

## VOLUME 5

### CHAPTER 9 ADMINISTRATION

#### CHAPTER 5-1: INTRODUCTION AND OVERVIEW

Chapter 9 of the Bankruptcy Code generally governs bankruptcy reorganization proceedings filed by municipalities, and enables municipalities to reorganize their debts. See [Chapter 9 Bankruptcy Basics](#).

Chapter 9 was enacted to provide financially distressed municipalities with access to the federal bankruptcy system to reorganize their debts, while preserving the sovereign power of the states in a manner consistent with the Tenth Amendment to the United States Constitution. While chapter 9 cases are not common, when they are filed the debtor is typically seeking to restructure large amounts of debt resulting from fairly complicated financial transactions, including the pre-bankruptcy issuance of municipal bonds. By filing a chapter 9 bankruptcy case, the debtor municipality benefits from an automatic stay of creditor actions, affording the municipality an opportunity to negotiate a debt restructuring plan acceptable to its creditors without having to defend actions by creditors seeking to recover on their claims.

There are several key differences in the administration of reorganization cases filed under chapter 11 and cases seeking to reorganize the debt structure of municipalities under chapter 9. The Bankruptcy Code does not provide a mechanism for the liquidation of the debtor municipality's assets and distribution of the resultant proceeds to creditors if the debtor municipality's chapter 9 plan proves unsuccessful. When a court refuses to confirm a municipality's chapter 9 plan, the court is required to dismiss the case. Only the debtor municipality can file a plan in a chapter 9 case; creditors and other parties in interest are not authorized to do so. Furthermore, the bankruptcy courts and the United States Trustee Program are less active in the administration of a chapter 9 case filed by a municipality than in the administration of a chapter 11 reorganization case.

In chapter 9 cases, case administration is typically focused on three critical issues:

1. Determining whether the debtor is eligible to file a petition under chapter 9;
2. Determining whether the plan of reorganization filed by the debtor municipality should be confirmed; and
3. Ensuring that the plan, once confirmed, is successfully implemented.

## 5-1.1

### KEY TERMS

Many sections of the Bankruptcy Code that are generally applicable in other kinds of cases are not applicable in chapter 9 cases. *See generally* [11 U.S.C. § 901](#).

There are also a number of terms that have definitions specific to chapter 9 cases:

“Municipality” means political subdivision or public agency or instrumentality of a state. *See* [11 U.S.C. § 101\(40\)](#).

“Property of the estate” when used in a section that is made applicable in a case under chapter 9 by 11 U.S.C. § 103(e) or 901 means property of the debtor. *See* [11 U.S.C. § 902\(1\)](#).

“Special revenues” means:

1. receipts derived from the ownership, operation, or disposition of projects or systems of the debtor municipality that are primarily used or intended to be used primarily to provide transportation, utility, or other services, including the proceeds of borrowings to finance the projects or systems. *See* [11 U.S.C. § 902\(2\)\(A\)](#);

2. special excise taxes imposed on particular activities or transactions. *See* [11 U.S.C. § 902\(2\)\(B\)](#);

3. incremental tax receipts from the benefited area in the case of tax-increment financing. *See* [11 U.S.C. § 902\(2\)\(C\)](#);

4. other revenues or receipts derived from particular functions of the debtor, whether or not the debtor has other functions. *See* [11 U.S.C. § 902\(2\)\(D\)](#); or

5. taxes specifically levied to finance one or more projects or systems, excluding receipts from general property, sales, or income taxes (other than tax-increment financing) levied to finance the general purposes of the debtor. *See* [11 U.S.C. § 902\(2\)\(E\)](#).

“Special tax payer” means record owner or holder of legal or equitable title to real property against which a special assessment or special tax has been levied the proceeds of which are the sole source of payment of an obligation issued by the debtor to defray the cost of an improvement relating to such property. *See* [11 U.S.C. § 902\(3\)](#).

