

## **Administrative Office of the United States Courts GRADUATED FEE STUDY**

### **INTRODUCTION**

The judiciary's appropriation bill for fiscal year 1994 [ H.R. 2519, cited as the "Department of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1994, " Pub. L. No. 103-121, 107 Stat. 1153.] directed the Judicial Conference of the United States to estimate the results that would occur in cases filed under chapters 11 and 13 of title 11, United States Code, if filing fees payable under section 1930 of title 28 (28 U.S.C § 193(a)(1), (3), United States Code, were paid on a graduated scale based on assets, liabilities, or both and to provide recommendations regarding various methods to implement such a graduated bankruptcy fee system. This study fulfills that request.

This study is composed of three sections. The first section provides an analysis of chapter 11, including the magnitude of the current chapter 11 caseload, the current distribution of that caseload by assets and liabilities, the potential advantages and drawbacks if filing fees were paid on a graduated scale based on assets and or liabilities, and examples of alternative approaches to implementing a graduated fee system. The second section will provide a similar analysis for chapter 13 cases. The final section will provide conclusions and recommendations regarding the implementation of a graduated fee system for paying filing fees under chapters 11 and 13.

### **I. CHAPTER 11**

#### **1. BACKGROUND**

Chapter 11 of the United States Bankruptcy Code (Code) allows a business an opportunity to reorganize as a going concern or to liquidate in a planned reasonable fashion. For reorganization, it provides a debtor with breathing room to rescale its operations and to work out a plan of repayment that is acceptable to creditors.

During 1996 there were approximately 11,900 chapter 11 cases filed in the bankruptcy courts, the lowest total since 1981. Chapter 11 filings have decreased by 50% since 1991. Chapter 11 filings accounted for more than five percent of all case filings between 1983 and 1985, but only about one percent of case filings in 1996. The following chart shows chapter 11 filings since 1981 and chapter 11 filings as a percentage of total bankruptcy filings for each year.

#### **Calendar Year Chapter 11 Filings % of Total Filings**

1981	10,041	2.8
------	--------	-----

1982	18,821	4.9
1983	20,284	5.8
1984	20,325	5.8
1985	23,376	5.7
1986	24,773	4.7
1987	20,078	3.5
1988	117,684	2.9
1989	18,281	2.7
1990	20,783	2.7
1991	23,989	2.6
1992	22,634	2.3
1993	19,174	2.2
1994	14,773	1.8
1995	12,904	1.4
1996	11,911	1.0

Most chapter 11 cases are relatively small, with over 60% of chapter 11 filings involving less than \$500,000 in assets or liabilities. Less than two percent of chapter 11 filings involve assets or liabilities in excess of \$10 million and less than one half of one percent of chapter 11 cases involve assets or liabilities in excess of \$100 million. Currently, the bankruptcy petition cover sheets reports assets and liabilities for chapter 11 cases by seven distinct categories.

The following chart provides those categories of assets and liabilities and the approximate number and the percentage of chapter 11s that fell within each during 1996.

#### CHAPTER 11 FILINGS BY ASSET AND LIABILITY LEVELS FOR 1996

<b>Dollar Range of Assets or Liabilities</b>	<b>Number of Cases Reporting Estimated Assets</b>	<b>% of Total</b>	<b>Number of Cases Reporting Estimated Liabilities</b>	<b>% of Total</b>
< \$50,000	3,348	28.1	2,020	16.0
\$50,000 - \$100,000	900	7.5	835	7.0
\$100,000 - \$500,000	2,975	25.0	3,510	29.5
\$500,000 - \$1,000,000	1,392	11.7	1,744	14.7
\$1,000,000 - \$10,000,000	3,096	26.0	3,602	30.2

\$10,000,000 - \$100,000,000	150	1.3	150	1.3
> \$100,000,000	50	0.4	50	0.4
<b>TOTAL</b>	11,911	100.0	11,911	100.0

Since the data that has been collected on 1996 liabilities in chapter 11 cases is similar to that of assets (60 percent of chapter 11 filings had estimated assets below \$500,000 while 53 percent of chapter 11 filings had estimated liabilities below \$500,000), it was determined that it was appropriate to analyze exclusively data based on assets. A study based on liabilities would yield approximately the same totals. It is assumed that the distribution of assets is identical to that of the 1996 caseload.

