

**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>Tracy Essig, Essig Law, AZ</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, OSBC, KS</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 and child support 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: *Chris Carr, Attorney General (to be invited)*

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

<p>Introduction to Bankruptcy <i>Margarita Padilla, CA OAG</i> <i>Jonathan Alden, FL DEP</i></p> <p>Types of petitions; eligibility Conversion & dismissal</p>	<p>Tax Session – Beginners <i>Jim Newbold, IL OAG</i> <i>Beth Weller, Linebarger,</i> <i>Goggan, Blair & Sampson, LLP</i></p> <p>Priority, discharge and stay issues applicable to tax claims in</p>	<p>Collection and Enforcement Issues Nuts and Bolts – Before the Bankruptcy <i>Trish Lazich, OH OAG</i> <i>Donn Rosenblum, OH Dept. Job & Family Services</i> <i>Jim Jacobsen, NM OAG</i></p> <p>Getting your investigations, and assessments done; reading the</p>
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Parties in the case – trustees, creditors, committees Claims – the nuts and bolts of what they are, when you need to file, and how they may be challenged	bankruptcy; bankruptcy court jurisdiction to hear tax issues.	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.
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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). When and where are they heard.</p> <p>Use of Section 105 discretionary stay</p>	<p>Forfeiture, Restitution, and the Civil/Criminal Overlap <i>Alice Dery – US DOJ</i> <i>Sandra T. Rasnak, EO UST,</i> <i>Bernard Eskandari, CA DOJ</i></p> <p>Civil/criminal forfeiture as means of collecting debts, interaction with bankruptcy. Civil and criminal restitution – stayed or not? Dischargeable or not? What’s criminal, what’s not? Writing your statute to protect your claim. Can civil/criminal evidence be used in both?</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, MK Consulting, Inc.*

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. Nancy Lord, Bankruptcy Judge, E.D. N.Y.
Lynn Butler, Husch Blackwell LP – Debtor’s counsel
Jim Stang, Pachulski, Stang, Ziehl & Jones LLP – unsecured creditors
Ramona Elliot, US Trustee (invited)
State Counsel -- TBD

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 4:15 p.m.

Plenary -- State Law Suits Against Schools and Others
State Counsel, TBD

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

4:15 p.m. to 5:00 p.m.

Plenary -- Nuts and Bolts Issues in States Working Bankruptcy Cases Together; Group Discussion
Moderator: Karen Cordry, NAAG
Jared Libet, SC AG
Joseph Yar, NM AG

Getting involved in the case early; common interest agreements and privileges, tactical considerations in procedural relief motions if multiple states are involved; filing papers together or separately, appeals and finding amicus support; working with other parties in the case, such as class actions, etc.

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

WEDNESDAY, NOVEMBER 15, 2017

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

8:45 a.m. to 9:45 a.m. **Plenary – Jurisdiction: Keeping Your Case Where You Want It to Be**

Karen Cordry, NAAG Bankruptcy Counsel
Prof. Ralph Brubaker, Univ. Ill. College of Law

Bankruptcy court jurisdiction; *Stern* decision; mandatory and discretionary abstention; withdrawal of reference; special police/regulatory/tax language; when do you “consent” to jurisdiction?

9:45 a.m. to 10:00 a.m. **Break**

10:00 a.m. to 11:45 a.m. **Plenary – Avoidance Actions**

Jim Holden, CO 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. Do you hold or fold when the trustee calls? Hot topics: Section 544 and sovereign immunity defense; recovering tuition payments from parents; clawing back excessive officer payments; issues relating to pass-through taxes.

11:45 a.m. to 1:00 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 Bur. (invited)
Rohit Chopra, Consumer Federation of America (invited)

1:00 p.m. to 2:15 p.m. **Breakouts**

<p>Regulators – Nuts and Bolts Session on Ensuring Your Claims Get Paid <i>Steve Sakamoto-Wengel, MD OAG</i> <i>Bernard Eskandari, CA DOJ</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 in 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 can you do with you what are the pros and cons of a bankruptcy filing for the tax authorities – maybe it’s not always a bad thing?</p>
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2:15 p.m. to 3:30 p.m.

Breakouts

<p>Chapter 13 Beginners <i>Gill Geldreich, TN OAG</i> <i>Carolyn Wade, OR DOJ</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> its economic interests.</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 <i>Hal Morris, TX OAG</i> <i>Hon. Nancy Lord, Bankr. J., EDNY</i> <i>Hon. Melanie Cyganowski, Chief Bankr. Judge EDNY, (ret.)</i></p> <p>Making the debtor obey the law during the case – how far does 959 get you. Particular examples – clean-up/maintain property; retain records and the different treatment of student/ medical records; Will Section 105 help enforce debtor obligations. What to do when the estate has no unencumbered assets – dealing with the secured lender.</p>	<p>Taxes and Other Claims -- Adventures in Non-Dischargeability and the Stay <i>Jim Jacobsen, NM AG</i> <i>Others TBD</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

6:30 p.m.

Optional Activity -- Dinner and Ghost Tour; pick up at hotel

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 10:45 a.m.

Plenary -- Practical Ethics for Government Attorneys

Zach Mosner, WA OAG, Moderator

Alice Dery, US DOJ

Gail Francis, UT AG

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. Ethical issues in mixed civil/criminal actions.

10:45 a.m. to 11:00 a.m. **Break**

11:00 a.m. to 12:30 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>Jim Holden, CO OAG</i> <i>Prof. Ralph Brubaker, Univ. Ill. College of Law</i> <i>Mark Silverschotz, AndersonKill</i> <i>Jim Stang, Pachulski, Stang, Ziehl & Jones</i></p> <p>Third party releases Absolute priority rule in motions, plans, dismissals, and settlement in the case post-Jevic. Treatment of penalties – tax and otherwise –in Chapter 11 plans</p>
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12:30 p.m. to 1:45 p.m. **Lunch – On Your Own**

1:45 p.m. to 3:45 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>Tracy Essig, Essiglaw</i> <i>Mark Silverschotz, Anderson Kill</i></p> <p>Penalties versus interest and other § 511 issues</p> <p>Late-filed tax claims – 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 – tax offsets (before and during the case, plan provisions to watch out for); other sources of offset including benefits, lottery</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>Hal Morris, TX OAG</i> <i>Margarita Padilla, CA OAG</i> <i>Alan Tenenbaum, US DOJ</i></p> <p>Issues in the current oil and gas bankruptcies as examples – enforcing fees and regulations during the case, status of bonding and licensing requirements versus Section 525; navigating the <i>Nextwave</i> intersection of regulatory/commercial interests;</p> <p>Placing regulatory restrictions on proposed plan transfers – can the state be preempted? Can the state stop a sale/plan that leaves the bad assets behind without adequate funding? Can it stop abandonment? <i>Energy Future Holdings, Tronox, and PG & E.</i> How do Superfund obligations and funding apply?</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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3:45 p.m. Conference Ends