

Dated: October 4, 2006.

**Lynn Bryant,**

*Department Clearance Officer, PRA,  
Department of Justice.*

[FR Doc. E6-16723 Filed 10-10-06; 8:45 am]

**BILLING CODE 4410-AT-P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Under the Clean Air Act

Notice is hereby given that on August 24, 2006, a proposed Consent Decree in *United States of America and the Michigan Department of Environmental Quality v. CEMEX, Inc., St. Mary's Cement Inc. (U.S.), and St. Barbara Cement, Inc.*, Civil Action No. 1:06-CV-0607, was lodged with the United States District Court for the Western District of Michigan.

In this action the United States sought injunctive relieve and civil penalties for violations for the Clean Air Act that occurred at the portland cement manufacturing facility located in 16000 Bell Bays Road, in Charlevoix, Michigan, which was owned and operated by CEMEX, Inc. prior to March 31, 2005, and owned by St. Barbara Cement Inc. and operated by St. Marys Cement Inc. (U.S.) on and after March 31, 2005. The complaint alleges that CEMEX Inc. failed to control and limit particulate matter (dust) emissions, failed to perform required compliance monitoring, and failed to comply with various other requirements government operation of portland cement manufacturing plants.

The proposed consent decree resolves all violations alleged in the complaint. Among other things, the consent decree requires CEMEX Inc. to pay a civil penalty of \$1,359,422 to the United States and the State of Michigan and requires St. Marys and St. Barbara to install a baghouse filtering system, which is estimated to cost in excess of \$11 million, to remedy the ongoing emissions violations. In addition, the consent decree requires the defendants to spend at least \$6.2 million on the installation of a new indirect firing system for the facility's kiln, which is expected to substantially reduce emissions of particulate matter, sulfur dioxide, and nitrogen oxides.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environmental and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC

20044-7611, and should refer to *United States, et al. v. CEMEX, et al.*, D.J. Ref. 90-5-2-1-08077.

The Consent Decree may be examined at the Office of the United States Attorney, Fifth Floor, 330 Ionia NW., Grand Rapids, MI. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, [http://www.usdoj.gov/enrd/Consent\\_Decrees.html](http://www.usdoj.gov/enrd/Consent_Decrees.html). A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, or by faxing or e-mailing a request to Tonia Fleetwood ([tonia.fleetwood@usdoj.gov](mailto:tonia.fleetwood@usdoj.gov)), fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$50.50 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the state address. In requesting a copy exclusive of exhibits, please enclose a check in the amount of \$10.00 (25 cents per page reproduction cost) payable to the U.S. Treasury.

**Margaret M. Chiara,**  
*United States Attorney.*

**W. Francesca Ferguson,**  
*Assistant United States Attorney, Western District of Michigan.*

[FR Doc. 06-8574 Filed 10-10-06; 8:45 am]

**BILLING CODE 4410-15-M**

## DEPARTMENT OF JUSTICE

**[AAG/A Order No. 016-2006]**

### Privacy Act of 1974; Systems of Records

**AGENCY:** United States Trustee Program, Department of Justice.

**ACTION:** Notice of modifications to current systems of records and establishment of a new system of records.

**SUMMARY:** Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a) and Office of Management and Budget Circular No. A-130, the United States Trustee Program (USTP), Department of Justice, proposes to modify the following existing Privacy Act systems of records:

JUSTICE/UST-001, "Bankruptcy Case Files and Associated Records" (last substantively revised on March 4, 2004, at 69 FR 10255; as amended June 15, 2004, 69 FR 33403); JUSTICE/UST-002, "Bankruptcy Trustee Oversight Records" (last substantively revised on

March 4, 2004, at 69 FR 10255; as amended June 15, 2004, 69 FR 33403); JUSTICE/UST-003, "U.S. Trustee Program Timekeeping Records" (last substantively revised on March 4, 2004, at 69 FR 10255; as amended June 15, 2004, 69 FR 33403); and JUSTICE/UST-004, "U.S. Trustee Program Case Referral System" (last substantively revised on March 4, 2004, at 69 FR 10255; as amended June 15, 2004, 69 FR 33403). In addition, the USTP proposes to establish a new system of records entitled, JUSTICE/UST-005, "Credit Counseling and Debtor Education Files and Associated Records." The modified system notices and the new system notice are published in their entirety below.

**DATES:** These actions will be effective November 20, 2006.

**FOR FURTHER INFORMATION CONTACT:** For information regarding these changes and for general information regarding the USTP's Privacy Act systems, contact Sue Ann Slates, FOIA/Privacy Counsel, Executive Office for United States Trustees (EOUST), at (202) 307-1399.

**SUPPLEMENTARY INFORMATION:** On April 20, 2005, amendments to the Bankruptcy Code, 11 U.S.C. 101, *et seq.*, were enacted that took effect on October 17, 2005. Under the new provisions, all individual debtors are required to receive credit counseling and a budget analysis from a USTP approved nonprofit budget and credit counseling agency within 180 days prior to filing a bankruptcy petition. Also, an individual debtor is required to take a personal financial management course from a USTP approved debtor education provider before receiving a bankruptcy discharge. The United States Trustees approve credit counseling and debtor education providers after determining their qualifications meet the standards set forth in the Bankruptcy Code and agency regulations. Accordingly, a new system of records is needed to cover applicants seeking to be USTP approved and reapproved providers of credit counseling and debtor education services under the Bankruptcy Code, as well as individuals who submit complaints and comments to the USTP regarding such providers. The records in this system will be used, among other things, to assist the EOUST and United States Trustees to assess the qualifications of credit counseling and debtor education applicants and providers, ensure compliance with the statutory and regulatory requirements, and collect and maintain complaints and comments submitted by individuals.

In addition to the above amendments, other changes to the Bankruptcy Code further necessitate modifications to the categories of individuals in JUSTICE/UST-001 and JUSTICE/UST-003 and to the categories of records in JUSTICE/UST-001 and JUSTICE/UST-004. For example, individual debtors must undergo means testing and possible debtor audits and, in certain business cases, bankruptcy examiners and ombudsmen may be appointed. The USTP is also implementing a new employee timekeeping system. Besides modifications to comport with amendments to the Bankruptcy Code, the USTP has made minor changes and clarifications in its existing systems of records to correct typographical errors, update certain statutory references, reflect uniform nomenclature changes, and add data elements. A summary of the changes to the current systems of records and a summary of the new system of records is set forth below:

In system of records JUSTICE/UST-001, Bankruptcy Case Files and Associated Records, the paragraph entitled "Categories of Individuals Covered by the System" has been modified to cover credit counseling and debtor education providers, auditors, examiners, and ombudsmen, as well as individuals who may be considered for appointment as trustees, examiners, and ombudsmen. Also included in the system are individuals who have filed complaints or inquiries related to a bankruptcy case with the USTP. The "Categories of Records in the System" paragraph has been revised to include new categories of records resulting from amendments to the Bankruptcy Code and to reflect the types of records covered by this system. The routine use that allows the release of information to bankruptcy trustees has been modified to clarify that such information may be shared when necessary to enable trustees to respond to complaints and inquiries by interested parties. Four new "Routine Uses" are being added for release of information to law enforcement authorities, USTP approved credit counseling and debtor education providers, bankruptcy examiners, and ombudsmen. The "Retrievability" and "Record Source Categories" paragraphs have been updated to reflect agency practices. The system of records was also modified to correct typographical errors, update certain statutory references, and reflect uniform nomenclature changes.

System of records, JUSTICE/UST-002, Bankruptcy Trustee Oversight Records, was modified to reflect uniform nomenclature changes. Also, the routine use that allows the release of

information to bankruptcy trustees has been modified to clarify that such information may be shared when necessary to enable trustees to respond to complaints and inquiries by interested parties. A new routine use allows information to be shared with law enforcement authorities.

System of records, JUSTICE/UST-003, U.S. Trustee Program Timekeeping Records, was modified to reflect uniform nomenclature changes. Also, the "Categories of Individuals Covered by the System" and the "System Managers and Address" paragraphs were modified to reflect agency practices.

