniture, Inc., Case No. NK 81-04628, this is precisely what happened. In that case, a Chapter 11 trustee was appointed on March 26, 1982, he was replaced by a successor Chapter 11 trustee on May 19, 198[illegible] the case was converted to a Chapt[illegible] proceeding on June 7, 1983. Thereaft[illegible] the Chapter 7 trustee (who had previ[illegible]ously acted as the Chapter 11 successor trustee) commenced an adversary proceeding to recover a preferential transfer on May 17, 1984. In sustaining the Defendant's Motion for Summary Judgment, Judge Nims held that the statute of limitations provided under §546 starts to run immediately upon the appointment of a trustee in the Chapter 11 proceeding and that upon conversion of said case to a Chapter 7 liquidating proceeding such statute continues to run and is not otherwise "re-started" through the subsequent appointment of a Chapter 7 trustee. Accord see Killian Construction, supra, and In the Matter of Burstein-Apple Bee Co., 30 BR 779 (Bankr. WD Mo, 1983). By analogy, the same rule should apply to Chapter 12 and 13 cases. Thus, if you are involved in a case which was previously pending for over two years as a Chapter 12 or 13 proceeding, you may have a very good argument that any preference claims by the Chapter 7 trustee are barred by §546. On the other hand, where a Chapter 11 trustee served for only a short period of time and the case was converted two years down the road or the two years runs when there is only an "interim" Chapter 7 trustee, it would appear to be inequitable to estop a trustee in such a situation from bringing suit. This, however, remains undecided at this time.

AMOUNT IN CONTROVERSY

It is also important to take notice of the dollar amount demanded. If the debtor is an individual debtor whose debts are primarily consumer debts and the aggregate value of all property that is transferred is less than $600.00, then such transfer is not avoidable pursuant to §547(c)(7). In re Holyfield, 50 BR 695 (Bankr. D Md, 1985). A consumer debt is defined as a debt incurred by an individual primarily for a personal, family or household purpose. §101(7). In In re Bell, 15 CBC2d, 1088 (Bankr. ED of Mi, 1986), Judge Rhodes was faced with a debtor who owed twelve creditors $89,604.74 for primarily consumer debts, and four creditors $195,329.90 for primarily non-consumer debts. In defining the phrase "primarily consumer

5 Pursuant to §702(d), if a trustee is not elected at the 341 Meeting, then the interim trustee shall serve as the trustee in the case.

Court concluded that it is ap- to give more weight to the por- total debt that is consumer debt ss weight to the portion of the total ber of debts that are consumer bts. The Court, in using the foregoing analysis, then concluded that the debtor's debts were not primarily consumer debts.

The dollar amount at issue also has a direct impact on venue, as 28 USC §1409(b) provides that a trustee in a case under Title 11 "may commence a proceeding arising in or related to such case to recover a money judgment of or property worth less than $1,000 or a consumer debt of less than $5,000 only in the district court for the district in which the defendant resides." While this defense does not go to the merits of the cause of action, it certainly may dissuade a trustee from commencing a preference suit or may cause him to dismiss the same if he realizes that this matter will have to be litigated in another part of the country.

TRANSFERS BY CHECK

When a payment which was made by check is challenged as being preferential, it is essential to ascertain the date the check was delivered as well as when it was honored by the drawee bank. In Matter of Fasano/Harriss Pie Co., 43 BR 871 (Bankr WD of Mi, 1984), Judge Howard followed the overwhelming majority of courts holding that the date of honor of a check controls for purposes of §547(b)(4). In dealing with a certified check or cashier's check, however, the date of delivery would be the relevant date, as such funds are the legal equivalent of currency. See In re Mailbag International, Inc., 28 BR 905 (Bankr D Conn, 1983). However, when considering the § 547(c)(1)(2)(4) defenses, the date of delivery of the check is the relevant date unless that check is dishonored. Fasano/Harris Pie Co., supra. Accord Young Supply Company v. McLouth Steel Corp. (DC ED Mi, 1985) implicitly overruling cases such as In the Matter of Advance Glove Manufacturing Company, 25 BR 521 (Bankr. ED Mi, 1982) holding to the contrary. In that instance, the date of delivery of a replacement check that is duly honored constitutes the date of transfer for purposes of §547(c). Fasano/Harriss Pie Co., supra.

