

## Department of Justice

## § 58.1

### § 57.1 Responsibility for the conduct of litigation.

(a) In accord with 28 CFR 0.45(h), civil litigation under sec. 816 of the Department of Defense Appropriation Authorization Act, 1976, 10 U.S.C.A. 2304 note (hereafter the "Act"), shall be conducted under the supervision of the Assistant Attorney General in charge of the Civil Division.

(b) In accord with 28 CFR 0.55(a), prosecution, under section 816(f) of the Act, of criminal violations shall be conducted under the supervision of the Assistant Attorney General in charge of the Criminal Division.

### § 57.2 Responsibility for the conduct of investigations.

(a) When an instance of alleged "discrimination" in violation of section 816(b)(1) of the Act is referred to the Department of Justice by the Department of Defense, the matter shall be assigned initially to the Civil Division.

(b)(1) If the information provided by the Department of Defense indicates that a non-criminal violation may have occurred and further investigation is warranted, such investigation shall be conducted under the supervision of the Assistant Attorney General in charge of the Civil Division.

(2) If the information provided by the Department of Defense indicates that a criminal violation under section 816(f) of the Act may have occurred, the Civil Division shall refer the matter to the Criminal Division. If it is determined that further investigation of a possible criminal violation is warranted, such investigation shall be conducted under the supervision of the Assistant Attorney General in charge of the Criminal Division.

(3) If a referral from the Department of Defense is such that both civil and criminal proceedings may be warranted, responsibility for any further investigation may be determined by the Deputy Attorney General.

### § 57.3 Scope and purpose of investigation; other sources of information.

(a) The authority granted the Attorney General by section 816(d)(1) of the Act (e.g., authority to inspect books and records) shall not be utilized until an appropriate official has defined, in

an appropriate internal memorandum, the scope and purpose of the particular investigation.

(b) There shall be no use, with respect to particular information, of the authority granted by section 816(d)(1) of the Act until an appropriate official has determined that the information in question is not available to the Department of Justice from any other Federal agency or other responsible agency (e.g., a State agency).

(c) For purposes of this section, "appropriate official" means the Assistant Attorney General in charge of the division conducting the investigation, or his delegate.

### § 57.4 Expiration date.

This part shall remain in effect until expiration, pursuant to section 816(h) of the Act, of the Attorney General's authority under section 816 of the Act.

## PART 58—REGULATIONS RELATING TO THE BANKRUPTCY REFORM ACTS OF 1978 AND 1994

### Sec.

58.1 Authorization to establish panels of private trustees.

58.2 Authorization to appoint standing trustees.

58.3 Qualification for membership on panels of private trustees.

58.4 Qualifications for appointment as standing trustee and fiduciary standards.

58.5 Non-discrimination in appointment.

58.6 Procedures for suspension and removal of panel trustees and standing trustees.

APPENDIX A TO PART 58—GUIDELINES FOR REVIEWING APPLICATIONS FOR COMPENSATION AND REIMBURSEMENT OF EXPENSES FILED UNDER 11 U.S.C. 330

AUTHORITY: 5 U.S.C. 301; 28 U.S.C. 509, 510, 586.

SOURCE: Order No. 921-80, 45 FR 82631, Dec. 16, 1980, unless otherwise noted.

### § 58.1 Authorization to establish panels of private trustees.

(a) Each U.S. Trustee is authorized to establish a panel of private trustees (the "panel") pursuant to 28 U.S.C. 586(a)(1).

(b) Each U.S. Trustee is authorized, with the approval of the Director, Executive Office for United States Trustees (the "Director") to increase or decrease the total membership of the

## § 58.2

## 28 CFR Ch. I (7-1-03 Edition)

panel. In addition, each U.S. Trustee, with the approval of the Director, is authorized to institute a system of rotation of membership or the like to achieve diversity of experience, geographical distribution or other characteristics among the persons on the panel.

[Order No. 921-80, 45 FR 82631, Dec. 16, 1980, as amended at 62 FR 30183, June 2, 1997]

### § 58.2 Authorization to appoint standing trustees.

Each U.S. Trustee is authorized, subject to the approval of the Deputy Attorney General, or his delegate, to appoint and remove one or more standing trustees to serve in cases under chapters 12 and 13 of title 11, U.S. Code.

[Order No. 51 FR 44288, Dec. 9, 1986]

### § 58.3 Qualification for membership on panels of private trustees.

(a) To be eligible for appointment to the panel and to retain eligibility therefor, an individual must possess the qualifications described in paragraph (b) of this section in addition to any other statutory qualifications. A corporation or partnership may qualify as an entity for appointment to the private panel. However, each person who, in the opinion of the U.S. Trustee or of the Director, performs duties as trustee on behalf of a corporation or partnership must individually meet the standards described in paragraph (b) of this section, except that each U.S. Trustee, with the approval of the Director, shall have the discretion to waive the applicability of paragraph (b)(6) of this section as to any individual in a non-supervisory position. No professional corporation, partnership, or similar entity organized for the practice of law or accounting shall be eligible to serve on the panel.

(b) The qualifications for membership on the panel are as follows:

(1) Possess integrity and good moral character.

(2) Be physically and mentally able to satisfactorily perform a trustee's duties.

(3) Be courteous and accessible to all parties with reasonable inquiries or comments about a case for which such individual is serving as private trustee.

(4) Be free of prejudices against any individual, entity, or group of individuals or entities which would interfere with unbiased performance of a trustee's duties.

(5) Not be related by affinity or consanguinity within the degree of first cousin to any employee of the Executive Office for United States Trustees of the Department of Justice, or to any employee of the office of the U.S. Trustee for the district in which he or she is applying.

(6)(i) Be a member in good standing of the bar of the highest court of a state or of the District of Columbia; or

(ii) Be a certified public accountant; or

(iii) Hold a bachelor's degree from a full four-year course of study (or the equivalent) of an accredited college or university (accredited as described in part II, section III of Handbook X118 promulgated by the U.S. Office of Personnel Management) with a major in a business-related field of study or at least 20 semester-hours of business-related courses; or hold a master's or doctoral degree in a business-related field of study from a college or university of the type described above; or

(iv) Be a senior law student or candidate for a master's degree in business administration recommended by the relevant law school or business school dean and working under the direct supervision of:

(A) A member of a law school faculty; or

(B) A member of the panel of private trustees; or

(C) A member of a program established by the local bar association to provide clinical experience to students; or

(v) Have equivalent experience as deemed acceptable by the U.S. Trustee.

(7) Be willing to provide reports as required by the U.S. Trustee.

(8) Have submitted an application under oath, in the form prescribed by the Director, to the U.S. Trustee for the District in which appointment is sought: *Provided*, That this provision may be waived by the U.S. Trustee on approval of the Director.