In system of records JUSTICE/UST-004, U.S. Trustee Program Case Referral System, the paragraph "Categories of Records in the System" has been modified to include information pertaining to credit counseling and debtor education providers. The routine use that allows the release of information to bankruptcy trustees has been modified to clarify that such information may be shared when necessary to enable trustees to respond to complaints and inquiries by interested parties. Four new "Routine Uses" are being added for release of information to law enforcement authorities, USTP approved credit counseling and debtor education providers, bankruptcy examiners, and ombudsmen. The "Retention and Disposal" paragraph is being amended to include criminal referral records in which a criminal case has been brought against an individual subject (National Archives and Records Administration approval pending). The system of records was also modified to reflect uniform nomenclature changes.

The USTP has added a new system of records entitled JUSTICE/UST-005, Credit Counseling and Debtor Education Files and Associated Records, to cover applicants seeking to be USTP approved and reapproved providers of credit counseling and debtor education services under the Bankruptcy Code, as well as third parties who submit information, including complaints and comments, to the USTP regarding such providers. In addition to the standard routine uses currently used in the existing systems of records, three new routine uses are being added to system of records JUSTICE/UST-005: (1) for the release of information to law enforcement authorities, (2) for the release of information to appropriate third parties, including government agencies, in connection with USTP decisions to grant, deny, or revoke approval or reapproval of credit counseling and debtor education

applicants and providers, and (3) for the release of information to approved credit counseling and debtor education providers to the extent necessary to enable providers to accomplish the credit counseling and debtor education requirements of the Bankruptcy Code and to respond to complaints and inquiries submitted to the USTP by interested parties. The entire systems of records notice is published below.

In accordance with 5 U.S.C. 552a(e)(4) and (11), the public is given a 30-day period in which to comment; and the Office of Management and Budget (OMB), which has oversight responsibility of the Act, requires a 40-day period in which to conclude its review of the system. Therefore, please submit any comments by November 20, 2006. The public, OMB, and Congress are invited to submit comments to: Mary Cahill, Management and Planning Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (Room 1400, National Place Building).

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and Congress.

Dated: October 4, 2006.

**Lee J. Lofthus,**

*Acting Assistant Attorney General for Administration.*

#### **JUSTICE/UST-001**

##### **SYSTEM NAME:**

Bankruptcy Case Files and Associated Records.

##### **SECURITY CLASSIFICATION:**

Sensitive But Unclassified.

##### **SYSTEM LOCATION:**

The Executive Office for United States Trustees (EOUST) and other offices of the United States Trustee Program (USTP) depending upon the judicial district where a bankruptcy case or proceeding is pending or was administered. (Office addresses can be located on the Internet at <http://www.usdoj.gov/ust>.)

##### **CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals and entities involved in cases or proceedings under the Bankruptcy Code (11 U.S.C. 101, *et seq.*), including, but not limited to: debtors; creditors; bankruptcy trustees; other parties in interest; professionals, attorneys, and agents representing debtors, creditors, and trustees; credit counselors; debtor education providers; auditors; examiners; ombudsmen; and individuals who may be considered for appointment as trustees, examiners, and

ombudsmen, or otherwise involved in bankruptcy cases or proceedings.

Individuals who have filed complaints, inquiries, or comments related to a bankruptcy case with the USTP.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records in this system may include:

(a) Petitions/orders for relief; (b) schedules of assets and liabilities of debtors; (c) lists of creditors; (d) statements of financial affairs; (e) operating or status reports; (f) alphabetical cross-reference index cards; (g) general correspondence regarding bankruptcy cases and proceedings; (h) miscellaneous investigative records; (i) copies of certain pleadings, official forms, or other papers filed in court, including those filed by the USTP; (j) appraisal reports; (k) names of bank depositories and amounts of funds deposited therein; (l) names of sureties and amounts of trustees' bonds; (m) tape or other recordings of creditors meetings conducted under 11 U.S.C. 341 for the purpose of examination of debtors by creditors, trustees, and others; (n) plans filed under chapter 11, 12, or 13; (o) names of persons serving as counsel, trustee, professionals, or other functionaries in bankruptcy cases and proceedings, including compensation earned or sought by each; (p) names and qualifications of individuals who may be considered for appointment as trustees, examiners, and ombudsmen; (q) names and contact information of credit counselors and debtor education providers; (r) credit counseling certificates, debtor education certificates, certificate numbers, completion dates of credit counseling briefings and debtor education courses; (s) debt management plans; (t) means test review forms; (u) targeted and random debtor audit forms, audit reports, and related working papers; (v) federal and state tax returns; and (w) other case-related information, such as case number, case status, case type, parties' names and other personal identifiers, Social Security numbers and financial account numbers, estate assets/liabilities, case filings/reports, trustee bonds, calendars of meetings and hearings, due dates of plan, schedules and other filings, creditors' committee status, attorneys/professionals' data, and trustees/examiners' data, and ombudsmen data, including health care and medical records of patients of entities involved in cases or proceedings under 11 U.S.C. 101, *et seq.* and related information.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

This system is established and maintained pursuant to the bankruptcy oversight and related responsibilities of the USTP under, *e.g.*, 28 U.S.C. 581, *et seq.*, and 11 U.S.C. 101, *et seq.*

**PURPOSES:**

The records in this system are used by USTP personnel to determine the existence of a case, to ascertain the status of actions with respect to a case, to ensure that timely action is taken as appropriate, to determine the involvement by agents or other representatives of parties in such cases, to implement and monitor compliance with credit counseling and debtor education requirements, and to facilitate the performance of USTP duties under, *e.g.*, 28 U.S.C. 581, *et seq.*, 11 U.S.C. 101, *et seq.*, and other legal authority.

As provided in 11 U.S.C. 107, a document filed in a case and the dockets of the bankruptcy court are public records and open to examination except when the court enters a protective order or otherwise acts to seal a docket entry.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

(A) Release of Information to Former Employees:

The Department of Justice may disclose relevant and necessary information to a former employee of the Department for purposes of: responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

(B) Release of Information to Contractors:

Information from these records may be disclosed to contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the federal government, when necessary to accomplish an agency function related to this system of records.

(C) Release of Information in Proceedings:

Information from these records may be disclosed in an appropriate proceeding before a court, or administrative or adjudicative body,

when the Department of Justice determines that the records are arguably relevant to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

(D) Release of Information for Litigation-related Discussions:

Information from these records may be disclosed to an actual or potential party to litigation or the party's authorized representative for the purpose of negotiation or discussion of such matters as settlement, plea bargaining, or in informal discovery proceedings.

(E) Release of Information to Bankruptcy Trustees:

Information from these records may be disclosed to a trustee under chapter 7, 11, 12, or 13 of title 11, U.S. Code, when the United States Trustee determines that the release of such information is necessary to enable the trustee to properly administer a case or to perform the duties and responsibilities of a case trustee under 28 U.S.C. 586, 18 U.S.C. 3057, or 11 U.S.C. 101, *et seq.*, including responding to complaints and inquiries related to a bankruptcy case, submitted to the USTP by interested parties.

(F) Release of Information to Complainants and Victims:

Information from these records may be disclosed to complainants and/or victims to the extent necessary to provide such persons with information and explanations concerning the progress and/or results of the investigation or case arising from the matters of which they complained and/or of which they were a victim.

(G) Release of Information to the News Media:

Information from these records may be disclosed to the news media and the public, including disclosures pursuant to 28 CFR 50.2, unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

(H) Release of Information to Members of Congress:

Information from these records may be disclosed to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

(I) Release of Information to National Archives and Records Administration:

A record from this system of records may be disclosed to the National Archives and Records Administration for purposes of records management

inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

(J) Release of Information to Law Enforcement or Regulatory Agencies:

With respect to non-law enforcement records, where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature—the relevant records may be referred to the appropriate federal, state, local, tribal, or foreign law enforcement authority or other appropriate entity charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law.

(K) Release of Information to Licensing Agencies:

Information from these records may be disclosed to federal, state, local, tribal, foreign or international licensing agencies or associations which require information concerning the suitability or eligibility of an individual for a license or permit.

(L) Release of Information for Employment, Clearance, Contract, or Grant Purposes:

Information from these records may be disclosed to appropriate officials and employees of a Federal agency or entity which requires information relevant to a decision concerning the hiring, appointment, or retention of an employee; the issuance, renewal, suspension, or revocation of a security clearance; the execution of a security or suitability investigation; the letting of a contract, or the issuance of a grant or benefit.