“Special tax payer affected by the plan” means special tax payer with respect to whose real property the plan proposes to increase the proportion of special assessments or special taxes identified in 11 U.S.C. § 902(2) assessed against such

real property. *See* [11 U.S.C. § 902\(4\)](#).

“Trustee” when used in a section that is made applicable in a case under chapter 9 by section 103(e) or 901 means debtor, except in cases where the debtor refuses to pursue an avoidance action. *See* 11 U.S.C. §§ [902\(5\)](#) and [926](#).

### **5-1.2**      **VENUE**

Venue of cases under chapter 9 is governed by [28 U.S.C. § 1408](#).

### **5-1.3**      **COMMENCEMENT OF A CHAPTER 9 PROCEEDING**

Only municipalities may file a bankruptcy petition under chapter 9, and the petition must be filed voluntarily. *See* 11 U.S.C. §§ [303\(a\)](#) and [109\(c\)](#).

Unlike in cases filed under other chapters of the Bankruptcy Code, the clerk of court does not assign a chapter 9 case to a specific judge. Instead, the Bankruptcy Code requires that “[t]he chief judge of the court of appeals for the circuit embracing the district in which the case is commenced shall designate the bankruptcy judge to conduct the case.” [11 U.S.C. § 921\(b\)](#).

A municipality seeking relief under chapter 9 of the Bankruptcy Code is required to file a list of creditors. [11 U.S.C. § 924](#). While the list of creditors is typically filed with the petition, the bankruptcy court may establish a different time for filing when the municipal debtor cannot prepare a list of creditors on the filing date that complies with applicable Federal Rules of Bankruptcy Procedure. *See* [FED. R. BANKR. P. 1007\(a\) and\(e\)](#).

### **5-1.4**      **THE AUTOMATIC STAY**

The automatic stay under 11 U.S.C. § 362 is generally applicable in chapter 9 cases. *See* 11 U.S.C. §§ [362\(a\)](#), [901\(a\)](#), and [922](#). In chapter 9 cases, the automatic stay extends to actions “against an officer or inhabitant of the debtor” seeking to enforce a claim against the debtor municipality. [11 U.S.C. § 922\(a\)](#).

There is a limitation on the scope of the automatic stay that applies only in chapter 9 cases. *See* [11 U.S.C. § 922\(d\)](#). Under section 922, a chapter 9 petition does not operate to stay “application of pledged special revenues in a manner consistent with section 927 of this title to payment of indebtedness secured by such revenues.” This exception to the automatic stay enables parties responsible for collecting and disbursing the debtor municipality’s pledged revenue funds to make post-petition bond payments as they come due and to distribute pledged funds to bondholders post-petition without violating the automatic stay.

### 5-1.5

#### **NOTICE**

Notice of the commencement of a chapter 9 case, and any related order for relief, is mandated by the Bankruptcy Code. [11 U.S.C. § 923](#). The notice must be published “at least once a week for three successive weeks in at least one newspaper of general circulation published within the district in which the case is commenced, and in such other newspaper having a general circulation among bond dealers and bondholders as the court designates.” *Id.* The Federal Rules of Bankruptcy Procedure provide that the clerk, or such other person as the court may direct, shall provide the requisite notice. *See generally* [FED. R. BANKR. P. 2002, 9007 and 9008](#). Courts often enter orders that identify the party who must give the requisite notice, the newspapers in which notice is to be published in compliance with 11 U.S.C. § 923, and any other interested parties who should also receive notice by mail. *Id.*

### 5-1.6

#### **LIMITATIONS ON THE BANKRUPTCY COURT’S POWERS**

Chapter 9 significantly limits the extent to which a bankruptcy court can interfere with the debtor municipality’s exercise of political and governmental power, or exercise control over the debtor’s property or revenues. *See generally* 11 U.S.C. §§ [903](#) and [904](#). The restrictions are designed to preserve the sovereign power of the states, and to ensure that bankruptcy courts do not exert control over the political or governmental affairs or property of the debtor in derogation of the powers held by the state and the elected officials of the municipality in violation of the Tenth Amendment to the United States Constitution.