## **2. POTENTIAL JUSTIFICATIONS AND DRAWBACKS OF A GRADUATED FEE SYSTEM**

The current system provides that debtors will pay a set filing fee (currently \$800) at the commencement of a case. Because all chapter 11 debtors pay the same filing fee, it is easy to administer and revenue is predictable from year to year, unless there are wide swings in the chapter 11 caseload.

The following section provides a brief description of potential justifications and disadvantages of a graduated fee system to replace the current filing fee system for chapter 11 and cases.

### **POTENTIAL JUSTIFICATIONS**

1. Chapter 11 debtors impose a heavy burden on the resources of the bankruptcy courts and derive substantial benefits from the judicial process. One of the attractions of a graduated filing fee system is that the court's costs in handling large bankruptcy cases could be recovered from the individual or corporate debtor utilizing the system.
2. In chapter 11 cases, the bankruptcy process is often used by large corporate debtors for purposes of strategic business planning. Advantages that accrue to business organizations that file for protection under chapter 11 include the use of the proceeding as a takeover defense, the benefit of rejection of collective bargaining agreements, the management of mass tort liability, the tax benefits, and the management of potential environmental liabilities. A graduated fee system could require those using the bankruptcy system for strategic planning to pay more for this service.
3. For debtors, the court provides a haven from the ordinary legal processes which enable creditors to execute judgments, foreclose on property, attach unsecured assets, and engage in other collection activities permitted in the absence of the automatic stay provisions of the Code.

4. For creditors, whose return might be diminished by a graduated fee, the bankruptcy courts provide a collection service, security against the loss of assets and a relatively expedited forum for the adjudication of conflicting contract in tort claims along with other legal and equitable rights.

## **POTENTIAL DRAWBACKS**

The United States bankruptcy courts are operating under a staffing ceiling for their clerks' offices of 84% of formula. At this time when the bankruptcy clerks' offices (and the judiciary in general) are faced with an extremely austere budget climate, one that is likely to continue for at least several more years, every effort is being made to streamline administrative processes to facilitate ease of administration.

It would appear at first that a graduated fee system would be a relatively easy system to administer since, once the assets or liabilities are identified on the bankruptcy petition cover sheet, the appropriate filing fee would be identified. However, there are a number of potential drawbacks of this system as opposed to the current flat fee system:

1. If the graduated chapter 11 fee is constructed as a fee based on reported assets or liabilities, the vast majority of it would be collected after the schedules are filed. In most cases this occurs at filing or soon thereafter, but there will be cases, oftentimes in the very large cases, where there is a substantial delay between the filing of the petition and the filing of the schedules.
2. A fee that is based upon the level of scheduled assets or liabilities might not work if it causes debtors to misrepresent the amount of their assets in order to pay a lower fee.
3. If a system were developed whereby user fees were extremely high for multi-million or billion dollar filers, it would invite constitutional challenges on equal protection or "taking" grounds.
4. It would be extremely difficult to predict with any degree of certainty how much revenue will be generated. Revenue will depend on how many cases fall within the high asset and liability levels (assuming significantly higher fees for very large cases). In the past five years, the number of extremely large cases has diminished significantly.
5. Significantly higher fees may be viewed as "unreasonable" or "outrageously" high.
6. Extremely large filing fees could lead to a public perception that the bankruptcy courts are selling justice to wealthy debtors, at the expense of the little people.
7. Imposition of graduated user fees may be met by opposition from various commercial interests as well as some members of the bar.
8. Creditors would complain about a substantial increase in fees that would decrease their return.

9. The Federal Judicial Center's 1989 Bankruptcy Judge Time Study found that large chapter 11 cases, on average, require more than twice the amount of judge time over the life of the case when compared to chapter 11 cases in which the debtor has assets of under \$1 million. However, this study found little difference in judge time for the respective asset categories of cases below \$1 million. The study did not assess the judicial work required by "mega cases" which can be enormously complex with potentially billions of dollars in assets and other indicia of factual and legal complexities. A graduated fee system that imposes higher filing fees on a number of asset or liability levels below \$1 million would not be consistent with the judicial workload findings of the Time Study.

10. If filing fees are significantly higher for the small percentage of cases that are extremely large (in excess of \$10 million), a disproportionate share of the revenue would be raised in a few districts that receive many of the largest chapter 11 filings.