(M) Release of Information to Credit/Consumer Reporting Agencies:

Information from these records may be disclosed to a credit or consumer reporting agency, as such terms are used in the Fair Credit Reporting Act (15 U.S.C. 1681, *et seq.*) and the Debt Collection Act (31 U.S.C. 3701, *et seq.*) when such information is necessary or appropriate to ensure that bankruptcy-related credit information is correct and accurate.

(N) Release of Information related to Investigations and Proceedings:

Information from these records may be disclosed in the course of investigating the potential or actual violation of any law—whether civil, criminal, or regulatory in nature—or for the preparation of a trial or hearing for such violation. Such information may be disclosed to a Federal, state, local, tribal, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation,

trial, or hearing, and if the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant.

(O) Release of Information in connection with Section 341 Meetings:

Information from these records may be disclosed in connection with meetings held under 11 U.S.C. 341 and related proceedings, when the Department of Justice determines that the records are arguably relevant to such meetings or bankruptcy proceedings. Transcripts or other records of such meetings may also be disclosed upon request pursuant to relevant bankruptcy laws or rules.

(P) Release of Information to Law Enforcement Authority:

With respect to law enforcement records, to any criminal, civil, or regulatory law enforcement authority (whether federal, state, local, tribal, or foreign) where the information is relevant to the recipient entity's law enforcement responsibilities.

(Q) Release of Information to USTP Approved Credit Counseling and Debtor Education Providers:

Information from these records may be disclosed to a USTP approved credit counseling and/or debtor education provider when the EOUST or United States Trustee determines that the release of such information is necessary to enable the approved provider to properly perform the duties and responsibilities of a credit counseling and/or debtor education provider under 11 U.S.C. 101, *et seq.*, and other legal authority, including responding to complaints and inquiries related to the provider, submitted to the USTP by interested parties.

(R) Release of Information to Bankruptcy Examiners:

Information from these records may be disclosed to a bankruptcy examiner appointed in a case under title 11, U.S. Code, when the United States Trustee determines that the release of such information is necessary to enable the bankruptcy examiner to properly perform the duties and responsibilities of an examiner under 11 U.S.C. 101, *et seq.*, and other legal authority, including responding to complaints and inquiries related to a bankruptcy case, submitted to the USTP by interested parties.

(S) Release of Information to Ombudsmen:

Information from these records may be disclosed to an ombudsman appointed in a case under title 11, U.S. Code, when the United States Trustee determines that the release of such information is necessary to enable the ombudsman to properly perform the

duties and responsibilities of an ombudsman under 11 U.S.C. 101, *et seq.*, and other legal authority, including responding to complaints and inquiries related to a bankruptcy case, submitted to the USTP by interested parties.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records in this system, except as specified below, are recorded on paper/cardboard material and maintained in file cabinets, storage containers, electric file/card retrievers, or safes. Certain records in this system are entered into automated information systems and stored on servers and/or magnetic disks for use or reproduction in report form at various times.

**RETRIEVABILITY:**

In USTP field offices, bankruptcy case records are retrieved by bankruptcy court case numbers, cross-referenced alphabetically by names of debtors. Bankruptcy case records pertaining to case trustees, sureties, depository banks, and to agents representing parties are maintained and retrieved alphabetically. Bankruptcy case records and records of potential candidates for appointment as trustees, examiners, and ombudsmen in the EOUST are maintained and retrieved alphabetically by name of the debtor or the particular person involved. Automated information is retrieved by a variety of key words, including names of individuals.

**SAFEGUARDS:**

Records contained in this system are unclassified. They are safeguarded and protected in accordance with Departmental rules and procedures governing the handling of office records and computerized information. During duty hours, access to this system is monitored and controlled by USTP personnel. During nonduty hours, offices are locked.

**RETENTION AND DISPOSAL:**

Chapter 7 no-asset case records may be destroyed six months after the case is closed. Section 341 meeting tapes may be destroyed two years after the date of the 341 meeting. Chapter 7 asset case records may be destroyed three years after the case is closed. Chapter 11 case records may be destroyed three years after the case is dismissed or closed. Chapter 12 and chapter 13 case records may be destroyed six months after the case is dismissed or closed. To prevent unauthorized disclosure, records are destroyed by shredding, burning, or similar methods.

**SYSTEM MANAGER(S) AND ADDRESS:**

The system managers for this system of records are: (a) the United States Trustees or Assistant United States Trustees, to the extent these records are maintained in their offices; and (b) the General Counsel, to the extent these records are maintained in the EOUST. (Office addresses can be located on the Internet at <http://www.usdoj.gov/ust>.)

**NOTIFICATION PROCEDURE:**

Address such inquiries to the Office of the General Counsel (FOIA/Privacy Counsel) at the address listed on the USTP FOIA/Privacy Act Web site (<http://www.usdoj.gov/ust>). The envelope and letter should be clearly marked "Privacy Act Request" and comply with 28 CFR 16.40, *et seq.*

**RECORD ACCESS PROCEDURES:**

Address such inquiries to the Office of the General Counsel (FOIA/Privacy Counsel) at the address listed on the USTP FOIA/Privacy Act Web site (<http://www.usdoj.gov/ust>). The envelope and letter should be clearly marked "Privacy Act Request" and comply with 28 CFR 16.40, *et seq.*

**CONTESTING RECORD PROCEDURES:**

Individuals desiring to contest or amend information maintained in the system should clearly and concisely state what information is being contested, the reasons for contesting it, and the proposed amendment to the information. Address such inquiries to the Office of the General Counsel (FOIA/Privacy Counsel) at the address listed on the USTP FOIA/Privacy Act Web site (<http://www.usdoj.gov/ust>). The envelope and letter should be clearly marked "Privacy Act Request" and comply with 28 CFR 16.40, *et seq.*

**RECORD SOURCE CATEGORIES:**

Sources of information contained in this system generally consist of debtors, creditors, trustees, examiners, auditors, ombudsmen, USTP approved credit counseling and/or debtor education providers, attorneys, and other agents participating in the administration of a case, judges of the bankruptcy courts and other judicial officers, parties in interest, and employees of the USTP.

**EXEMPTIONS CLAIMED FOR SYSTEM:**

None.

**JUSTICE/UST-002****SYSTEM NAME:**

Bankruptcy Trustee Oversight Records

**SECURITY CLASSIFICATION:**

Sensitive But Unclassified

**SYSTEM LOCATION:**

The Executive Office for United States Trustees (EOUST) and other offices of the United States Trustee Program (USTP) depending upon the judicial district where the bankruptcy case trustee serves or has made application to serve. (Office addresses can be located on the Internet at <http://www.usdoj.gov/ust>.)

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Persons serving or applying to serve as estate trustees in bankruptcy cases filed under chapter 7, 11, 12, or 13 of the Bankruptcy Code (11 U.S.C. 101, *et seq.*) and/or subject to USTP oversight pursuant to 28 U.S.C. 586.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records in this system may include: resumes, applications, references, recommendations, and related materials; notes, correspondence, memoranda, messages, and agreements; audits, reviews, evaluations, financial records, transcripts, and security clearance information; Social Security numbers, financial account numbers, and other personal identifiers; and other information provided to USTP by trustees, applicants, and third parties or developed by USTP personnel.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

This system is established and maintained pursuant to the bankruptcy oversight and related responsibilities of the USTP under, *e.g.*, 28 U.S.C. 581, *et seq.*, and 11 U.S.C. 101, *et seq.*

**PURPOSE:**

These records are used by USTP personnel for determining and reassessing the qualifications and eligibility of persons serving or applying to serve as trustees in bankruptcy cases.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

(A) Release of Information to Former Employees:

The Department of Justice may disclose relevant and necessary information to a former employee of the Department for purposes of: responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee

regarding a matter within that person's former area of responsibility.

(B) Release of Information to Contractors:

Information from these records may be disclosed to contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the federal government, when necessary to accomplish an agency function related to this system of records.

