

## BANKRUPTCY ADMINISTRATOR PROGRAM

The elimination of the Bankruptcy Administrator program has been included in a number of proposals for cost containment recently reviewed by the Administrative Office of the United States Courts. While the elimination of a program that is only active in North Carolina and Alabama may on the surface seem a good idea, such is not the case. No cost savings would be realized, as the U.S. Trustee system would take the place of the Bankruptcy Administrators in North Carolina and Alabama, at perhaps a greater cost to the entire federal budget.

The Bankruptcy Administrator is a judicial branch office, not an executive branch office like the U.S. Trustee program. The Bankruptcy Administrator performs all the same supervisory functions over Chapter 11 cases and case trustees, but also performs additional statutory duties set forth in the Bankruptcy Code, i.e., files and prosecutes Section 707 motions to dismiss.

The Bankruptcy Administrator program has been endorsed by the Judicial Conference of the United States as a system that operates efficiently and competently. Elimination of the Bankruptcy Administrator program is contrary to official Judicial Conference policy. In addition, elimination of the Bankruptcy Administrator program would require an act of Congress. In light of the fact that Senators Shelby and Sessions of Alabama are supporters of the Bankruptcy Administrator program, any proposed elimination of the Bankruptcy Administrator program would be problematic.

The Administrative Office has concluded that the Bankruptcy Administrator program is efficient and cost effective. For the fiscal year ending September 30, 2010, the cost of the six Bankruptcy Administrator programs in North Carolina and Alabama, excluding rent, was

\$6,891,064 (\$6,429,064 budget plus \$462,000 auditing expenses). The six Bankruptcy Administrator programs generate an estimated \$3,642,370 from the collection of Chapter 11 quarterly fees that goes to the judiciary's general fund, making the program approximately one-half self sustaining.

Each Bankruptcy Administrator is appointed by the Circuit Court, and has no supervisory bureaucracy beyond the district in which the BA operates. As an executive branch office, the U.S. Trustee is a political appointment, with a central administration in Washington, D.C. Bankruptcy Judges and trustees in Alabama and North Carolina regularly confirm that local control and management work best. Many of the Bankruptcy Administrators serve in leadership roles in the courts. In the Eastern District of North Carolina, for example, the Bankruptcy Administrator serves on the Bankruptcy Forms Modernization Committee and on the Additional Stakeholders Committee for the Next Generation of CM/ECF.

The Bankruptcy Administrator program arguably could be expanded as a less costly and more efficient and locally responsive agency than the U.S. Trustee program. Such expansion would provide a better cost containment option. Elimination of the Bankruptcy Administrator program would be a huge mistake and would require the use of a great deal of political capital in Congress to accomplish.