11. In cases where the debtor's assets are rather close to a discrete category boundary, there may be disagreement as to which fee applies. A mechanism would be needed to resolve such disputes. Cases in which the debtor amends the asset schedule would also cause occasional difficult problems.

12. A graduated fee system would require additional resources of the bankruptcy court to calculate the appropriate fee for any given asset or liability level.

13. A significant increase in filing fees could cause a decline in case filings.

### **3. ALTERNATIVE APPROACHES TO A GRADUATED FEE**

The current filing fee in chapter 11 cases that do not concern a railroad is \$800. Chapter 11 railroad cases have a filing fee of \$1,000. Since in 1996, there were no cases involving railroads, for the sake of simplicity in calculations, it is assumed that the \$800 filing fee was charged in each of the approximately 11,900 chapter 11s filed in 1996. As a result, a total of approximately \$9,500,000 (11,900 chapter 11 filings x \$800) would have been collected in chapter 11 filing fees in 1996.

This portion of the study will address a number of ways in which a graduated fee system could be implemented to raise approximately \$9,500,000 for 11,900 filings.

Two basic approaches have been developed. Each would allow several possible variations.

**A. A sliding fee schedule with discrete categories of fees for different asset levels.**

**B. A graduated fee based on the assets as reported by the debtor at filing.**

**A. A SLIDING FEE SCHEDULE WITH DISCRETE CATEGORIES OF FEES FOR CASES WITH DIFFERENT ASSET LEVELS**

As illustrated previously, the bankruptcy petition cover sheet group assets and liabilities for chapter 11 cases into seven distinct categories. One method that may be used to develop a graduated fee system for chapter 11 filings would be to select among the ranges of assets and assign a fee to a filing that falls within it's range.

The following four examples illustrate how the current \$9.5 million in filing fees could be generated by chapter 11 cases based on different asset sizes. \$9.5 million is used for illustration purposes since that is the amount generated from chapter 11 filings in 1996.

EXAMPLE 1: In this example there are four asset ranges and four proposed fee ranges. The lowest proposed range would have a proposed fee of \$600. The highest would have a proposed fee of \$1,000.

<b>Dollar Range of Assets (\$)</b>	<b>Proposed Fee (\$)</b>	<b>Number of Cases Reporting Estimated Assets</b>	<b>Estimated Revenue (\$)</b>
\$100,000	600	4,200	2,520,000
\$100,000 - \$500,000	800	3,000	2,400,000
\$500,000 - \$1,000,000	900	1,400	1,260,000
> \$1,000,000	1,000	3,300	3,300,000
<b>TOTAL</b>		<b>11,900</b>	<b>9,480,000</b>

EXAMPLE 2: In this example there are four asset ranges and four proposed fee ranges. The lowest proposed fee range would have a proposed fee of \$400. The highest would have a proposed fee of \$1,500.

<b>Dollar Range of Assets (\$)</b>	<b>Proposed Fee (\$)</b>	<b>Number of Cases Reporting Estimated Assets</b>	<b>Estimated Revenue (\$)</b>
<\$100,000	600	4,200	1,680,000
\$100,000 - \$500,000	800	3,000	1,800,000
\$500,000 - \$1,000,000	900	1,400	1,260,000
> \$1,000,000	1,500	3,300	4,950,000
<b>TOTAL</b>		<b>11,900</b>	<b>9,690,000</b>

EXAMPLE 3: In this example there are three asset ranges and three proposed fee ranges. The lowest proposed range would have a proposed fee of \$500. The highest would have a proposed fee of \$1,500.

<b>Dollar Range of Assets (\$)</b>	<b>Proposed Fee (\$)</b>	<b>Number of Cases Reporting Estimated Assets</b>	<b>Estimated Revenue (\$)</b>
------------------------------------	--------------------------	---	-------------------------------

Assets (\$)	Fee (\$)	Estimated Assets	Revenue (\$)
<\$500,000	500	7,200	3,600,000
\$500,000 - \$1,000,000	1,000	1,400	1,400,000
> \$1,000,000	1,500	3,300	4,950,000
TOTAL		11,900	9,950,000

EXAMPLE 4: In this example there are only two asset ranges and two proposed fee ranges.