(C) Release of Information in Proceedings:

Information from these records may be disclosed in an appropriate proceeding before a court, or administrative or adjudicative body, when the Department of Justice determines that the records are arguably relevant to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

(D) Release of Information for Litigation-related Discussions:

Information from these records may be disclosed to an actual or potential party to litigation or the party's authorized representative for the purpose of negotiation or discussion of such matters as settlement, plea bargaining, or in informal discovery proceedings.

(E) Release of Information to Bankruptcy Trustees:

Information from these records may be disclosed to a trustee under chapter 7, 11, 12, or 13 of title 11, U.S. Code, when the United States Trustee determines that the release of such information is necessary to enable the trustee to properly administer a case or to perform the duties and responsibilities of a case trustee under 28 U.S.C. 586, 18 U.S.C. 3057, or 11 U.S.C. 101, *et seq.*, including responding to complaints and inquiries related to a bankruptcy case, submitted to the USTP by interested parties.

(F) Release of Information to Complainants and Victims:

Information from these records may be disclosed to complainants and/or victims to the extent necessary to provide such persons with information and explanations concerning the progress and/or results of the investigation or case arising from the matters of which they complained and/or of which they were a victim.

(G) Release of Information to the News Media:

Information from these records may be disclosed to the news media and the public, including disclosures pursuant to 28 CFR 50.2, unless it is determined

that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

**(H) Release of Information to Members of Congress:**

Information from these records may be disclosed to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

**(I) Release of Information to National Archives and Records Administration:**

A record from this system of records may be disclosed to the National Archives and Records Administration for purposes of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

**(J) Release of Information to Law Enforcement or Regulatory Agencies:**

With respect to non-law enforcement records, where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature—the relevant records may be referred to the appropriate federal, state, local, tribal, or foreign law enforcement authority or other appropriate entity charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law.

**(K) Release of Information to Licensing Agencies:**

Information from these records may be disclosed to federal, state, local, tribal, foreign, or international licensing agencies or associations which require information concerning the suitability or eligibility of an individual for a license or permit.

**(L) Release of Information to Credit/Consumer Reporting Agencies:**

Information from these records may be disclosed to a credit or consumer reporting agency, as such terms are used in the Fair Credit Reporting Act (15 U.S.C. 1681, *et seq.*) and the Debt Collection Act (31 U.S.C. 3701, *et seq.*), when such information is necessary or appropriate to ensure that bankruptcy-related credit information is correct and accurate.

**(M) Release of Information Related to Investigations and Proceedings:**

Information from these records may be disclosed in the course of investigating the potential or actual violation of any law—whether civil, criminal, or regulatory in nature—or for the preparation of a trial or hearing for such violation. Such information may be disclosed to a federal, state, local, tribal, or foreign agency, or to an

individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing, and if the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant.

**(N) Release of Information in Connection with Section 341 Meetings:**

Information from these records may be disclosed in connection with meetings held under 11 U.S.C. 341 and related proceedings when the Department of Justice determines that the records are arguably relevant to such meetings or proceedings. Transcripts or other records of such meetings may also be disclosed upon request pursuant to relevant bankruptcy laws or rules.

**(O) Release of Information to Law Enforcement Authority**

With respect to law enforcement records, to any criminal, civil, or regulatory law enforcement authority (whether federal, state, local, tribal, or foreign) where the information is relevant to the recipient entity's law enforcement responsibilities.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records in this system, except as specified below, are recorded on paper/cardboard material and maintained in file cabinets, storage containers, electric file/card retrievers, or safes. Certain records in this system are entered into automated information systems and stored on servers and/or magnetic disks for use or reproduction in report form at various times.

**RETRIEVABILITY:**

In USTP field offices, bankruptcy trustee oversight records are filed alphabetically by the trustee's or applicant's name. In EOUST, similar records are maintained alphabetically, organized by region. Automated information is retrieved by a variety of key words, including names of individuals.

**SAFEGUARDS:**

Records contained in this system are unclassified. They are safeguarded and protected in accordance with Departmental rules and procedures governing the handling of official records and computerized information. During duty hours, access to this system is monitored and controlled by USTP office personnel. During nonduty hours, offices are locked.

**RETENTION AND DISPOSAL:**

Bankruptcy trustee oversight records may be destroyed after three years except in the following circumstances. If the trustee dies, his/her trustee oversight records may be destroyed after one year. Case Trustee Interim Reports may be destroyed after five years. To prevent unauthorized disclosure, records are destroyed by shredding, burning, or similar methods.

**SYSTEM MANAGER(S) AND ADDRESS:**

The system managers for this system of records are: (a) the United States Trustees or Assistant United States Trustees, to the extent these records are maintained in their offices; and (b) the Assistant Director, Office of Review and Oversight, to the extent these records are maintained in the EOUST. (Office addresses can be located on the Internet at <http://www.usdoj.gov/ust>.)

**NOTIFICATION PROCEDURE:**

Address such inquiries to the Office of the General Counsel (FOIA/Privacy Counsel) at the address listed on the USTP FOIA/Privacy Act Web site (<http://www.usdoj.gov/ust>). The envelope and letter should be clearly marked "Privacy Act Request" and comply with 28 CFR 16.40, *et seq.*

**RECORD ACCESS PROCEDURE:**

Address such inquiries to the Office of the General Counsel (FOIA/Privacy Counsel) at the address listed on the USTP FOIA/Privacy Act Web site (<http://www.usdoj.gov/ust>). The envelope and letter should be clearly marked "Privacy Act Request" and comply with 28 CFR 16.40, *et seq.*

**CONTESTING RECORD PROCEDURES:**

Individuals desiring to contest or amend information maintained in the system should clearly and concisely state what information is being contested, the reasons for contesting it, and the proposed amendment to the information. Address such inquiries to the Office of the General Counsel (FOIA/Privacy Counsel) at the address listed on the USTP FOIA/Privacy Act Web site (<http://www.usdoj.gov/ust>). The envelope and letter should be clearly marked "Privacy Act Request" and comply with 28 CFR 16.40, *et seq.*

**RECORD SOURCE CATEGORIES:**

Sources of information contained in this system generally consist of the applicant, the applicant's references, interested third parties, and/or USTP personnel.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

**JUSTICE/UST-003****SYSTEM NAME:**

U.S. Trustee Program Timekeeping Records.

**SECURITY CLASSIFICATION:**

Sensitive But Unclassified.

**SYSTEM LOCATION:**

The Executive Office for United States Trustees (EOUST) and other offices of the United States Trustee Program (USTP) depending upon where an employee has been assigned for duty. (Office addresses can be located on the Internet at <http://www.usdoj.gov/ust>.)

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Employees of the USTP field offices, generally to include Assistant United States Trustees, trial attorneys, bankruptcy analysts, paralegal specialists, and clerical support staff.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records in this system may include USTP employees' names, personal identifiers, and a record of their work time.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

This system is established and maintained pursuant to the responsibilities of the USTP under, *e.g.*, 28 U.S.C. 581, *et seq.*, and 11 U.S.C. 101, *et seq.*

**PURPOSE:**

This system consists of records of the work time of employees of the USTP, and is used, *e.g.*, to evaluate workload as a basis for requesting and allocating personnel and other resources.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

(A) Release of Information to Former Employees:

The Department of Justice may disclose relevant and necessary information to a former employee of the Department for purposes of: responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

(B) Release of Information to Contractors:

Information from these records may be disclosed to contractors, grantees,

experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the federal government, when necessary to accomplish an agency function related to this system of records.

(C) Release of Information to Members of Congress:

Information from these records may be disclosed to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

(D) Release of Information to National Archives and Records Administration:

A record from this system of records may be disclosed to the National Archives and Records Administration for the purposes of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

(E) Release of Information in Proceedings:

Information from these records may be disclosed in an appropriate proceeding before a court, or administrative or adjudicative body, when the Department of Justice determines that the records are arguably relevant to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

(F) Release of Information related to Investigations and Proceedings:

Information from these records may be disclosed in the course of investigating the potential or actual violation of any law—whether civil, criminal, or regulatory in nature—or for the preparation of a trial or hearing for such violation. Such information may be disclosed to a federal, state, local, tribal, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing, and if the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:****STORAGE:**

Records in this system, except as specified below, are recorded on paper/cardboard material and maintained in file cabinets, storage containers, electric file/card retrievers, or safes. Certain records in this system are entered into automated information systems and

stored on servers and/or magnetic disks for use or reproduction in report form at various times.