Section 903 states that “chapter [9] does not limit or impair the power of a State to control, by legislation or otherwise, a municipality of or in such State in the exercise of the political or governmental powers of the municipality, including expenditures for such exercise[.]” There are two exceptions:

1. a state law prescribing a method of composition of the debtor municipality’s debt does not bind a creditor who has not consented to the composition; and
2. any judgment entered under such a state law does not bind a creditor who has not consented to the composition.

*See* [11 U.S.C. §§ 903\(1\) and \(2\)](#).

In the absence of consent by the debtor municipality, or a plan provision to the contrary, section 904 limits the power of the bankruptcy court in chapter 9 cases to “interfere with”:

1. any of the political or governmental powers of the debtor;
2. any of the property or revenues of the debtor; or
3. the debtor's use or enjoyment of any income-producing property.

See [11 U.S.C. § 904](#). Read together, sections 903 and 904 make it very clear that a chapter 9 debtor's day-to-day governmental operations and activities are not subject to bankruptcy court approval during the pendency of a chapter 9 case.

Finally, unlike debtors seeking to reorganize under chapter 11, a chapter 9 debtor may employ professionals without court approval. The sections that typically govern a debtor's retention and compensation of bankruptcy professionals (*i.e.*, [11 U.S.C. §§ 327 - 331](#)) are not among the sections made applicable to chapter 9 cases under the Bankruptcy Code's statutory scheme. See [11 U.S.C. § 901\(a\)](#). The bankruptcy court only reviews a chapter 9 debtor's professional fees in conjunction with plan confirmation, at which time the court seeks only to determine that the fees "have been fully disclosed and are reasonable." See [11 U.S.C. § 943\(b\)\(3\)](#).

#### 5-1.7

### **OBJECTIONS TO THE PETITION, THE ELIGIBILITY DETERMINATION, AND DISMISSAL CONSIDERATIONS**

If there is no objection to a chapter 9 petition, the court is required to enter an order for relief, allowing the case to proceed. [11 U.S.C. § 921\(d\)](#).

Objections to chapter 9 petitions are permitted, however, and they often challenge either the debtor's good faith or its eligibility to obtain chapter 9 relief (*i.e.*, whether the municipality was insolvent, obtained appropriate authorization to file the chapter 9 petition, conducted pre-bankruptcy negotiations in good faith, filed the petition in good faith, etc.). See [11 U.S.C. § 921\(c\)](#).

Whether a debtor is eligible for chapter 9 relief is generally governed by [11 U.S.C. § 109\(c\)](#). In addition to establishing its status as a "municipality," a debtor must satisfy each of the following eligibility requirements to obtain relief under chapter 9:

1. the municipality must be specifically authorized to be a debtor by state law or by a governmental officer or organization empowered by state law to authorize the municipality to be a chapter 9 debtor; and
2. the municipality must be insolvent; and

3. the municipality must desire to effect a plan to adjust its debts; and
4. The municipality must either:
  - obtain the agreement of creditors holding at least a majority in amount of the claims of each class that the debtor intends to impair under a plan in a case under chapter 9; or
  - after negotiating in good faith with creditors, have failed to obtain the agreement of creditors holding at least a majority in amount of the claims of each class that the debtor intends to impair under a plan; or
  - be unable to negotiate with creditors because such negotiation is impracticable; or
  - reasonably believe that a creditor may attempt to obtain a preference avoidable under [11 U.S.C. § 547](#).

See [11 U.S.C. § 109\(c\)\(2\) - \(5\)](#), inclusive.