Dollar Range of Assets (\$)	Proposed Fee (\$)	Number of Cases Reporting Estimated Assets	Estimated Revenue (\$)
< \$1,000,000	600	8,600	5,160,000
> \$1,000,000	1,300	3,300	4,290,000
TOTAL		11,900	9,450,000

**B. A GRADUATED FEE BASED ON THE ASSETS AS REPORTED BY THE DEBTOR AT FILING**

A second way to implement a graduated fee in chapter 11 filings would be to assess a fee based on the assets reported by the debtor at filing. For instance, a fee of \$100 could be assessed for every \$1,000,000 in reported assets at filing. This fee would be relatively easy to compute, but would require additional computation not necessary with a sliding fee schedule. It would not be as easy to administer as a sliding fee schedule with discrete categories of fees for chapter 11 cases of different asset and liability levels. Since it is not attached to discrete categories which would be assigned a certain fee, it would present little incentive for debtors to misrepresent asset amounts on the schedules.

The following examples illustrate how the current \$9.5 million in filing fees could be generated by various approaches to a graduated fee which assesses a fee based on a proportion of the assets reported by the debtor at filing.

EXAMPLE 1: Fee of \$100 per million in assets, applicable to all cases, \$5,000 maximum fee

	ASSET RANGE				TOTAL
	UNDER \$1,000,000	\$1,000,000 - \$10,000,000	\$10,000,000 - \$100,000,000	OVER \$100,000,000	
Est. Number of Cases	8,600	3,100	150	50	11,900
Est. Annual	XXXXX	XXXXX	XXXX	XXXX	XXXXX

## Revenue

EXAMPLE 2: Fee of \$100 per million in assets, applicable to all cases, \$10,000 maximum fee

	ASSET RANGE				
	UNDER \$1,000,000	\$1,000,000 - \$10,000,000	\$10,000,000 - \$100,000,000	OVER \$100,000,000	TOTAL
Est. Number of Cases	8,600	3,100	150	50	11,900
Est. Annual Revenue	XXXXX	XXXXX	XXXX	XXXX	XXXXX

EXAMPLE 3: Fee of \$100 per million in assets, applicable to all cases, \$100,000 maximum fee

	ASSET RANGE				
	UNDER \$1,000,000	\$1,000,000 - \$10,000,000	\$10,000,000 - \$100,000,000	OVER \$100,000,000	TOTAL
Est. Number of Cases	8,600	3,100	150	50	11,900
Est. Annual Revenue	XXXXX	XXXXX	XXXX	XXXX	XXXXX

EXAMPLE 4: Fee of \$100 per million in assets, applicable to all cases, no maximum fee

	ASSET RANGE				
	UNDER \$1,000,000	\$1,000,000 - \$10,000,000	\$10,000,000 - \$100,000,000	OVER \$100,000,000	TOTAL
Est. Number of Cases	8,600	3,100	150	50	11,900
Est. Annual Revenue	XXXXX	XXXXX	XXXX	XXXX	XXXXX

## II. CHAPTER 13

### 1. BACKGROUND

Chapter 13 is designed for individuals with regular income who desire to pay their debts but are currently unable to do so. The primary benefit of chapter 13 relief is the ability to repay creditors, in full or in part, in installments over a three-to five-year period, during which time creditors are prohibited from starting or continuing collection efforts. In recent years, approximately two billion dollars has been returned to creditors in chapter 13 cases each year.

During 1996 there were approximately 355,000 chapter 13 cases filed in the bankruptcy courts, the highest total ever. Chapter 13 filings have increased by 36% since 1991 and are at a level that is 281% greater than 1981. Chapter 13 filings accounted for 30 percent of bankruptcy filings for each of the last three years.

The following chart shows chapter 13 filings since 1981 and chapter 13 filings as a percentage of total bankruptcy filings for each year.