**RETRIEVABILITY:**

In USTP field offices, USTP timekeeping records are maintained by the name of the employee. In EOUST, such records are maintained and organized by USTP office, job title, and the name of the employee. Automated information is retrieved by a variety of key words.

**SAFEGUARDS:**

Records contained in this system are unclassified. They are safeguarded and protected in accordance with Departmental rules and procedures governing the handling of official records and computerized information. During duty hours, access to this system is monitored and controlled by USTP office personnel. During nonduty hours, offices are locked.

**RETENTION AND DISPOSAL:**

These records may be destroyed by shredding, burning, or similar methods after being audited or when three years old.

**SYSTEM MANAGER(S) AND ADDRESS:**

The system managers for this system of records are: (a) the United States Trustees or Assistant United States Trustees, to the extent these records are maintained in their offices; and (b) the Assistant Director, Office of Research and Planning, to the extent these records are maintained in the EOUST. (Office addresses can be located on the Internet at <http://www.usdoj.gov/ust>.)

**NOTIFICATION PROCEDURE:**

Address such inquiries to the Office of the General Counsel (FOIA/Privacy Counsel) at the address listed on the USTP FOIA/Privacy Act Web site (<http://www.usdoj.gov/ust>). The envelope and letter should be clearly marked "Privacy Act Request" and comply with 28 CFR 16.40, *et seq.*

**RECORD ACCESS PROCEDURE:**

Address such inquiries to the Office of the General Counsel (FOIA/Privacy Counsel) at the address listed on the USTP FOIA/Privacy Act Web site (<http://www.usdoj.gov/ust>). The envelope and letter should be clearly marked "Privacy Act Request" and comply with 28 CFR 16.40, *et seq.*

**CONTESTING RECORD PROCEDURES:**

Individuals desiring to contest or amend information maintained in the system should clearly and concisely state what information is being contested, the reasons for contesting it,

and the proposed amendment to the information. Address such inquiries to the Office of the General Counsel (FOIA/Privacy Counsel) at the address listed on the USTP FOIA/Privacy Act Web site (<http://www.usdoj.gov/ust>). The envelope and letter should be clearly marked "Privacy Act Request" and comply with 28 CFR 16.40, *et seq.*

**RECORD SOURCE CATEGORIES:**

Sources of information contained in this system generally consist of USTP personnel.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

**JUSTICE/UST-004**

**SYSTEM NAME:**

U.S. Trustee Program Case Referral System.

**SECURITY CLASSIFICATION:**

Sensitive But Unclassified.

**SYSTEM LOCATION:**

The Executive Office for United States Trustees (EOUST) and other offices of the United States Trustee Program (USTP), depending on where the acts under investigation occurred. (Office addresses can be located on the Internet at <http://www.usdoj.gov/ust>.)

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Entities and individuals involved in the bankruptcy process who are suspected of having engaged in criminal conduct or of having violated other federal laws, and whose activities have been or may be investigated or reported by the USTP to a United States Attorney or other law enforcement authority for investigation, prosecution, or other action pursuant to 28 U.S.C. 586, 18 U.S.C. 3057, or other legal authority.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records in this system may include information associated with a referral to law enforcement authorities in connection with bankruptcy proceedings or related matters arising under 11 U.S.C. 101, *et seq.*, or 28 U.S.C. 581, *et seq.* This system may contain information pertaining to the subject of the referral, who may be a debtor, creditor, party in interest, credit counseling and/or debtor education provider, or any other entity associated with the bankruptcy or other proceedings. This system may also contain information about the proceedings with which the subject of the referral is associated. Such information may include the subject's name, address, date of birth, Social Security number, financial account

numbers, or other personal identifiers; a chronological account of the incident(s); the source of the information, including confidential sources, if any; witnesses' names, addresses, and other personal identifiers; the law enforcement agency to which the referral is made; the status or final disposition of the referral; the case number, chapter, and status of any related proceedings; the bankruptcy trustee/examiner's name, address, phone number, and other personal identifiers; the judge assigned to the case; and such other case data as may be furnished to or available in the records of the court or of the USTP.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

This system is established and maintained pursuant to the responsibilities of the USTP under, *e.g.*, 28 U.S.C. 581, *et seq.*, 11 U.S.C. 101, *et seq.*, and 18 U.S.C. 3057.

**PURPOSE(S):**

The purposes of this system are to assist the United States Trustees: (1) in supervising the administration of cases and trustees in cases and proceedings filed under the Bankruptcy Code (11 U.S.C. 101, *et seq.*); (2) in carrying out their congressional mandate "to serve as bankruptcy watch-dogs to prevent fraud, dishonesty, and overreaching in the bankruptcy arena" (H.R. Rep. No. 595, 95th Cong., 2d Sess. 88 (1978)); and (3) in complying with 18 U.S.C. 3057, which directs trustees to report for investigation any instance where there are reasonable grounds for believing that there has been a violation of federal laws relating to insolvent debtors or reorganization plans. The USTP may inform the appropriate law enforcement authorities when fraud or other violations of federal law are suspected or discovered in a bankruptcy case and will maintain records thereof described under "Categories of Records in the System" (above). The data will be used for Program-wide evaluation purposes, for statistical purposes, and to track the number, type, and outcome of cases referred for investigation.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:**

(A) Release of Information to Former Employees:

The Department of Justice may disclose relevant and necessary information to a former employee of the Department for purposes of: responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating

communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

(B) Release of Information to Contractors:

Information from these records may be disclosed to contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the federal government, when necessary to accomplish an agency function related to this system of records.

(C) Release of Information in Proceedings:

Information from these records may be disclosed in an appropriate proceeding before a court, or administrative or adjudicative body, when the Department of Justice determines that the records are arguably relevant to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator holds the records to be relevant to the proceeding.

(D) Release of Information for Litigation-related Discussions:

Information from these records may be disclosed to an actual or potential party to litigation or the party's authorized representative for the purpose of negotiation or discussion of such matters as settlement, plea bargaining, or in informal discovery proceedings.

(E) Release of Information to Bankruptcy Trustees:

Information from these records may be disclosed to a trustee under chapter 7, 11, 12, or 13 of title 11, U.S. Code, when the United States Trustee determines that the release of such information is necessary to enable the trustee to properly administer a case or to perform the duties and responsibilities of a case trustee under 28 U.S.C. 586, 18 U.S.C. 3057, or 11 U.S.C. 101, *et seq.*, including responding to complaints and inquiries related to a bankruptcy case, submitted to the USTP by interested parties.

(F) Release of Information to Complainants and Victims:

Information from these records may be disclosed to complainants and/or victims to the extent necessary to provide such persons with information and explanations concerning the progress and/or results of the investigation or case arising from the matters of which they complained and/or of which they were a victim.



(G) Release of Information to the News Media:

Information from these records may be disclosed to the news media and the public, including disclosures pursuant to 28 CFR 50.2, unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of privacy.

(H) Release of Information to Members of Congress:

Information from these records may be disclosed to a Member of Congress or staff acting on the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual to whom the records pertain.

(I) Release of Information to National Archives and Records Administration:

These records may be disclosed to the National Archives and Records Administration for purposes of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

(J) Release of Information to Law Enforcement or Regulatory Agencies:

With respect to non-law enforcement records, where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature—the relevant records may be referred to the appropriate federal, state, local, tribal, or foreign law enforcement authority or other appropriate entity charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law.

(K) Release of Information to Licensing Agencies:

Information from these records may be disclosed to federal, state, local, tribal, foreign, or international licensing agencies or associations which require information concerning the suitability or eligibility of an individual for a license or permit.

(L) Release of Information to Judicial Branch:

These records may be disclosed to members of the judicial branch of the federal government where disclosure appears relevant to the authorized function of the recipient judicial office or court system under 18 U.S.C. 3057.

(M) Release of Information to Credit/Consumer Reporting Agencies:

Information from these records may be disclosed to a credit or consumer reporting agency, as such terms are used in the Fair Credit Reporting Act (15 U.S.C. 1681, *et seq.*) and the Debt Collection Act (31 U.S.C. 3701, *et seq.*), when such information is necessary or

appropriate to ensure that bankruptcy-related credit information is correct and accurate.