If an objection to the petition is filed challenging the debtor's eligibility under chapter 9 or on other grounds, the court must hold a hearing to resolve the issues raised by the objection. See [11 U.S.C. § 921\(c\)](#). The municipality filing the petition bears the burden of proving each element in the chapter 9 eligibility calculus. The requisite level of proof is the preponderance of the evidence.

It is important to understand that “even a petition filed by an entity eligible for chapter 9 relief is subject to dismissal ‘if the debtor did not file the petition in good faith.’ Where [ . . . ] a purported debtor’s good faith is in issue, the debtor bears the burden of affirmatively demonstrating that it filed the petition in good faith.” *Vallejo I*, 2008 WL 4146015 at \*31, quoting *In re Powers*, 135 B.R. 980, 997 (Bankr. C.D. Cal. 1991). “The essence of the good faith requirement is to ‘prevent abuse of the bankruptcy process.’” *Vallejo I*, 2008 WL 4146015 at \*31, quoting *In re Villages at Castle Rock Metro Dist. No. 4*, 145 B.R. 76, 81 (Bankr. D. Colo. 1990). Dismissal for lack of good faith has typically been granted in two factual scenarios:

1. because there were no reasonable prospects for reorganization and the petition served only to delay and hinder creditors; and
2. because for other reasons the filing was deemed to be inappropriate, as being at odds with the legislatively intended scope of chapter 9.

*Vallejo I*, 2008 WL 4146015 at \*31, quoting *In re Sullivan County Reg'l Refuse Disposal Dist.*, 165 B.R. 60, 81 (Bankr. D.N.H. 1994).

Following notice and a hearing on an objection to a chapter 9 petition, a debtor municipality's bankruptcy petition must be dismissed if either the petition was not filed in good faith or the debtor failed to carry its burden of proving each of the eligibility requirements imposed by chapter 9. [11 U.S.C. § 921\(c\)](#). The court may also dismiss a chapter 9 petition for cause, including lack of prosecution, unreasonable delay by the debtor that is prejudicial to creditors, failure to propose or confirm a plan within the time fixed by the court, material default by the debtor under a confirmed plan, or termination of a confirmed plan by reason of the occurrence of a condition specified in the plan. See generally [11 U.S.C. § 930](#).

### **5-1.8 POWERS OF A CHAPTER 9 DEBTOR**

A debtor municipality under chapter 9 retains broad powers to make use of property, raise taxes, and make expenditures in the ordinary course of its governmental affairs. See [11 U.S.C. §§ 903](#) and [904](#). In the course of a chapter 9 case, the debtor municipality has the power to adjust burdensome non-debt contractual relationships under the power to reject executory contracts and unexpired leases, subject to court approval. See [11 U.S.C. §§ 901\(a\)](#) and [365](#). A chapter 9 debtor possesses the same avoidance powers as debtors who file petitions under other chapters of the Bankruptcy Code. See [11 U.S.C. §§ 901\(a\)](#) and [544-551](#) inclusive; see, e.g., [11 U.S.C. § 926\(a\)](#). A chapter 9 debtor is also able to reject collective bargaining agreements and retiree benefit plans through a process considerably less complex than that involved in chapter 11 cases, because [11 U.S.C. §§ 1113](#) and [1114](#) do not apply in chapter 9 proceedings. See [11 U.S.C. §901\(a\)](#). However, a chapter 9 debtor seeking to avoid such obligations is still subject to the good faith requirements imposed by [11 U.S.C. § 921\(c\)](#).

A chapter 9 debtor also has statutory authority to borrow money during the case, and the borrowing is classified as an administrative expense. See [11 U.S.C. §§ 901\(a\)](#) and [364\(c\) - \(f\)](#) inclusive; see also [11 U.S.C. §§ 903](#) and [904](#). Generally, a chapter 9 debtor has the same power to obtain credit as it does outside of bankruptcy, and the court does not have supervisory authority over the amount of debt incurred by the municipality during the pendency of the case. *Id.*

### **5-1.9 THE ROLE OF CREDITORS AND OTHER INTERESTED PARTIES**

Like the bankruptcy court and the United States Trustee, creditors play a significantly more limited role in chapter 9 cases than in cases filed under other chapters of the Bankruptcy Code. Creditors do not have the opportunity to question representatives of the debtor municipality at a creditors' meeting.

