

**NATIONAL ASSOCIATION OF ATTORNEYS GENERAL (NAAG)
 NATIONAL ATTORNEY GENERALS' TRAINING INSTITUTE (NAGTRI)
 STATES' ASSOCIATION OF BANKRUPTCY ATTORNEYS (SABA)
 BANKRUPTCY FROM A GOVERNMENT PERSPECTIVE SEMINAR
 GEORGIA COASTAL CENTER
 SAVANNAH, GA – NOVEMBER 13-16, 2017
 DRAFT AGENDA**

MONDAY, NOVEMBER 13, 2017

12:00 p.m. to 5:00 p.m. **Registration**

2:00 to 5:00 p.m. **Breakouts**

<p>Bankruptcy 001 – A Quick Tour of the Basics <i>Carolyn Wade, OR OAG</i></p> <p>Concepts and terminology of bankruptcy and collection issues for bankruptcy novices of all kinds; a short intro to the overall seminar.</p>	<p>Advanced Session – Defending a Claim and Discharge Exception <i>Brent Kiziah, NC DOJ</i> <i>Fred Rudzik, FL DOR</i> <i>Jay Befort, KS OSBC</i></p> <p>Nuts and bolts of defending the claim and objecting to the discharge. What's the law – and the reality in the trenches. Student loans, child support, and benefits cases as examples.</p>
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3:30 to 3:45 p.m. **Break**

6:30- 8:30 pm **Reception – Vic's on the River**
26 East Bay Street (approx. 1 mile stroll)

TUESDAY, NOVEMBER 14, 2017

7:30 a.m. to 9:00 a.m. **Registration, breakfast**

8:45 a.m. to 9:00 a.m. **Conference Opening:** Welcome SABA/NAAG;
 Opening Remarks: *David McLaughlin, Chief, Special Prosecutions Unit, GA OAG*

9:00 a.m. to 10:15 a.m. **Breakouts**

<p>Introduction to Bankruptcy <i>Margarita Padilla, CA DOJ</i> <i>Jonathan Alden, FL DEP</i></p> <p>Types of petitions; eligibility Conversion & dismissal Parties in the case – trustees, creditors, committees Claims – the nuts and bolts of</p>	<p>Tax Session – Beginners <i>Jim Newbold, IL OAG</i> <i>Donn Rosenblum, OH Dept. Job & Family Services</i></p> <p>Priority, discharge and stay issues applicable to tax claims in bankruptcy; bankruptcy court jurisdiction to hear tax issues.</p>	<p>Collection and Enforcement Issues Nuts and Bolts – Before the Bankruptcy <i>Trish Lazich, OH OAG</i> <i>Cory Steinmetz, OH Dept. of Taxation</i> <i>Jim Jacobsen, NM OAG</i></p> <p>Getting your investigations, and</p>
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<p>what they are, when you need to file one, how they may be challenged, and how to defend them.</p>		<p>assessments done; reading the IRS transcript; what resources are available to help you track down asset information; what should be included in consent judgments/settlements prepetition to help you if a case is filed; getting your statutory./judgment liens filed and in place.</p>
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10:15 a.m. to 10:30 a.m. **Break**

10:30 am to 12:00 p.m. **Breakouts**

<p>Introductory – Regulators <i>Maureen Leary, NY OAG</i> <i>Steve Sakamoto-Wengel, MD OAG</i></p> <p>Priority, discharge, and automatic stay issues for regulators (excluding tax-specific provisions).</p> <p>When and where are they heard (state versus federal court).</p> <p>Use of Section 105 discretionary stay to bar actions excepted from automatic stay</p>	<p>Forfeiture, Restitution, and the Civil/Criminal Overlap <i>Alice Dery – US DOJ</i> <i>Bernard Eskandari, CA DOJ</i> <i>Matthew E. Mills, US DOJ</i></p> <p>Civil/criminal forfeiture as means of removing assets from defendants, contrasting with bankruptcy and its emphasis on property of estate and collecting claims. Civil and criminal restitution – what’s the difference. Are these proceedings stayed or not? Dischargeable or not? Avoidable or not? Writing your statute to better protect your claim.</p>
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12:00 p.m. to 1:30 p.m. **Lunch at GCC – Keynote Address on Student Loans: How Big Are They? How Do They Affect the Economy? How Should They Be Treated in Bankruptcy?** *Mark Kantrowitz, Publisher, Cappex.com.*