TRANSFERS OF PROPERTY

Under §550, the trustee may recover "the property transferred, or, if the Court so orders, the value of such property..." Where the transfer in question was made of something other than money and you cannot avail yourself of the above defenses as well as those under §547(c) (new value, ordinary course of business, etc.), then you may want to consider return of the property itself, especially if the same has decreased in value since the time of the transfer. It is clear that courts favor return of property itself, if at all possible; where such return is not feasible, the courts will award payment of the market value of the property in question if like goods are not available for return. See In re Vedaa, 49 BR 409 (Bankr ND, 1985); In re Handsco Dist., Inc., 32 BR 360 (Bankr Oh, 1984); In re Vann, 9 BCD 1393 (Bankr Oh, 1983). While these courts do not state what is the relevant date to determine market value, a trustee would surely assert it would be the transfer date, especially when dealing with quickly depreciating goods. On the other hand, it could be argued that if such transfer had not been made the debtor (and trustee) would still be saddled with such goods in their depreciated state. We leave this issue to be decided by the courts.

RECENT BANKRUPTCY DECISIONS

The following are summaries of recent decisions rendered by the Sixth Circuit Court of Appeals and bankruptcy courts in Michigan that address important issues of bankruptcy law and procedure. These summaries were prepared by Patrick E. Mears with the able assistance of Larry A. Ver Merris.

In re Ward, Case No. 87-3525 (6th Cir., September 16, 1988). In Ward, the Sixth Circuit construed the nondischargeability provisions of 11 USC Section 523(a)(2)(A) as they applied to alleged credit card fraud. When the Chapter 7 debtor applied for a credit card from a bank, he did not disclose a prior embezzlement conviction or other credit card debts. However, the lender did not request the debtor to provide a financial statement nor did it conduct a routine credit check on the debtor. The Sixth Circuit affirmed the lower courts' holdings that the credit card debt was dischargeable in the debtor's Chapter 7 case. The Court stated that the lender did not reasonably rely upon any representations of solvency and that lenders are required to "investigate credit worthiness and ferret out ordinary credit information."

Archer v. Macomb County Bank, 853 F.2d 497 (6th Cir. 1988). In Archer, the Sixth Circuit was confronted with the issue of determining actual and punitive damages caused by an intentional violation of the automatic stay. The Sixth Circuit reversed the bankruptcy court's decision assessing a damage award of $43,842.50 against a bank that foreclosed on Chapter 11 debtors' realty after the petition was filed. The Sixth Circuit remanded the case for a new hearing on the issue of damages. In its opinion, the Court declared that if the bankruptcy court determines at this hearing that actual damages will not deter the bank from intentionally violating the stay, then "the bankruptcy court is free to impose an appropriate amount of punitive damages."

In re United Trucking Service, Inc., 851 F.2d 159 (6th Cir. 1988): This decision examines under what circumstances it is appropriate for a bankruptcy court to award administrative expense status to claims for damages to property caused by a debtor in possession after it files a Chapter 11 petition. The Sixth Circuit remanded the case to the bankruptcy court for further proceedings and directed that court to address the issue of whether interest on an administrative expense claim should be allowed.

In re Jackson, Case No. G 87-755 (W.D. Mich. June 29, 1988). In Jackson, District Judge Enslen affirmed the bankruptcy court's decision that two individual Chapter 7 debtors, husband and wife, could not exempt proceeds from the prepetition sale of entireties property when they did not intend to reinvest those sums in other entireties property. In this case, the debtors used a portion of those monies to pay family expenses and to invest in a business venture.

In re Morren Meat and Poultry, Inc., Case No. K 86-313 (W.D. Mich. June 29, 1988). In this decision, District Judge Bell construed the scope of the ordinary course of business defense to a preference action contained in 11 USC 547(c)(2). The alleged preferential

transfer involved one credit transaction that was paid by the debtor in two separate installments. These payments were made beyond the payment date stated in the sales invoice. Judge Bell held that the ordinary course of business defense can apply to a single isolated transaction and that, analyzing the facts, concluded that the defense applied to bar the trustee's claim.

In re Warren Real Estate Group, Inc., Case No. SL 88-1092 (Bankr. W.D. Mich. Sept. 28, 1988). In this case, Bankruptcy Judge Stevenson lifted the automatic stay to permit an employment discrimination case filed in state court against the Chapter 11 debtor to proceed to mediation. Judge Stevenson found that lifting the stay would have "little, if any, effect on the administration of the estate."

In re Roach, Case No. GK 87-02655 (Bankr. W.D. Mich. September 14, 1988). In this case, Bankruptcy Judge James Gregg held, inter alia, that federal statutes prohibiting the assignment of veterans benefits effectively were not implicitly repealed by 11 USC 1325(c). Judge Gregg therefore set aside a prior order entered by him directing the Veterans Administration to pay those benefits to the Chapter 13 trustee.

