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CHAPTER 13 TRUSTEE

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To: Debtors' Attorneys
Re: Change in the timing of when the Trustee's fee will be taken in Chapter 13 cases
Date: September 16, 2014

As you are aware, pursuant to 28 U.S.C. §586(e)(2), a standing Chapter 13 Trustee is to collect a fee from all payments received under a plan. This letter is to inform you that the Office of the United States Trustee ("the UST") has modified its interpretation of when a Chapter 13 Trustee is to take this statutorily-allowed percentage fee.

It is my understanding that prior to the establishment of the UST, Trustees regularly took a fee on each payment as it was received. After the UST began supervision of the Chapter 13 Trustees, the Trustees were required to take the percentage fee when the creditor payments were disbursed, not when the Plan payments were received. It appears the process has come full circle. The UST recently advised all Trustees across the country that as of October 1, 2014, fees must be taken at the time of receipt and not at the time of disbursement.

Plan calculations and Plan administration will remain the same. For you and your debtors, this new process will show up in two ways. First, upon implementation in October of 2014, a program will run in our office to take the Trustee's fee for any funds on hand in each case as of the change-over date. This is a one-time event that will be outside the normal distribution process. Thereafter, Trustee's fees will be taken upon receipt of the Plan payment and not during the normal disbursement process. Secondly, while we are not yet certain as to exactly how these changes will be formatted on the NDC or 13Network websites, they will in all likelihood allow creditors, debtors and their attorneys to see the actual funds available for disbursement to creditors, with the Trustee fees having already been deducted. So, for example, if my current commission rate is 7%, you may get some questions from your debtors as to why their \$100.00 payment is showing up in the Trustee's system as \$93.00.

For Trustees in the ninth circuit, the change will also affect Debtor(s)' refunds on cases dismissed post-confirmation as the Trustee's office will be entitled to retain the fees earned on the payments received prior to the date of dismissal. As always, any funds received after the date of dismissal or any overpayments made on completed cases will not earn fees.

Since this is a substantial change in the way my office has operated I did want to give you advance notice of the change and make myself available if you have any questions.

