

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
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In re:

Administrative Order 2018-02


Adoption of "Procedures for Referrals
by the Court of Certain Suspected
Bankruptcy Crimes" and clarification of
Status of Administrative Order 2017-03

The court, upon review of Administrative Order 2017-03 "Order Establishing Procedures for Referrals of Certain Suspected Bankruptcy Crimes" has determined that clarification is required to establish that it was the intent of the Court that the procedures apply only for referrals that are made by the court and thus are not the sole method for referrals of suspected bankruptcy crimes.

Accordingly, it is **ORDERED** as follow:

1. The Procedures for Referrals by the Court of Certain Suspected Bankruptcy Crimes (and related forms) annexed hereto, are adopted and Administrative Order 2017-3 is superseded effective upon entry of this Order.
2. The Procedures for Referrals by the Court of Certain Suspected Bankruptcy Crimes (and related forms) may be modified by the Court from time to time without prior notice, by the publication of a clerk's notice of revisions on the court website.

ORDERED in the Southern District of Florida, this 1 day of February 2018.



Laurel Myerson Isicoff
Chief U.S. Bankruptcy Judge

- c. All Southern District Bankruptcy Judges
United States Attorney's Office (Attn: Kim Selmore, Esq.)
Federal Bureau of Investigation (Attn: Brian Oman, SA)
Office of the United States Trustee (Attn: Steven R. Turner, AUST)
Administrative Office U.S. Courts, Judicial Services (Attn: Vanessa Lantin, Esq.)

**PROCEDURES FOR REFERRALS BY THE COURT OF CERTAIN SUSPECTED
BANKRUPTCY CRIMES (AND RELATED FORMS) AS ADOPTED BY
ADMINISTRATIVE ORDER 2018-02**

In addition to meeting the obligations imposed under 11 U.S.C. § 3057 for reporting bankruptcy crimes, the court is required under 18 U.S.C. § 158(d), to establish procedures for referrals of cases by the court where violations of 18 U.S.C. § 152 or § 157 may have occurred relating to (a) abusive reaffirmations of debt or (b) materially fraudulent statements in bankruptcy schedules that are intentionally false or intentionally misleading. Accordingly, the following procedures have been adopted.

1. Referrals of potential violations of the above-referenced statutes by the court shall be documented utilizing the attached "Notification Statement," and shall be accompanied by a referral letter from the presiding judge.

2. The judge may either:

a. Directly submit the referral to each of the individuals designated below:

United States Attorney's Office
Attn: Kim Selmore, Esq.
Assistant U.S. Attorney/Criminal Bankruptcy Fraud Coordinator
Southern District of Florida
99 NE 4th Street
Miami, FL 33132

Federal Bureau of Investigation
Attn: Brian Oman, Special Agent
2030 SW 145th Avenue
Miramar, FL 33027

Office of the United States Trustee
Attn: Steven R. Turner, Assistant U.S. Trustee
Claude Pepper Federal Building
51 SW First Avenue, Suite 1204
Miami, FL 33130

OR

b. Elect first to submit the referral to the United States Trustee for further investigation and review. The United States Trustee may elect to make a referral to the United States Attorney based upon the further investigation.

3. Any court employee who discovers an apparent violation of 18 U.S.C. §§ 152 or 157 shall notify the Clerk of Court. The Clerk shall make reasonable inquiry and, if appropriate, shall report such information to the presiding Judge and furnish the Judge with copies of any documents the Clerk deems relevant to the suspected violation. If appropriate, the Judge shall refer the matter as provided under paragraph (2) of this order.

4. If the criminal referral is made by court order which directs that the records of the entire case file be sealed or expunged, the order shall direct that the Clerk of Court provide a copy of the record to the United States Trustee before the records are expunged or sealed, and the order to seal shall also direct that the United States Trustee can reveal the records to the United States Attorney's Office, who are directed to publish the records for whatever purposes deemed necessary in the interest of justice.

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA**
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**NOTIFICATION STATEMENT REGARDING REFERRAL OF SUSPECTED BANKRUPTCY
CRIMES PURSUANT TO ADMINISTRATIVE ORDER 2018-02**

To: _____ Position: _____

From: _____ Position: _____

Date: _____

Signature of Preparer: _____ Position: _____

1. Background Information

a. Name of Debtor: _____

i. Case Number: _____

ii. Debtor's Address: _____

iii. Debtor's Telephone No. : _____

b. Debtor's Attorney: _____

i. Address: _____

ii. Telephone No. : _____

c. Name of Trustee (if any) : _____

i. Address: _____

ii. Telephone No. : _____

d. Case Chapter:

i. Chapter under which case was originally filed:

Chapter 7 Chapter 11 Chapter 12 Chapter 13

ii. Chapter under which case is now pending:

Chapter 7 Chapter 11 Chapter 12 Chapter 13

e. Type of Case: Voluntary Involuntary

f. Additional Information:

i. Petition and schedules attached for lists of claimholders, debts, assets, exempt property, and other information:

Yes No

ii. Other information regarding the debtor's case:

2. Basis for Notification and Possible Estate loss:

a. Suspected violation of 18 U.S.C. Section:

152 Concealment of assets; false oaths and claims; bribery;

153 Embezzlement against estate;

154 Adverse interest and conduct of officers;

155 Fee agreements in cases under title 11 receiverships;

156 Knowing disregard of bankruptcy law or rule;

157 Bankruptcy fraud;

1341 Frauds and swindles (mail fraud);

1342 Fictitious name or address;

1343 Fraud by wire, radio, or television;

1344 Bank fraud

b. Other suspected criminal violation: _____

c. Possible Estate Loss \$: _____

3. Circumstances Relating to Suspected Violation of Chapter 9 of Title 18, United State Code, or other Laws of the United States Relating to the Debtor's Case

a. Subject of Referral:

i. Role:

Debtor [Principal/Responsible Person]

Trustee

Professional [Specify Title]

Claimholder/Equity Security Holder

Public Official

Other _____

ii. Subject's address: _____

iii. Telephone numbers: _____

iv. Other identification information:

- b. Report all facts and circumstances of the case, the names of witnesses, and the offenses or offenses believed to have been committed (provide as complete a description as possible) by:
 - i. Providing a full and complete account of the suspected violation, including identifying the document(s) that contain information relating to the violation.
 - ii. Providing the names, addresses, and telephone numbers of persons with knowledge of and information relating to suspected offenses.
 - iii. Indicating, (based on available information) whether the suspected offense relates only to a single incident in a debtor's case or whether the suspected offenses relate to multiple transactions/bankruptcies.
 - iv. Indicating whether the subject of the notification has been the subject of a prior notification and, if so, relating the relevant circumstances surrounding the earlier notification.
 - v. Disclosing other pertinent information.
- c. Please attach documents and pleadings relevant to the referral including the petition, schedules, Statement of Financial Affairs, any amendments thereto, motions, complaint, and/or order of the Court.

A copy of the Notification has been sent to the Administrative Office of the United States Courts, Judicial Services Office, One Columbus Circle, N.E., Washington, D.C. 20544