Meetings of creditors are not conducted in chapter 9 cases, unlike cases filed under other chapters of the Bankruptcy Code. *See* [11 U.S.C. § 901\(a\)](#). Additionally, creditors are not permitted to propose a plan of reorganization. *See* [11 U.S.C. §§ 303](#) and [901\(a\)](#).

While individual creditor involvement is more limited in chapter 9 proceedings than in cases filed under other chapters of the Bankruptcy Code, creditors' committees are typically appointed in chapter 9 cases. The sections governing creditors' committee appointment and formation in chapter 11 cases (*i.e.*, [11 U.S.C. §§ 1102 and 1103](#)) are among the sections made applicable to chapter 9 cases under the Bankruptcy Code's statutory scheme. *See* [11 U.S.C. § 901\(a\)](#).<sup>1</sup> Once appointed and formed, a chapter 9 creditors' committee has powers and duties akin to committees formed in chapter 11 cases. These powers and duties include:

1. employing one or more attorneys, accountants, or other agents to represent the committee in the course of administration of the chapter 9 case;
2. consulting with the debtor municipality regarding case administration issues;
3. investigating the acts, conduct, assets, liabilities, and financial condition of the debtor;
4. participating in the plan formation process; and
5. performing such other services as are in the best interests of the committee's constituents.

*See generally* [11 U.S.C. §§ 901\(a\)](#) and [1103\(c\)\(1\) - \(3\)](#) inclusive.

When a chapter 9 case is filed by a municipality, a number of parties in addition to creditors will want (or need) to participate in the administration of the case. Specifically, the Bankruptcy Code and related rules authorize the following persons and entities to intervene or otherwise participate in the chapter 9 case administration process:

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<sup>1</sup>In *In re City of Detroit, Mich.*, 519 B.R. 673 (Bankr. E.D. Mich. 2014), the court held that section 1102(a)(1) does not require or authorize the United States Trustee to appoint a committee of unsecured creditors after the entry of an order for relief in a chapter 9 case. Notwithstanding this decision, United States Trustees should continue the longstanding practice of seeking to appoint a general unsecured creditors' committee after the entry of the order for relief in chapter 9 cases pending in judicial districts other than the Eastern District of Michigan.

1. the Secretary of the Treasury of the United States, *see* [FED. R. BANKR. P. 2018\(c\)](#);
2. representatives of the state in which the debtor is located, *Id.*;
3. labor unions, *see* [FED. R. BANKR. P. 2018\(d\)](#); and
4. the Securities and Exchange Commission. *See* [11 U.S.C. §§ 901\(a\)](#) and [1109\(a\)](#).

The SEC has the right to be heard in chapter 9 cases, but “may not appeal from any judgment, order, or decree entered in the case.” *See* [11 U.S.C. §§ 901\(a\)](#) and [1109\(a\)](#). Similarly, labor unions may not appeal from a judgment, order, or decree related to the plan unless otherwise permitted by law. [FED. R. BANKR. P. 2018\(d\)](#).

#### **5-1.10 BONDHOLDER CLAIMS**

The treatment afforded bond claims in chapter 9 cases depends on the type of bond at issue. In chapter 9 cases, general obligation bonds are treated as general debt in the chapter 9 case, and are subject to negotiation and possible restructuring under the plan of adjustment. *See generally* [11 U.S.C. §§ 903](#) and [904](#).