<b>CALENDAR YEAR</b>	<b>CHAPTER 13 FILINGS</b>	<b>% OF TOTAL FILINGS</b>
1981	93,139	25.6
1982	103,738	27.3
1983	94,038	27.0
1984	93,315	26.8
1985	108,069	26.2
1986	130,257	24.6
1987	142,161	24.6
1988	155,945	25.4
1989	183,214	27.0
1990	217,468	27.8
1991	262,006	27.8
1992	265,577	27.3
1993	251,773	28.8
1994	249,877	30.0
1995	286,588	30.9
1996	355,123	30.1

Due to statutory limitations, the total level of liabilities (noncontingent, liquidated secured and unsecured) in a chapter 13 case must be less than \$1 million. As a result, asset and liability levels in chapter 13 cases are, for the most part, well below the average for chapter 11 filings. In 1996, 64 percent of chapter 13 filings had asset levels of less than \$50,000 while 82 percent indicated assets of less than \$100,000. Only one percent of chapter 13 filings demonstrated asset levels in excess of \$500,000, as opposed to 40 percent of chapter 11 filings.

The following chart provides the number and the percentage of chapter 13 filings that fell within various categories of assets and liabilities during 1996.

### CHAPTER 13 FILINGS BY ASSET AND LIABILITY LEVELS FOR 1996

Dollar Range of Assets or Liabilities	Number of Cases Reporting Estimated Assets	% of Total	Number of Cases Reporting Estimated Liabilities	% of Total
< \$50,000	225,701	63.6	210,169	59.2
\$50,000 - \$100,000	64,548	18.2	71,445	20.1
\$100,000 - \$500,000	61,378	17.3	69,653	19.6
\$500,000 - \$1,000,000	3,496	1.0	3,856	1.1
<b>TOTAL</b>	<b>335,123</b>	<b>100.0</b>	<b>355,123</b>	<b>100.0</b>

## 2. POTENTIAL JUSTIFICATIONS AND DRAWBACKS OF A GRADUATED FEE SYSTEM

The current system provides that debtors will pay a filing fee at the commencement of a case. There are a number of inherent advantages with the current flat fee system. Because all chapter 13 debtors pay the same filing fee, it is easy to administer and revenue has been predictable from year to year and would continue to be, unless in the future there were wide swings in the chapter 13 caseload.

Due to the relatively low asset and liability levels in chapter 13 cases there is little to be gained by introducing a graduated fee system. However, a number of the disadvantages of a graduated fee system parallel those described for introducing such a system for chapter 11 cases. The following section provides a brief description of potential justifications and disadvantages of a graduated fee system to replace the current filing fee system for chapter 13 cases.

### POTENTIAL JUSTIFICATION

1. For creditors, whose return might be diminished by a gradual fall, the bankruptcy courts provide a collection service, security against the loss of assets and a relatively expedited forum for the adjudication of conflicting contract and tort claims along with other legal and equitable rights.

### POTENTIAL DRAWBACKS

It would appear at first, that a graduated fee system would be a relatively easy system to administer since once the assets or liabilities are identified on the bankruptcy petition

cover sheet, the appropriate filing fee would be identified. However, there are a number of potential drawbacks of this system as opposed to the current flat fee system:

1. A fee that is based upon the level of scheduled assets or liabilities might not work if it causes debtors to misrepresent the amount of their assets in order to pay a lower fee. There are provisions in the Code for handling fraudulent scheduling.
2. Imposition of graduated user fees may be met by opposition from various commercial interests as well as some members of the bar.
3. As a general proposition, a substantial increase in filing fees would result in a somewhat smaller distribution to creditors, as the debtor would have less money to distribute on account of having had to pay additional fees.
4. The Federal Judicial Center's 1989 Bankruptcy Judge Time Study distinguishes between only two categories of chapter 13 cases - those with liabilities less than \$50,000 and those with liabilities of at least \$50,000. A graduated fee system that imposes higher filing fees on various asset or liability levels would be going beyond the judicial workload findings of the Time Study which delineated only two categories.
5. In cases where the debtor's assets are rather close to a discrete category boundary, there may be disagreement as to whether or not to apply a fee. A mechanism would be needed to resolve such disputes. Cases in which the debtor amends the asset schedule would also cause occasional, but difficult problems.
6. Since chapter 13 filers intend to pay off their debts in-part or in-total, and are simply looking to repay their creditors in installments, any effort to significantly increase fees may serve as an impetus for debtors to file chapter 7 instead of chapter 13.
7. A graduated fee may require additional resources for the bankruptcy court to calculate the appropriate fee for a given asset or liability level.
8. A significant increase in filing fees could cause a decline in case filings.