(N) Release of Information Related to Investigations and Proceedings:

Information from these records may be disclosed in the course of investigating the potential or actual violation of any law—whether civil, criminal, or regulatory in nature—or for the preparation of a trial or hearing for such violation. Such information may be disclosed to a federal, state, local, tribal, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing, and if the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant.

(O) Release of Information in Connection with Section 341 Meetings:

Information from these records may be disclosed in connection with meetings held under 11 U.S.C. 341 and related proceedings, when the Department of Justice determines that the records are arguably relevant to such meetings or proceedings. Transcripts or other records of such meetings may also be disclosed upon request pursuant to relevant bankruptcy laws or rules.

(P) Release of Information to Law Enforcement Authority:

With respect to law enforcement records, to any criminal, civil, or regulatory law enforcement authority (whether federal, state, local, tribal, or foreign) where the information is relevant to the recipient entity's law enforcement responsibilities.

(Q) Release of Information to USTP Approved Credit Counseling and Debtor Education Providers:

Information from these records may be disclosed to a USTP approved credit counseling and/or debtor education provider when the EOUST or United States Trustee determines that the release of such information is necessary to enable the approved provider to properly perform the duties and responsibilities of a credit counseling and/or debtor education provider under 11 U.S.C. 101, *et seq.*, and other legal authority, including responding to complaints and inquiries related to the provider, submitted to the USTP by interested parties.

(R) Release of Information to Bankruptcy Examiners:

Information from these records may be disclosed to a bankruptcy examiner appointed in a case under title 11, U.S. Code, when the United States Trustee determines that the release of such

information is necessary to enable the bankruptcy examiner to properly perform the duties and responsibilities of an examiner under 11 U.S.C. 101, *et seq.*, and other legal authority, including responding to complaints and inquiries related to a bankruptcy case, submitted to the USTP by interested parties.

(S) Release of Information to Ombudsmen:

Information from these records may be disclosed to an ombudsman appointed in a case under title 11, U.S. Code, when the United States Trustee determines that the release of such information is necessary to enable the ombudsman to properly perform the duties and responsibilities of an ombudsman under 11 U.S.C. 101, *et seq.*, and other legal authority, including responding to complaints and inquiries related to a bankruptcy case, submitted to the USTP by interested parties.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records in this system, except as specified below, are recorded on paper/cardboard material and maintained in file cabinets, storage containers, electric file/card retrievers, or safes. Certain records in this system are entered into automated information systems and stored on servers and/or magnetic disks for use or reproduction in report form at various times.

**RETRIEVABILITY:**

In EOUST and in USTP field offices, case referral records are filed alphanumerically or chronologically. Automated information is retrieved by a variety of key words, including names of individuals or other personal identifiers.

**SAFEGUARDS:**

Records contained in this system are unclassified but highly sensitive. They are safeguarded and protected in accordance with Departmental rules and procedures governing the handling of official records and computerized information. During duty hours, access to this system is monitored and controlled by USTP office personnel. During nonduty hours, offices are locked. Only those persons with a need to know have access to the records.

**RETENTION AND DISPOSAL:**

Criminal referral records may be destroyed by shredding, burning, or similar methods five years from the date of the finding of insufficient evidence, declination of prosecution, or the voting of a No True Bill by a Grand Jury. For

criminal referral records in which criminal charges have been brought, such records may be destroyed five years from the date of sentencing or the date of a nonappealable judicial determination, whichever is later (National Archives and Records Administration approval pending).

**SYSTEM MANAGER(S) AND ADDRESS:**

The system managers for this system of records are: (a) the United States Trustees or Assistant United States Trustees, to the extent these records are maintained in their offices; and (b) Office of the General Counsel and/or Chief of Criminal Enforcement, to the extent these records are maintained in the EOUST. (Office addresses can be located on the Internet at <http://www.usdoj.gov/ust>.)

**NOTIFICATION PROCEDURE:**

Address such inquiries to the Office of the General Counsel (FOIA/Privacy Counsel) at the address listed on the USTP FOIA/Privacy Act Web site (<http://www.usdoj.gov/ust>). The envelope and letter should be clearly marked "Privacy Act Request" and comply with 28 CFR 16.40, *et seq.*

**RECORDS ACCESS PROCEDURE:**

Address such inquiries to the Office of the General Counsel (FOIA/Privacy Counsel) at the address listed on the USTP FOIA/Privacy Act Web site (<http://www.usdoj.gov/ust>). The envelope and letter should be clearly marked "Privacy Act Request" and comply with 28 CFR 16.40, *et seq.*

**CONTESTING RECORD PROCEDURES:**

Individuals desiring to contest or amend information maintained in the system should clearly and concisely state what information is being contested, the reasons for contesting it, and the proposed amendment to the information. Address such inquiries to the Office of the General Counsel (FOIA/Privacy Counsel) at the address listed on the USTP FOIA/Privacy Act Web site (<http://www.usdoj.gov/ust>). The envelope and letter should be clearly marked "Privacy Act Request" and comply with 28 CFR 16.40, *et seq.*

**RECORD SOURCE CATEGORIES:**

The records generally contain information obtained by or furnished to the USTP from: (1) Federal or state court records; (2) debtors or debtors' principals, agents or representatives; (3) informants and interested third parties; and (4) other law enforcement sources.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

The Attorney General has exempted this system of records from subsections

(c)(3) and (4); (d); (e)(1), (2), and (3), (e)(4)(G) and (H), (e)(5) and (8); (f) and (g) of the Privacy Act, pursuant to 5 U.S.C. 552a(j)(2) and (k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c), and (e) and have been published in the **Federal Register**. See 28 CFR 16.77.

**JUSTICE/UST-005**

**SYSTEM NAME:**

Credit Counseling and Debtor Education Files and Associated Records.

**SECURITY CLASSIFICATION:**

Sensitive But Unclassified

**SYSTEM LOCATION:**

The Executive Office for U.S. Trustees (EOUST) and other offices of the United States Trustee Program (USTP) depending upon the judicial district(s) where the credit counselor or debtor education provider delivers services or has made application to deliver services under title 11, U.S. Code (11 U.S.C. 101, *et seq.*). (Office addresses can be located on the Internet at <http://www.usdoj.gov/ust>.)

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals and entities applying for approval and reapproval by the United States Trustee(s) to provide credit counseling and/or debtor education services under title 11, U.S. Code, including, but not limited to: (a) primary contact persons, agency representatives, principals, owners, counselors, educators, teachers, sole proprietors, managers, supervisors, employees, current and former directors, officers, and trustees; (b) individuals and entities whose approval and reapproval are pending or withdrawn or have been granted, denied, or revoked by the United States Trustee(s); (c) other parties in interest, agents, affiliates, related entities, independent contractors, contract service providers, credit counseling and debtor education clients, students, professionals, debtors, creditors, bankruptcy trustees, attorneys, accountants, auditors, or those otherwise involved in credit counseling and debtor education.

