



U.S. Department of Justice

Executive Office for United States Trustees

Washington, DC 20530

For Immediate Release

June 5, 2013

**U.S. TRUSTEE PROGRAM ANNOUNCES SUCCESSFUL CONCLUSION
OF NATIONWIDE SETTLEMENT WITH CAPITAL ONE BANK**

***Independent Auditor Finds Capital One Repaid \$2.35 Million
and Corrected Flawed Process for Filing Bankruptcy Claims***

WASHINGTON – The U.S. Trustee Program (USTP) announced today that the independent auditor appointed under a nationwide settlement between the USTP and Capital One Bank (USA) N.A. has filed her final report, bringing the settlement to a successful conclusion. The auditor reported that Capital One refunded approximately \$2.35 million it received after filing erroneous claims in bankruptcy cases for debts previously discharged in bankruptcy, as well as approximately \$30,000 in fees and expenses incurred by consumers and bankruptcy trustees who objected to erroneous claims. The report also confirmed that Capital One corrected the flawed process that led to the filing of the erroneous claims.

As part of the settlement filed in 2008 in the U.S. Bankruptcy Court for the District of Massachusetts, Capital One had agreed to an audit overseen by an independent auditor. Former Bankruptcy Judge Melanie Cyganowski, who was selected as the auditor, filed her final report after examining more than 850,000 claims filed by Capital One in bankruptcy cases nationwide. Under the settlement, Capital One paid the auditor's fees and costs of conducting the audit.

"The auditor's final report shows how important it is for the USTP to address systemic wrongful conduct with enforcement actions that protect consumers nationwide and that ensure independent verification and monitoring," stated Executive Office for U.S. Trustees Director Cliff White. "This settlement agreement achieved its objectives and serves as a model for remediating past misconduct and preventing future abuses by creditors and others, including professionals, against consumers and the bankruptcy system. I commend the auditor for her painstaking efforts to identify all victims and to ensure that Capital One has established a system to prevent this from happening again."

The auditor's final report revealed that, in the nearly four years prior to the settlement, Capital One filed more than 15,500 erroneous claims with a total face value of nearly \$25 million. The auditor also determined that Capital One received payment of approximately \$2.35 million on those erroneously filed claims – almost seven times the \$340,000 originally alleged – and fully refunded those distributions to consumers in bankruptcy or to their bankruptcy estates. Further, the report confirmed that Capital One reimbursed approximately \$30,000 in fees and expenses incurred by debtors and trustees in objecting to erroneous claims.

Under the settlement, the auditor conducted additional compliance audits of all claims

filed by Capital One during the two-year period following the settlement to ensure that the company had corrected the process that led to the filing of the erroneous claims for previously discharged debt. The auditor determined that, in the two years following the settlement, Capital One filed fewer than 150 erroneous claims out of more than 250,000 claims filed.

The case is *United States Trustee v. Capital One Bank (USA), N.A.*, Adversary Proceeding No. 08-01272 (Bankr. D. Mass.).

The USTP is the component of the Department of Justice that protects the integrity of the bankruptcy system by overseeing case administration and litigating to enforce the bankruptcy laws.

Contact: Jane Limprecht, Public Information Officer
Executive Office for U.S. Trustees, (202) 305-7411

[End]