Special revenue bonds are treated differently than general obligation bonds. Special revenue bonds remain secured, and continue to be serviced through the application and payment of special revenues received by the debtor municipality after the chapter 9 petition is filed. [11 U.S.C. § 928](#). Continued servicing of debts owed to the holders of special revenue bonds is possible because application of pledged special revenues to indebtedness secured by such revenues is not subject to the automatic stay as long as the pledge is consistent with 11 U.S.C. § 928. *See* [11 U.S.C. § 922\(d\)](#). Section 928 provides that a lien of special revenues is subordinate to the operating expenses of the project or system from which the revenues are derived. Importantly, pre-petition transfers of a chapter 9 debtor’s property to a noteholder or bondholder on account of a note or bond cannot be avoided as a preferential transfer. *See* [11 U.S.C. § 926\(b\)](#).

#### **5-1.11 PROOFS OF CLAIM**

Creditors often do not need to file proofs of claim in a chapter 9 case. A proof of claim is deemed filed on behalf of a creditor under 11 U.S.C. § 501 if the creditor is identified on the list of creditors that must be filed by the chapter 9 debtor. *See generally* [11 U.S.C. §§ 924](#) and [925](#). However, if a creditor’s debt is identified on the debtor’s list as being disputed, contingent, or unliquidated, the creditor must

file a proof of claim in the case. *Id.* The court fixes the time within which proofs of claim or interest may be filed. *See* [FED. R. BANKR. P. 3003\(c\)\(3\)](#).

### **5-1.12 PLANS FOR ADJUSTMENT OF DEBTS**

After filing a chapter 9 petition, the debtor municipality is required to file a plan for the adjustment of its debt structure. [11 U.S.C. § 941](#). The plan must either be filed with the petition or filed “at such later time as the court fixes.” *Id.* As noted previously, there is no provision in chapter 9 allowing creditors or other parties in interest to file a plan. Simply put, neither the court nor a creditor is authorized to interfere indirectly with the governmental affairs of a chapter 9 debtor by proposing a plan of adjustment. Such a proposal would have a direct impact upon the debtor municipality’s future tax and spending decisions in a manner prohibited by 11 U.S.C. §§ 903 and 904, as well as the Tenth Amendment.

### **5-1.13 CONFIRMATION STANDARDS**

Section 943(b) lists seven general conditions required for confirmation of a plan. The plan confirmation standards in chapter 9 cases are derived both from the text of 11 U.S.C. § 943(b) and from certain portions of 11 U.S.C. § 1129 made applicable to chapter 9 cases via 11 U.S.C. § 901(a).

The court must confirm a debtor municipality’s chapter 9 plan if each of the following essential elements is met:

1. the plan complies with the provisions of title 11 made applicable by sections 103(f) and 901;
2. the plan complies with the provisions of chapter 9;
3. all amounts to be paid by the debtor or by any person for services or expenses in the case or incident to the plan have been fully disclosed and are reasonable;
4. the debtor is not prohibited by law from taking any action necessary to carry out the plan;
5. except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, the plan provides that, on the effective date of the plan, each holder of a claim of a kind specified in [11 U.S.C. 507\(a\)\(2\)](#) will receive on account of such claim cash equal to the allowed amount of such claim;
6. any regulatory or electoral approval necessary under applicable nonbankruptcy law in order to carry out any provision of the plan has been obtained, or such

provision is expressly conditioned on such approval; and

7. the plan is in the best interests of creditors and is feasible.

See [11 U.S.C. § 943\(b\)](#).

Section 943(b)(1) also requires that plans filed by debtor municipalities comply with the provisions of certain Bankruptcy Code sections found in chapters other than chapter 9. In a confirmation context, the key provisions imported into chapter 9 through sections 103(f) and 901(a) are various confirmation standards also applied in chapter 11 cases (*i.e.*, § 1129(a)(2), (a)(3), (a)(6), (a)(8), and (a)(10)). Parties in interest may object to confirmation, including creditors whose claims are affected by the plan, an organization of employees of the debtor, and other tax payers, as well as the Securities and Exchange Commission. See [11 U.S.C. §§ 901\(a\), 943, 1109, and 1128\(b\)](#).