Individuals who have filed complaints or comments with the United States Trustee(s) or EOUST against credit counseling and debtor education providers whose approval and reapproval are pending or withdrawn or have been granted, denied, or revoked by the United States Trustee(s) under title 11, U.S. Code.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records in this system may include: (a) Applications, appendices, and related documents submitted to EOUST or the United States Trustee(s) by credit counseling agencies and debtor education providers; (b) supplemental submissions to applications and related correspondence; (c) data relating to the agencies' and providers' approval status and performance such as memoranda, notes, messages, check lists, reviews, and evaluations; (d) information from federal, state, and local government agencies, including Internal Revenue Service (IRS) release/waiver forms and IRS audit information; (e) Social Security numbers and tax identification numbers; (f) federal and state tax returns; (g) names, addresses, business locations and corresponding judicial districts, email addresses, telephone and fax numbers, resumes, Curriculum Vitae, education, qualifications, and/or experience of primary contact persons, agency representatives, principals, owners, counselors, educators, teachers, sole proprietors, managers, supervisors, employees, current and former directors, officers, and trustees, parties in interest, agents, affiliates, subsidiaries, related entities, independent contractors, contract service providers, professionals, attorneys, accountants, and auditors, including compensation earned or sought by each; (h) names of sureties and amounts of bonds, securities, insurance policies, and letters of credit; (i) general correspondence, forms, contracts, client agreements, schedules, budget analysis forms, training materials, counseling and teaching methods, manuals, procedures, scripts, counseling materials, debtor education curriculum, and Internet information; (j) fee schedules, suggested contributions, and "fair share" contributions made by creditors; (k) bank and financial institution information, including names of depositories and amounts of funds deposited in operating accounts and trust accounts; (l) audits, audited and unaudited financial statements, and cash flow projections (balance sheets, profit and loss statements, and statements of cash flow, and a year-to-date budget versus actual comparison, including all underlying assumptions); (m) annual disbursements; (n) business plans; (o) debt management plan servicing agreements; (p) statistics and activity reports; (q) background checks and miscellaneous investigative records; (r) copies of certain pleadings or other papers filed in court, including those filed by the USTP; (s) bond or other claims, arbitrations, and mediations, (t)

tracking and monitoring records and management reports, including information obtained during onsite visits to credit counseling and debtor education providers to monitor quality assurance, such as records, notes, and tape recorded client counseling sessions and debtor education courses; (u) disciplinary and enforcement actions and administrative reviews; (v) licenses, accreditations, and certifications; (w) standards, guidelines, and memberships with associations, (x) credit counseling certificates, debt management plans, debtor education certificates, certificate numbers, certificate issue and completion dates, and bankruptcy case names and numbers, (y) acknowledgments, agreements, and declarations; and (z) names of complainants, complaints, complaint forms, comments, related correspondence, client surveys, client evaluations and forms, and complaint reports and referral information, including records provided to and received from federal, state, and local agencies.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

This system is established and maintained pursuant to the bankruptcy oversight and related responsibilities of the USTP under, e.g., 28 U.S.C. 581, *et seq.*, and 11 U.S.C. 101, *et seq.*, and other legal authority.

**PURPOSES:**

The records in this system will be used to assist the EOUST and United States Trustee(s) to: (a) Determine and reassess the suitability, eligibility, and qualifications of persons providing or applying to provide credit counseling and/or debtor education services under title 11, U.S. Code; (b) maintain the requisite data conveniently; (c) ensure compliance with statutory requirements; (d) monitor credit counseling agencies' and debtor education providers' approval status, compliance with approval standards, and performance of approved providers; (e) monitor the issuance of certificates and detect and deter certificate forgery; and (f) collect and maintain complaints and comments from bankruptcy debtors and the public in order to take appropriate actions, including referrals to other government agencies.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

(A) Release of Information to Former Employees:

The Department of Justice may disclose relevant and necessary information to a former employee of the

Department for purposes of: responding to an official inquiry by a federal, state, or local government entity or professional licensing authority in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

(B) Release of Information to Contractors:

Information from these records may be disclosed to contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the federal government, when necessary to accomplish an agency function related to this system of records.

(C) Release of Information in Proceedings:

Information from these records may be disclosed in an appropriate proceeding before a court, or administrative or adjudicative body, when the Department of Justice determines that the records are arguably relevant to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

(D) Release of Information for Litigation-Related Discussions:

Information from these records may be disclosed to an actual or potential party to litigation or the party's authorized representative for the purpose of negotiation or discussion of such matters as settlement, plea bargaining, or in informal discovery proceedings.

(E) Release of Information to Bankruptcy Trustees:

Information from these records may be disclosed to a trustee under chapter 7, 11, 12, or 13 of title 11, U.S. Code, when the United States Trustee determines that the release of such information is necessary to enable the trustee to properly administer a case or to perform the duties and responsibilities of a case trustee under 28 U.S.C. 586, 18 U.S.C. 3057, or 11 U.S.C. 101, *et seq.*, including responding to complaints and inquiries related to a bankruptcy case, submitted to the USTP by interested parties.

(F) Release of Information to Complainants and Victims:

Information from these records may be disclosed to complainants and/or victims to the extent necessary to

provide such persons with information and explanations concerning the progress and/or results of the investigation or case arising from the matters of which they complained and/or of which they were a victim.

(G) Release of Information to the News Media:

Information from these records may be disclosed to the news media and the public, including disclosures pursuant to 28 CFR 50.2, unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

(H) Release of Information to Members of Congress:

Information from these records may be disclosed to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

(I) Release of Information to National Archives and Records Administration:

A record from this system of records may be disclosed to the National Archives and Records Administration for purposes of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

(J) Release of Information to Law Enforcement or Regulatory Agencies:

With respect to non-law enforcement records, where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature—the relevant records may be referred to the appropriate federal, state, local, tribal, or foreign law enforcement authority or other appropriate entity charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law.

(K) Release of Information to Licensing Agencies:

Information from these records may be disclosed to federal, state, local, tribal, foreign, or international licensing agencies or associations which require information concerning the suitability or eligibility of an individual for a license or permit.

(L) Release of Information for Employment, Clearance, Contract, or Grant Purposes:

Information from these records may be disclosed to appropriate officials and employees of a federal agency or entity which requires information relevant to a decision concerning the hiring, appointment, or retention of an employee; the issuance, renewal, suspension, or revocation of a security

clearance; the execution of a security or suitability investigation; the letting of a contract; or the issuance of a grant or benefit.

**(M) Release of Information to Credit/Consumer Reporting Agencies:**

Information from these records may be disclosed to a credit or consumer reporting agency, as such terms are used in the Fair Credit Reporting Act (15 U.S.C. 1681, *et seq.*) and the Debt Collection Act (31 U.S.C. 3701, *et seq.*), when such information is necessary or appropriate to ensure that bankruptcy-related credit information is correct and accurate.

**(N) Release of Information Related to Investigations and Proceedings:**

Information from these records may be disclosed in the course of investigating the potential or actual violation of any law—whether civil, criminal, or regulatory in nature—or for the preparation of a trial or hearing for such violation. Such information may be disclosed to a federal, state, local, tribal, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing, and if the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant.

**(O) Release of Information in Connection with Section 341 Meetings:**

Information from these records may be disclosed in connection with meetings held under 11 U.S.C. 341 and related proceedings, when the Department of Justice determines that the records are arguably relevant to such meetings or bankruptcy proceedings. Transcripts or other records of such meetings may also be disclosed upon request pursuant to relevant bankruptcy laws or rules.

**(P) Release of Information to Law Enforcement Authority**

With respect to law enforcement records, to any criminal, civil, or regulatory law enforcement authority (whether federal, state, local, tribal, or foreign) where the information is relevant to the recipient entity's law enforcement responsibilities.

**(Q) Release of Information in Connection with USTP Decisions to Grant, Deny, or Revoke Approval or Reapproval of Credit Counseling and Debtor Education Applicants and Providers:**

Information from these records may be disclosed to appropriate third parties to the extent necessary to collect or verify information pertinent to the USTP's decision to grant, deny, or

revoke approval or reapproval of a provider of credit counseling or debtor education services under title 11, U.S. Code, including to a federal, state, local, tribal, or foreign agency, or an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information that the USTP needs to make a determination related to the granting, denial, or revocation of approval or reapproval of an applicant, and if the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of any third party.

**(R) Release of Information to USTP Approved Credit Counseling and Debtor Education Providers:**

Information from these records may be disclosed to a USTP approved credit counseling and/or debtor education provider when the EOUST or United States Trustee determines that the release of such information is necessary to enable the approved provider to properly perform the duties and responsibilities of a credit counseling and/or debtor education provider under 11 U.S.C. 101, *et seq.*, and other legal authority, including responding to complaints and inquiries related to the provider, submitted to the USTP by interested parties.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records in this system, except as specified below, are recorded on paper/cardboard material and maintained in file cabinets, storage containers, electric file/card retrievers, or safes. Certain records in this system are entered into automated information systems and stored on servers and/or magnetic disks for use or reproduction in report form at various times.

**RETRIEVABILITY:**

In EOUST, records are maintained and organized alphanumerically by assigned number and alphabetically by name. In USTP field offices, credit counseling and debtor education records are filed alphabetically by the applicant's name and assigned number. Automated information is retrieved by a variety of key words, including names of individuals and other personal identifiers.