### **3. ALTERNATIVE APPROACHES TO A GRADUATED FEE**

The current filing fee (including a \$30 administrative fee that is paid at the time of filing) is \$160. It is assumed that the filing fee was charged in each of the approximately 355,000 chapter 13 cases filed in 1996. As a result, a total of approximately \$56,800,000 (355,000 chapter 13 filings x \$160) would have been collected in chapter 13 filing fees in 1996.

This portion of the study will address a number of ways in which a graduated fee system could have been implemented to raise approximately \$56,800,000 for 355,000 filings. Since the data that has been collected on the distribution of 1996 liabilities in chapter 13 cases is similar to that of assets, it was determined that there was only a need to analyze

data based on assets. A study based on liabilities would yield approximately the same totals. It is assumed that the distribution of assets is identical to that of the 1996 caseload.

Since the level of assets is so much smaller in chapter 13 filings than in chapter 11 filings, it was determined that asset levels were too low to develop an approach based on a proportion of the assets reported by the debtor at filing. Instead, it was ascertained that a sliding fee schedule with multiple discrete categories of fees would be more appropriate in attempting to develop a graduated fee approach.

Two basic approaches have been developed, each with several variations. They are as follows:

**A. A sliding fee schedule with multiple discrete asset categories**

**B. A sliding fee schedule with only two discrete asset categories**

**A. A SLIDING FEE SCHEDULE WITH DISCRETE ASSET CATEGORIES**

As noted earlier in this report, the bankruptcy petition cover sheet identifies distinct categories of assets. One method that may be used to develop a graduated fee system for chapter 13 filings would be to select among the ranges of assets and assign a fee to a filing that falls within it's range.

The following examples illustrate how the current \$56.8 million in filing fees (including \$10.6 million (355,000 cases x \$30) in administrative fees due at the time of filing) could be generated.

EXAMPLE 1: In this example there are four asset ranges based on the bankruptcy petition cover sheet and four proposed fee ranges that begin at \$100 and increase by increments of \$100.

<b>Dollar Range of Assets (\$)</b>	<b>Proposed Fee</b>	<b>Number of Cases Reporting Estimated Assets</b>	<b>Estimated Revenues (\$)</b>
<\$50,000	100	225,500	22,550,000
\$50,000 - \$100,000	200	65,000	13,000,000
\$100,000 - \$500,000	300	61,000	18,300,000
\$500,000 - \$1,000,000	400	3,500	1,400,000

TOTAL	355,000	55,250,000
-------	---------	------------

EXAMPLE 2: In this example there are four asset ranges based on the bankruptcy petition cover sheet and three proposed fee ranges that increase by increments of \$50. This example would propose that all chapter 13 filings with reported assets below \$100,000 have the same fee.

<b>Dollar Range of Assets (\$)</b>	<b>Proposed Fee</b>	<b>Number of Cases Reporting Estimated Assets</b>	<b>Estimated Revenues (\$)</b>
<\$100,000	150	290,500	43,575,000
\$100,000 - \$500,000	200	61,000	12,200,000
\$500,000 - \$1,000,000	250	3,500	875,000
TOTAL		355,000	56,650,000

EXAMPLE 3: In this example there are four asset ranges based on the bankruptcy petition cover sheet and four proposed fee ranges that begin at \$150 and are increased by \$25 denominations.

<b>Dollar Range of Assets (\$)</b>	<b>Proposed Fee</b>	<b>Number of Cases Reporting Estimated Assets</b>	<b>Estimated Revenues (\$)&gt;</b>
<\$50,000	150	225,500	33,825,000
\$50,000 - \$100,000	175	65,000	11,375,000
\$100,000 - \$500,000	200	61,000	12,200,000
\$500,000 - \$1,000,000	225	3,500	787,500
TOTAL		355,000	58,187,500

EXAMPLE 4: In this example there are four asset ranges based on the bankruptcy petition cover sheet and four proposed fee ranges. The lowest fee range would have a proposed fee of \$135. The highest range would have a proposed fee of \$500.

<b>Dollar Range of Assets (\$)</b>	<b>Proposed Fee</b>	<b>Number of Cases Reporting Estimated Assets</b>	<b>Estimated Revenues (\$)</b>
<\$50,000	135	225,500	30,442,500
\$50,000 - \$100,000	150	65,000	9,750,000
\$100,000 - \$500,000	250	61,000	15,250,000
\$500,000 - \$1,000,000	500	3,500	1,750,000
<b>TOTAL</b>		<b>355,000</b>	<b>57,192,500</b>

355,000 57,192,500

EXAMPLE 5: In this example there are four asset ranges based on the bankruptcy petition cover sheet and four proposed fee ranges. The lowest proposed fee would be \$100. The highest fee would be \$1,000.