In re Watkins, Adversary Proceeding Nos. 88-9020 and 88-9021 (Bankr. E.D. Mich. Sept. 19, 1988). This decision involved two nondischargeability complaints filed against individual debtors under 11 USC 523(a)(6). In these complaints, the plaintiff, a secured creditor, alleged that the defendants wrongfully converted its collateral. Bankruptcy Judge Arthur Spector held that the plaintiff's burden of proof under this subsection of the Bankruptcy Code "was to show by a mere preponderance of the evidence that the defendants willfully and maliciously injured the property of the plaintiff." The Court found that the plaintiff had satisfied this burden and that a judgment of nondischargeability should be entered.

In re By-Rite Oil Co., 87 Bankr. 905 (Bankr. E.D. Mich.1988). In another case from the Eastern District, Bankruptcy Judge Steven Rhodes carefully examined four applications for payment of professional fees filed in a Chapter 11 case. Judge Rhodes reduced the fees requested for a number of reasons including duplication of services and incomplete time records.

In re Michigan Boiler and Engineering Co., 87 Bankr. 465 (Bankr. E.D. Mich. 1988). In this opinion, Bankruptcy Judge George Brody examines the application of the attorney-client and work-product privileges in the context of a bankruptcy case.

In re Michigan Real Estate Insurance Trust, 87 Bankr. 447 (E.D. Mich. 1988). In this decision, District Judge Hackett withdrew the reference of an adversary proceeding from the bankruptcy court to the district court based upon the report and recommendation of Bankruptcy Judge Spector. That report recommended that the adversary proceeding involved involved both "core" and "noncore" causes of action. Judge Spector concluded that the reference of this action should be withdrawn on discretionary grounds in order to preserve the defendants' right to a jury trial on the noncore claims.

STEERING COMMITTEE ACTIONS

On September 23, 1988, the Steering Committee of the Bankruptcy Section conducted its regular monthly meeting. The following are the minutes of that meeting as prepared by Brett Rodgers:

1. Ted Baehler was appointed by the Chapter 7 Trustee's as a liaison to the Bankruptcy Section.

2. Judge Gregg indicated the proposed local rules are nearing completion and that they will be presented to the Steering Committee for review and comment prior to being publicized for public comment.

3. Tom Schouten will chair a committee to research the interest by the Bar, District Judges and Judge Engel in a Bankruptcy Appellate Panel (B.A.P.). Jim Engbers and John Piggins are on that committee.

4. Dates for the Spring-Summer Traverse City Seminar were discussed; Colleen Olson is working on hotel accommodations.

   Topics for the Seminar we cussed:

   - trial practice and procedure Bankruptcy court
   - Chapter 7 and 11 Trustee practice
   - 6th Circuit case studies

   Anyone with topic suggestions should contact Jeff Hughes or Colleen Olson.

   Judge Gregg showed us his 6th Circuit Bench Book, he is in the process of preparing. There was some discussion about offering the Bench Book in conjunction with a F.B.A. Bankruptcy Section Seminar or function.

5. It was also suggested that a publication similar to Judge Gregg's 6th Circuit Bench Book be produced for the District and Bankruptcy Courts. Two names came to mind regarding this project, Pat Mears and Judge Stevenson.

6. We voted to get bids on restoring portraits of previous Bankruptcy Judges (Benn Corwin, Edward Benson, and Chester Woolridge). The F.B.A. will consider releasing funds for the portraits once bids are received.

7. It was agreed that not only members of the Steering Committee are limited to the Steering Committee meetings. Guests are welcome and should any Bankruptcy Section members want to attend to discuss matters important to them, please contact Brett Rodgers so he can give the Penn Club a head count.

8. Pat Mears will be getting out another newsletter. Articles or information of interest should be given to him.

9. The next Steering Committee luncheon will be at noon on Thursday, October 27, 1988, at the Penn Club, 4th Floor, Gold Room.

/ICE OF /ICES AND .EADINGS ON HE U.S. TRUSTEE

MARK VAN ALLSBURG
ASSISTANT U.S. TRUSTEE

One of the persistent problems which hampers the integration of the U.S. Trustee system into the bankruptcy process is the failure to receive notices and pleadings filed in bankruptcy cases. The basic rules for service of such documents are set forth in Rule X-1008 ("Notices to United States Trustee") but the rule also provides that the Office of the U.S. Trustee receive notice of "any other matter, notice of which is requested by the United States Trustee or ordered by the Court." Here are some guidelines which may help clarify the situation:

1. Cases filed before November 26, 1986

The U.S. Trustee has no jurisdiction in cases filed before November 26, 1986 until April 5, 1989. No notices or pleadings need to be served on the U.S. Trustee in such cases until April 5, 1989.

2. Petitions, Schedules and Statement of Affairs

The Court sends one copy of these documents to the Office of the U.S. Trustee. Do not send copies of these pleadings (or amendments thereto) to the United States Trustee.