TRACK 1 – Main Seminar

1:30 p.m. to 1:45 p.m. **Plenary - Introduction to Hypothetical**
Karen Cordry, NAAG Bankruptcy Counsel

1:45 p.m. to 3:15 p.m. **First Day Orders**
Hon. Karen A. Overstreet, Bankr. Judge, W.D. Wash. (ret.)
Lynn Butler, Husch Blackwell LP – Debtor’s counsel
James Stang, Pachulski, Stang, Ziehl & Jones LLP – Unsec. Cred.
Ramona Elliot, US Trustee
Gill Geldreich – TN OAG – State’s counsel

Cash collateral orders – and ensuring they don’t affect your rights, payment of debtor’s motion for TRO of state regulatory actions; states’ motion for appointment of trustee, change of venue, challenge to compensation of debtor’s officials.

3:15 p.m. to 3:30 p.m. **Break**

3:30 p.m. to 5:00 p.m.

Plenary – Substantive and Procedural Aspects of Multistate Litigation in Bankruptcy and Before

Moderator: Karen Cordry, NAAG

Justin Lowe, MA OAG

Jared Libet, SC OAG

Joseph Yar, NM OAG

Patricia Molteni, NAAG

What kinds of suits have states been filing against schools and servicers, what effect has it had; is the problem getting better or worse; similarities to mortgage servicer issues.

Forming a multi-state – when to do it, who should be involved, legal implications of working together -- common interest agreements and joint privileges, getting involved in a bankruptcy early; tactical considerations if multiple states are involved; filing papers together or separately, filing appeals and seeking amicus support; using NAAG to help facilitate; working with other parties, such as class actions.

Track 2 – Child Support

1:30 p.m. to 2:15 p.m.

Code Provisions on Child Support

Elizabeth Gunn, VA OAG

William Pursell, FL DOR

The Code provides numerous provisions giving special treatment for child support creditors; this session will discuss them so your state knows what it can (and can't) do.

2:15 p.m. to 2:30 p.m.

Break

2:30 p.m. to 4:00 p.m.

Protecting your Protections in Chapter 13

Fred Rudzik, FL DOR

Peter Roth, NH OAG

Hon. Edward J. Coleman, III, Bankruptcy Judge, SD Ga.

The Code says many things; whether all of those get implemented in practice in Chapter 13 cases is another; practical tips for ensuring that the plan does everything it's supposed to (and nothing more).

4:00 p.m.

Track 2 Ends

6:30 p.m.

Optional Activity -- Dinner and Ghost Tour; pick up at hotel; return about 9:00 p.m.

WEDNESDAY, NOVEMBER 15, 2017

8:00 a.m. to 8:45 a.m. **Registration; breakfast (until 9:00 am)**

8:45 a.m. to 10:00 a.m. **Breakouts**

<p>Chapter 13 Beginners <i>Carolyn Wade, OR DOJ</i> <i>Karrollanne Cayce, GA OAG</i></p> <p>Structural overview, eligibility determination, why should a creditor care about the chapter? Treatment of student loans. Debtor’s duties re taxes and DSOs. Filing/protecting a claim – what if you don’t file? Implementation of uniform plan rules</p>	<p>The Many Commercial Roles of Government -- Executory Contracts, Loans, Procurement, 525 Licensing and Grants. <i>Sam Maizel, Dentons US LLP</i> <i>Esther Tryban Telser, City of Chicago, retired</i></p> <p>Not-for-profit and other regulated entity sales – can governments impose conditions without causing the case to fail? Dealing with executory contracts? When can license permits and revocations, student loans and grants, etc., and exercise of rights granted under Section 365 run afoul of Section 525? How to protect your client’s regulatory <i>and</i> economic interests.</p>
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10:00 a.m. to 10:15 a.m. **Break**

10:15 a.m. to 12:00 p.m. **Plenary – Avoidance Actions**
Moderator: Trish Lazich, OH OAG
Neil Gordon, Arnold, Golden & Gregory, LLP
Hon. Edward J. Coleman, III, Bankruptcy Judge, SD Ga.
Prof. Jack Williams, Georgia State Univ.