<b>Dollar Range of Assets (\$)</b>	<b>Proposed Fee</b>	<b>Number of Cases Reporting Estimated Assets</b>	<b>Estimated Revenues (\$)</b>
<\$50,000	100	225,000	22,500,000
\$50,000 - \$100,000	125	64,500	8,062,500
\$100,000 - \$500,000	375	61,000	22,875,000
\$500,000 - \$1,000,000	1,000	3,500	3,500,000
<b>TOTAL</b>		<b>355,000</b>	<b>56,937,500</b>

## **B. A SLIDING FEE SCHEDULE WITH TWO DISCRETE ASSET CATEGORIES**

The Federal Judicial Center's 1989 Bankruptcy Judge Time Study distinguished only two categories of chapter 13 cases - those with liabilities less than \$50,000 and those with liabilities of at least \$50,000. It found that those cases with liabilities of at least \$50,000, on average, require about 47 percent more judge time than those in the lower category. As a result, a number of graduated fee scenarios have been developed using just the two

categories of assets - a) less than \$50,000 and b) at least \$50,000. Since the data that has been collected in 1996 liabilities in chapter 13 cases is similar to that of assets, it was determined that it was appropriate to exclusively analyze data based on assets. An analysis based on liabilities for chapter 13 cases would generate somewhat more in revenues since during 1996, a somewhat lower number of chapter 13 filings reported liabilities of less than \$50,000 (210,169) than assets less than \$50,000 (225,701).

The following examples illustrate how the current \$56.8 million in filing fees could be generated by various approaches to a graduated fee schedule with two discrete categories of fees.

EXAMPLE 1: In this example, the proposed difference in fees between the two asset ranges is only \$25.

<b>Dollar Range of Assets (\$)</b>	<b>Proposed Fee</b>	<b>Number of Cases Reporting Estimated Assets</b>	<b>Estimated Revenues (\$)</b>
<\$50,000	150	225,700	33,855,000
>\$50,000	175	129,300	22,627,500
TOTAL		355,000	56,452,500

EXAMPLE 2: In this example there is a larger spread between the proposed fees. The lower fee would be \$135 while the higher fee would be \$205.

<b>Dollar Range of Assets (\$)</b>	<b>Proposed Fee</b>	<b>Number of Cases Reporting Estimated Assets</b>	<b>Estimated Revenues (\$)</b>
<\$50,000	135	225,700	30,469,950
>\$50,000	205	129,300	26,506,500
TOTAL		355,000	56,976,450

EXAMPLE 3: In this example there is a still larger spread between the proposed fees. The lower fee would be \$125 while the higher fee would be \$220.

<b>Dollar Range of Assets (\$)</b>	<b>Proposed Fee</b>	<b>Number of Cases Reporting Estimated Assets</b>	<b>Estimated Revenues (\$)</b>
<\$50,000	125	225,700	28,212,500
>\$50,000	220	129,300	28,662,000
TOTAL		355,000	56,874,500

<\$50,000	125	225,700	28,215,000
>\$50,000	220	129,300	28,446,000
TOTAL		355,000	56,661,000

EXAMPLE 4: In this example there is a still larger spread between the proposed fees. The lower fee would be \$120 while the higher fee would be \$230.

<b>Dollar Range of Assets (\$)</b>	<b>Proposed Fee</b>	<b>Number of Cases Reporting Estimated Assets</b>	<b>Estimated Revenues (\$)</b>
<\$50,000	120	225,700	27,084,000
>\$50,000	230	129,300	29,739,000
TOTAL		355,000	56,823,000

EXAMPLE 5: This example proposes the largest spread between proposed fees. The lower fee would be \$100 while the higher fee would be increased to \$275.

<b>Dollar Range of Assets (\$)</b>	<b>Proposed Fee</b>	<b>Number of Cases Reporting Estimated Assets</b>	<b>Estimated Revenues (\$)</b>
<\$50,000	100	225,700	22,570,000
>\$50,000	275	129,300	35,557,500
TOTAL		355,000	58,127,500