3. Applications to hire or pay professionals

All applications for approval of professionals (11 U.S.C. Section 327, BR 2014) or for compensation of officers (11 U.S.C. Section 330, BR 2016) must be served with attached affidavits and time records. Applications for compensation of less than $500 can be approved on an exparte basis.

4. Chapter 7 cases

Debtors' attorneys can meet most of their service obligations by listing the U.S. Trustee on the matrix of each case. Since the Court now mails notices to all parties concerning the sale, lease or use of property (BR 2002 (a)(2)). conversion of cases to another chapter or dismissal (BR 2002(a)(5)) and hearings on compensation (BR 2002(a)(7)), the U.S. Trustee will get copies of these notices in the normal course.

However, the Court rules do not require parties filing objections, responses or briefs in contested matters to serve the U.S. Trustee. This office would like copies of such pleadings. In addition, the U.S. Trustee would like to be served with copies of objections to discharge or complaints to determine the dischargeability of any debt.

5. Chapter 12

The U.S. Trustee would like to be served with notices and pleadings in the same manner as described for Chapter 7 cases above. Please list the U.S. Trustee on the mailing matrix in each case.

6. Chapter 13

The U.S. Trustee need not be served with pleadings or notices except applications to hire professional persons and for payment of compensation described in No. 2 above.

7. Chapter 11

The U.S. Trustee should be served with a copy of any pleading or notice which is filed with the Court including appeals and appeals filed in adversary litigation. Parties filing objections, responses, and briefs in contested cases should serve this office with such pleadings. The U.S. Trustee should be added to the mailing matrix of each case. In addition, debtors in possession should serve 2 original copies of financial reports required by the U.S. Trustee with this office and one will be sent to the Court. A single copy of other materials should be filed unless duplicate copies are requested.

8. Appeals

Serve copies of appeals in cases in any chapter including adversary litigation on the U.S. Trustee.

Attorneys should be careful to serve the U.S. Trustee in matters in which they ask the Court to waive or shorten notices to all creditors.

The mailing address for service on the Office of the U.S. Trustee in the Western District of Michigan is:

Office of the U.S. Trustee
190 Monroe Ave., N.W.
Suite 200
Grand Rapids, MI 49503

Questions about the U.S. Trustee Program will be cheerfully answered by calling (616) 456-2002.

CHAPTER 13 COMMISSION REDUCED

By agreement between the Chapter 13 Trustee's for the Western District of Michigan and the United States Trustee, Thomas J. Staton, an Executive Order has been issued reducing the compensation and percentage fee on all Chapter 13 cases from eight percent (8%) to six and one-half percent (6.5%) effective October 1, 1988.

EDITOR'S NOTEBOOK

From October 2-5, the National Conference of Bankruptcy Judges held their sixty-second annual meeting in San Diego. Bankruptcy Judge Lawrence Howard represented our district at the meeting. Also in attendance from this district were William Barrett, James Croom, Timothy Curtin, Michael Donovan, James Frakie, Kathleen Hanenburg, Boyd Henderson, Robert Hendricks, Edith Landman, Patrick Mears, Eugene Pyatenko, Robert Sawdey, Thomas Schouten, Michael Shiparski, Robert Skilton, Wallace Tuttle, James Van Tine, Robert Wardrop and Robert Wright. The Conference presented numerous educational programs and hosted other special events. The Business Bankruptcy Committee of the American Bar Association and its various Subcommittees also conducted meetings during this period. The next conference will be held in Boston from November 1-4, 1989.

On Friday, October 21, 1988 commencing at 9:00 a.m., Professional Education Systems, Inc. will present a seminar entitled "Bankruptcy Litigation and Local Rules Under the United States Trustee Program." This seminar will take place at the Radisson Plaza Hotel at Town Center, 1500 Town Center, Southfield, Michigan. Speaking at the seminar will be Bankruptcy Judge Steven Rhodes, Louis Rochkind, Tom Salerno (a bankruptcy attorney from Arizona) and Marion Joseph Mack, the Assistant United States Trustee for the Eastern District of Michigan. Those persons interested in attending should contact either the host hotel at 1-800-826-7155 or attorney Rochkind at (313) 961-8380.

Patrick E. Mears

LOCAL BANKRUPTCY STATISTICS

The following is a summary of the number of bankruptcy cases commenced in the United States Bankruptcy Court for the Western District of Michigan during the period from January 1, 1988, to September 30, 1988. These filings are compared to those made during that same period one year ago.

	1/1/88 to 9/30/88	1/1/87 to 9/30/87	Percentage Change
Chapter 7	2,043	1,826	+ 10.6%
Chapter 11	68	71	- 4.3%
Chapter 12	27	73	- 78.5%
Chapter 13	870	956	- 9.0%