Elements of avoidance action and defenses – insolvency, intent to defraud, what is “value,” who is the transferee; good faith as element of Section 548(c) and Section 550(b), avoidance vs. recovery. When do you hold or fold when a trustee calls? Hot topics: Section 544 and sovereign immunity defense; recovering tuition payments from parents; clawing back excessive officer payments; issues on pass-through taxes.

12:00 p.m. to 1:15 p.m. **Lunch – Report on Federal Regulatory Efforts and Non-Bankruptcy Alternatives to Loan Defaults; Possible Code Changes**
Seth Frotman, Student Loan Ombudsman & Assistant Director
Office of Students, Consumer Protection Financial Bureau

1:15 p.m. to 2:15 p.m. **Plenary – Jurisdiction: Keeping Your Case Where You Want It**
Karen Cordry, NAAG Bankruptcy Counsel
Prof. Ralph Brubaker, Univ. Ill. College of Law

Bankruptcy court jurisdiction and venue; *Stern* decision; mandatory and discretionary abstention; withdrawal of reference; removals and remands

2:15 p.m. to 3:30 p.m.

Breakouts

<p>Regulators – Nuts and Bolts Session on Getting Your Claims and Settlements Paid <i>Steve Sakamoto-Wengel, MD OAG</i> <i>Bernard Eskandari, CA DOJ</i> <i>Prof. Jack Williams, Georgia State Univ.</i></p> <p>What should go into prepetition settlements to help you in bankruptcy, who else can you go after for payments – owners and officers’ liability, insurance policies, what should your claim actually look like when the petition gets filed; what may happen to you during the case – objections, estimation requests, etc.</p>	<p>Tax – Yikes, My Taxpayer Just Filed? What Do I Do/What Should I Have Done <i>Donn Rosenblum, OH Dept. Job & Family Services</i> <i>James Newbold, IL OAG</i></p> <p>What can you keep doing despite the stay to audit and assess; using 28 U.S.C. 959/960, Section 521, conversion and dismissal provisions to get returns filed and taxes paid during the case; treatment of your different types of liens in bankruptcy and how they fare; what are the pros and cons of bankruptcy filings for the tax authorities – maybe they’re not always a bad thing?</p>
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3:30 p.m. to 3:45 p.m.

Break

3:45 p.m. to 5:00 p.m.

Breakouts

<p>Regulators – Enforcing the Law Postpetition <i>Hon. Karen Overstreet, Bankr. Judge, W.D. Wash. (ret.)</i> <i>Hon. Melanie Cyganowski, Chief Bankr. Judge EDNY, (ret.)</i> <i>Hal Morris, TX OAG</i> <i>Alan Tenenbaum, US DOJ</i></p> <p>How far does Section 959 get you in efforts to force debtor to clean-up and/or maintain property. How about retaining records – student vs medical records. How does 959 apply in liquidating cases. <i>HLS v. Venoco</i> – different facts, different results? Dealing with secured lenders when all the assets are encumbered? What can you leverage out for compliance obligations? What can you do ahead of time to protect public interest-- financial assurances; ring-fencing debtor to maintain regulator’s control. What about Section 105?</p>	<p>Taxes and Other Claims -- Adventures in Non-Dischargeability and the Stay <i>Jim Jacobsen, NM AG</i> <i>Heather Crockett, IN AG</i></p> <p>Scope of fraud and defalcation exceptions and the contrast between derivative and direct liability in various contexts; objecting to discharge in missing records cases; using collateral estoppel and <i>res judicata</i> to rely on prebankruptcy actions; applicability of stay to third parties – who’s protected, how long, and for what actions?</p>
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5:00 p.m.