**SAFEGUARDS:**

Records contained in this system are unclassified. They are safeguarded and protected in accordance with Departmental rules and procedures governing the handling of official

records and computerized information. During duty hours, access to this system is monitored and controlled by USTP office personnel. During nonduty hours, offices are locked.

**RETENTION AND DISPOSAL:**

Credit counseling and debtor education applications and related records may be destroyed three years after the date of the USTP's final dispositive decision or final agency action or three years from the date of a nonappealable judicial determination, except in the following circumstances. If the provider dies or withdraws an initial application for a six-month approval period before a final decision by the UST is made to approve or disapprove the application, the records may be destroyed after one year. Complaints filed with the USTP may be destroyed two years from the date of receipt. To prevent unauthorized disclosure, records are destroyed by shredding, burning, or similar methods. (National Archives and Records Administration approval pending).

**SYSTEM MANAGER(S) ADDRESS:**

The system managers for this system of records are (a) the Chief, Credit Counseling and Debtor Education Unit, to the extent these records are maintained in the EOUST; and (b) the United States Trustee(s) or Assistant United States Trustee(s) to the extent these records are maintained in their offices. (Office addresses can be located on the Internet at <http://www.usdoj.gov/ust>).

**NOTIFICATION PROCEDURE:**

Address such inquiries to the Office of the General Counsel (FOIA/Privacy Counsel) at the address listed on the USTP FOIA/Privacy Act Web site (<http://www.usdoj.gov/ust>). The envelope and letter should be clearly marked "Privacy Act Request" and comply with 28 CFR 16.40, *et seq.*

**RECORD ACCESS PROCEDURES:**

Address such inquiries to the Office of the General Counsel (FOIA/Privacy Counsel) at the address listed on the USTP FOIA/Privacy Act Web site (<http://www.usdoj.gov/ust>). The envelope and letter should be clearly marked "Privacy Act Request" and comply with 28 CFR 16.40, *et seq.*

**CONTESTING RECORD PROCEDURES:**

Individuals desiring to contest or amend information maintained in the system should clearly and concisely state what information is being contested, the reason for contesting it, and the proposed amendment to the information. Address such inquiries to

the Office of the General Counsel (FOIA/Privacy Counsel) at the address listed on the USTP FOIA/Privacy Act Web site (<http://www.usdoj.gov/ust>). The envelope and letter should be clearly marked "Privacy Act Request" and comply with 28 CFR 16.40, *et seq.*

#### RECORD SOURCE CATEGORIES:

Sources of information contained in this system generally consist of the credit counseling and/or debtor education provider applicants, and those whose applications for approval or reapproval have been withdrawn by the applicant or granted, denied, or revoked by the United States Trustee(s); the applicants' references; interested third parties; federal and state agencies; and/or USTP personnel.

#### EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### Gregg Brothers Wholesale Co., Inc.; Denial of Application

On April 26, 2005, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order To Show Cause to Gregg Brothers Wholesale Co., Inc., (Respondent) of Powell, Tennessee. The Show Cause Order proposed to deny Respondent's application for registration as a distributor of the List I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine on the ground that its registration would be inconsistent with the public interest as that term is defined in 21 U.S.C. 823(h). *See* Show Cause Order at 1.

The Show Cause Order specially alleged that methamphetamine production "continues unabated within the Tennessee region," that the State "has a large number of independent methamphetamine producers," and that the State leads DEA's southeast region in the number of clandestine laboratory seizures. *Id.* at 2. The Show Cause Order also alleged that "several distributors in Tennessee were selling pseudoephedrine and ephedrine products to many of the same retail customers." *Id.* at 3.

The Show Cause Order alleged that Respondent's owner, Mr. Thomas Gregg, told DEA Diversion Investigators (DIs) that he intended to distribute both traditional pseudoephedrine products and non-traditional or "gray market"

products, including products that have been found during seizures of clandestine laboratories. *Id.* at 4. The Show Cause Order further alleged that "during the pre-registration inspection, the DIs found that Respondent had several pseudoephedrine products in its possession and that Mr. Gregg "did not realize that these products contained pseudoephedrine." *Id.* The Show Cause Order also alleged that between 2002 and 2005, Respondent had made "about 17 purchases of various pseudoephedrine products," and that "[b]etween 2002 and 2004, [Respondent] sold about 200 orders of pseudoephedrine products to various convenience stores and similar retail establishments." *Id.* at 5.

The Show Cause Order next alleged that Respondent expected to sell List I chemical products "to about 190 various convenience stores and similar retail establishments." *Id.* at 5. Finally, the Show Cause Order alleged that Respondent's owner had indicated that "ephedrine 2-way products would be the largest volume" List 1 chemical product. *Id.* at 5-6. The Show Cause Order also notified Respondent of its right to a hearing.

The Show Cause Order was served by certified mail, return receipt requested, and on May 4, 2005, Respondent acknowledged receipt. Thereafter, Respondent, in a letter dated June 1, 2005, but which was not received until June 9, 2005, requested a hearing; the matter was initially assigned to Administrative Law Judge (ALJ) Mary Ellen Bittner.

On June 16, 2005, the Government moved to deny Respondent a hearing on the ground that Respondent had not timely filed its request. *See* 21 CFR 1301.43(a). On June 28, 2005, the ALJ issued a memorandum offering Respondent the opportunity to respond to the Government's motion by 4 p.m. on July 21, 2005. When, by August 26, 2005, no response had been received, the ALJ granted the government's motion. *See* Order Terminating Proceedings at 1. The ALJ also found that Respondent had not timely requested a hearing and thus concluded that it had waived its right to a hearing. *See id.* The ALJ then ordered that the proceeding be terminated. *See id.* at 2.

Thereafter, the investigative file was forwarded to me for final agency action. I adopt the ALJ's finding that Respondent has waived its hearing right and hereby enter this final order based on relevant material in the investigative file.

## Findings

Respondent is a Tennessee Corporation which is located in Powell, Tennessee. Mr. Thomas Gregg is Respondent's President and owns all of its shares. Respondent distributes bait, groceries, candy, snack food, health and beauty items and novelty items to convenience stores and gas stations in East Tennessee, Virginia, Kentucky, and North Carolina. On August 15, 2002, Respondent applied for a registration to distribute the List I chemicals pseudoephedrine, ephedrine, and phenylpropanolamine (PPA).

While ephedrine and pseudoephedrine have therapeutic uses, they are easily extracted from lawful over-the-counter products and used in the illicit manufacture of methamphetamine, a schedule II controlled substance. *See* 21 U.S.C. 802(34); 21 CFR 1308.12(d). PPA can also be used to manufacture methamphetamine. In November 2000, the FDA issued a public health advisory regarding PPA based on a study that found that the use of PPA increases the risk of hemorrhagic stroke.<sup>1</sup>

Methamphetamine is a powerful and addictive central nervous system stimulant, *see A-1 Distribution Wholesale*, 70 FR 28573 (2005), and is a schedule II controlled substance. 21 CFR 1308.12(d). The illegal manufacture and abuse of methamphetamine pose a grave threat to this country. Methamphetamine abuse had destroyed numerous lives and families and has ravaged communities. The manufacture of methamphetamine also causes serious environmental harms because of the toxic nature of the chemicals used to make the drug.

The problem of methamphetamine abuse is especially serious in Tennessee. In 2004, law enforcement agencies seized 939 clandestine methamphetamine labs in the State. These seizures were the second largest per-state total in the nation.

On September 1, 2004, two DEA Diversion Investigators (DIs) visited Respondent at its proposed registered location to conduct a pre-registration investigation. The DIs met with Mr. Gregg, who told them that he intended to sell both traditional and non-traditional List I chemical products and that his suppliers included Sessions Specialty Company of Lewisville, North

<sup>1</sup> More recently, on December 22, 2005, the FDA issued a notice of proposed rulemaking, which proposed to reclassify over-the-counter PPA products as "not generally recognized as safe and effective." U.S. FDA, Center for Drug Evaluation and Research, Phenylpropanolamine (PPA) Information Page <http://www.fda.gov/cder/drug/infopage/ppa/> (visited June 15, 2006).