#### **5-1.14**

#### **DISCHARGE**

There are three statutory requirements that must be met before a chapter 9 debtor is able to obtain a discharge in a case filed under chapter 9:

1. the municipal debtor's plan must be confirmed;
2. the debtor must deposit any consideration to be distributed under the plan with a disbursing agent appointed by the court; and
3. the court must have made a determination that:
  - Any securities deposited with the disbursing agent appointed by the court will constitute, after distribution, valid legal obligations of the debtor; and
  - Any provision made to pay or secure payment of such obligations is valid.

See [11 U.S.C. §§ 944\(b\)\(1\) - \(3\)](#) inclusive.

Two kinds of debt are excepted from a discharge obtained through a chapter 9 proceeding:

1. any debt excepted from discharge by the plan or order confirming the plan; and
2. any debt owed to an entity that, before confirmation of the plan, had neither notice nor actual knowledge of the case.

See [11 U.S.C. § 944\(c\)](#).

If the confirmation order in a chapter 9 case is procured through fraud, at any time within 180 days after entry of the confirmation order, the court may revoke the order of confirmation after notice and a hearing. See [11 U.S.C. §§ 901\(a\)](#) and [1144](#).

#### **CHAPTER 5-2: ROLE OF THE UNITED STATES TRUSTEE IN A CHAPTER 9 CASE**

The United States Trustee plays a more limited role in a chapter 9 case than in reorganization cases filed under chapter 11. In chapter 9 cases, the United States Trustee:

1. appoints a creditors' committee in a manner similar to a case filed under chapter 11.<sup>2</sup> See [11 U.S.C. §§ 901\(a\)](#), [1102](#), and [1103](#);
2. does not examine a representative of the debtor at a creditors' meeting, because section 341 does not apply in chapter 9 cases. See [11 U.S.C. §§ 901\(a\)](#);
3. does not have statutory authority to move for the appointment of a trustee or examiner, because the sections that authorize the appointment of a trustee or examiner in cases filed under other chapters (*i.e.*, sections 701-703, 1104, 1202, and 1302) are not among the sections made applicable to chapter 9 cases under the Bankruptcy Code's statutory scheme. See [11 U.S.C. §§ 901\(a\)](#);
4. does not have statutory authority to seek to convert the case to another chapter, because the sections that authorize conversion of cases filed under other chapters to liquidation proceedings under chapter 7 (*i.e.*, sections 1112, 1208, and 1307) are not among the sections made applicable to chapter 9 cases under the Bankruptcy Code's statutory scheme. See [11 U.S.C. §§ 901\(a\)](#);
5. does not have a statutory duty to supervise case administration, as chapter 9 case administration oversight is not among the statutory duties assigned to the United States Trustee. See *generally*, [28 U.S.C. § 586\(a\)](#); and
6. does not monitor the financial operations of the debtor or review professional fees incurred by the debtor's professionals. As noted previously, the sections of the Bankruptcy Code that typically govern a debtor's retention and compensation of bankruptcy professionals (*i.e.*, 11 U.S.C. §§ 327 - 331) are not among the sections made applicable to chapter 9 cases under the Bankruptcy Code's statutory

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<sup>2</sup>But *cf.* fn. 1, *supra* at page 8.

scheme. *See* [11 U.S.C. § 901\(a\)](#). The bankruptcy court only reviews a chapter 9 debtor’s professional fees in conjunction with plan confirmation, at which time the court seeks only to determine that the fees “have been fully disclosed and are reasonable.” *See* [11 U.S.C. § 943\(b\)\(3\)](#).

The United States Trustee’s limited role in chapter 9 cases avoids the potential for actual or perceived interference with the sovereign power of the states in a manner that would run afoul of the Tenth Amendment.

### **CHAPTER 5-3: CONTACT INFORMATION**