Session ends

THURSDAY, NOVEMBER 16, 2017

8:00 a.m. to 5:00 p.m.

Registration, breakfast (until 9:00 am)

8:45 a.m. to 9:00 a.m.

SABA Business

9:00 a.m. to 10:30 a.m.

Plenary -- Practical Ethics for Government Attorneys

Zach Mosner, WA OAG, Moderator
Gale Francis, UT OAG
David McLaughlin, GA OAG
Hon. Melanie Cyganowski, Chief Bankr. Judge EDNY, (ret.)

Counseling your client when the two sides of the office don't agree – consumer protection for students versus collecting on student loans as an example. Legal and ethical issues in mixed civil/criminal actions; use of evidence and witnesses between cases, Chinese walls.

10:30 a.m. to 10:45 a.m.

Break

10:45 a.m. to 12:15 p.m.

Breakouts

<p>Chapter 11 – Introduction -- Filing to Confirmation <i>Jonathan Alden, FL DEP</i> <i>Lynn Butler, Husch Blackwell LLP</i></p> <p>A brisk walk through Chapter 11 from operations during the case to confirmation</p>	<p>Chapter 11 – Advanced – Issues During the Case and Plan Confirmation <i>Moderator: Zach Mosner, WA OAG</i> <i>Prof. Ralph Brubaker, Univ. Ill. College of Law</i> <i>Mark Silverschotz, AndersonKill</i> <i>James Stang, Pachulski,Stang, Ziehl &Jones, LLP</i></p> <p>Third party releases Absolute priority rule in motions, plans, dismissals, and settlement in the case post-Jevic. Treatment of penalties –in Chapter 11 plans Effects of lack of notice or improper notice on plan review and approval</p>
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12:15 p.m. to 1:30 p.m.

Lunch – On Your Own

1:30 p.m. to 3:30 p.m.

Breakouts – A Potpourri of Topics, Pulling the Pieces Together

<p>Tax <i>Lisa Iannotta, OH OAG</i> <i>Gill Geldreich, TN OAG</i> <i>Trish Lazich, OH OAG</i> <i>Mark Silverschotz, Anderson Kill</i></p> <p>Penalties vs interest; § 511 issues</p> <p>Late-filed tax returns – status of the “One-Day-Late” Rule</p> <p>Collection Issues – who should you sue (company vs officers) piercing the corporate veil; sources of funds – offset programs; pitfalls in collecting taxes during the case itself</p> <p>Special issues in government collections – using outside agencies, public records laws and availability of information; politics and public sensitivities.</p>	<p>Environmental and/or Other Regulator Session <i>Maureen Leary, NY OAG</i> <i>Andrea Madigan, US EPA</i> <i>Margarita Padilla, CA OAG</i> <i>Alan Tenenbaum, US DOJ</i> <i>Hal Morris, TX OAG</i></p> <p>State and federal cooperation; what obligations do you have and how do you get them filed; issues in oil and gas bankruptcies – enforcing fees and bonding and licensing duties; effect of Section 525; navigating <i>Nextwave</i> ‘s intersection of interests</p> <p>Can the state stop a spin-off/sale/ plan that leaves waste behind without adequate funding? Can it stop abandonment? <i>Energy Future Holdings, Tronox, PG & E</i>; use of clean-up trusts</p> <p>Secured creditors, problematic plan provisions</p>	<p>Local Government Issues Roundtable <i>Esther Tryban Telser, City of Chicago, retired</i> <i>Bruce Nicklaus, City of Columbus</i></p> <p>Zoning, eminent domain</p> <p>Stay issues – traffic enforcement, issuing tickets, and retaining vehicles. Recent case law on scope of stay.</p> <p>Claims Issues – priority of enforcement obligations imposed during case in Chapters 11 or 13; what the standard for administrative expenses?</p> <p>Dealing with relocation and building incentives – what can the local government do when a new development goes bankrupt without fulfilling its obligations?</p>
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3:30 p.m.

Conference Ends