COMMITTEE ON RULES OF PRACTICE AND PROCEDURE
OF THE
JUDICIAL CONFERENCE OF THE UNITED STATES
WASHINGTON, D.C. 20544

MEMORANDUM

TO: Honorable John D. Bates, Chair
Standing Committee on Rules of Practice and Procedure

FROM: Honorable Rebecca B. Connelly, Chair
Advisory Committee on Bankruptcy Rules

RE: Report of the Advisory Committee on Bankruptcy Rules

DATE: May 17, 2023

I. Introduction

The Advisory Committee on Bankruptcy Rules met in West Palm Beach, Florida, on March 30, 2023. Two Committee members were unable to attend; the rest of the Committee met in person. The draft minutes of that meeting are attached.

At the meeting, the Advisory Committee gave its final approval to rule and form amendments that were published for comment last August. They consist of (1) the restyled Bankruptcy Rules; (2) amendments to Rule 1007(b)(7) (Schedules, Statements, and Other Documents Required) and conforming amendments to six other rules; (3) an amendment to Rule 7001 (Types of Adversary Proceedings); (4) new Rule 8023.1 (Substitution of Parties); and (5) an amendment to Official Form 410A (Mortgage Proof of Claim Attachment).

The Advisory Committee also voted to seek republication for comment of amendments to Bankruptcy Rule 3002.1 (Notice Relating to Claims Secured by a Security Interest in the Debtor's Principal Residence in a Chapter 13 Case) and related forms. Previously, at the fall 2022 meeting, the Advisory Committee voted to seek publication for comment of proposed amendments to Bankruptcy Rule 8006(g) (Request for Leave to Take a Direct Appeal to a Court of Appeals After Certification).

Part II of this report presents those action items and is organized as follows:

A. Items for Final Approval
- The restyled Bankruptcy Rules;
- Rule 1007; conforming amendments to Rules 4004, 5009, 9006; and abrogation of Official Form 423;
- Rule 7001;
- Rule 8023.1; and
- Official Form 410A.

B. Items for Publication
- Rule 3002.1;
- Rule 8006(g); and
- Official Forms 410C13-M1, 410C13-M1R, 410C13-N, 410C13-NR, 410C13-M2, and 410C13-M2R.

Part III of the report presents four information items. The first concerns the Advisory Committee's decision with respect to a suggestion to remove redacted social security numbers from filed documents. The next reports on the Advisory Committee's decision to defer consideration of a suggestion to adopt a national rule addressing electronic debtor signatures. The third item is a report on the Advisory Committee's consideration of proposed amendments to Rule 5009(b) (Notice of Failure to File Rule 1007(b)(7) Statement). The final item reports on a suggestion to amend Rule 1007(h) to require a broader disclosure of postpetition assets in chapter 12 and 13 and in some chapter 11 cases.

II. Action Items

A. Items for Final Approval

The Advisory Committee recommends that the Standing Committee approve the proposed rule and form amendments that were published for public comment in 2022 and are discussed below. Bankruptcy Appendix A includes the rules and the form that are in this group.

Action Item 1. The Restyled Bankruptcy Rules. This submission marks the culmination of the Advisory Committee's Restyling Project. Parts I and II of the restyled Federal Rules of Bankruptcy Procedure were given approval after publication by the Advisory Committee in March 2021 and by the Standing Committee in June 2021. Parts III–VI were given approval after

publication by the Advisory Committee in March 2022 and by the Standing Committee in June 2022. Parts VII–IX were given final approval after publication by the Advisory Committee in March 2023 and are being presented for final approval by the Standing Committee at this meeting.

Since they were approved, Parts I–VI have been modified in minor respects for three reasons:

- there have been substantive amendments made to the existing Federal Rules of Bankruptcy Procedure that needed to be reflected in the restyled versions of those rules;

- the style consultants did a "top-to-bottom" review of all the rules and made additional stylistic and conforming changes; and

- in reviewing the proposed changes of the style consultants, the Restyling Subcommittee suggested its own additional corrections and minor changes, which the Advisory Committee approved.

A copy of Parts I–VI showing changes from the versions that were previously approved is included in the appendix to this report.

With respect to Parts VII–IX, extensive comments were submitted on the restyled rules from the National Bankruptcy Conference, and comments were also submitted by several others. After discussion with the style consultants and consideration by the Restyling Subcommittee, the Advisory Committee incorporated some of those suggested changes into the revised rules and rejected others. Comments and changes since publication are noted on the restyled rules in the appendix to this report.

Action Item 2. Rules 1007 (Lists, Schedules, Statements, and Other Documents; Time to File), 4004 (Granting or Denying a Discharge), 5009(b) (Closing a Chapter 7, 12, 13, or 15 Case; Declaring Liens Satisfied), 9006 (Computing and Extending Time; Motions), and the Abrogation of Official Form 423 (Certification About a Financial Management Course).

Bankruptcy Code § 727(a)(11) provides, subject to limited exceptions, that a debtor will not receive a discharge if "after filing the petition, the debtor failed to complete an [approved] instructional course concerning personal financial management." This restriction applies to individual debtors in chapter 7, in certain chapter 11 cases (*see* § 1141(d)(3)), and in chapter 13 (*see* § 1328(g)(1)). The amendment to Rule 1007(b)(7) would eliminate the requirement that the debtor file a statement on Official Form 423 to certify satisfaction of this requirement. Instead, it would require the filing of the certificate of course completion provided by the approved course provider. The amendments would also eliminate the requirement that a debtor who has been excused from taking such a course file Official Form 423, indicating the court's waiver of the requirement. The form would be abrogated, and references in Rules 1007, 4004, 5009, and 9006 that refer to the "statement" described in current Rule 1007(b)(7) would be amended to refer to a "certificate."

There were no comments on the proposed amendments, and the Advisory Committee approved them as published.

Action Item 3. Rule 7001 (Types of Adversary Proceedings). In August 2022 the Standing Committee published a proposed amendment to Rule 7001 that would allow the turnover of certain estate property to be sought by motion rather than by adversary proceeding. The original suggestion for an amendment was prompted by Justice Sotomayor's concurring opinion in *City of Chicago v. Fulton*, 141 S. Ct. 585, 595 (2021), in which she wrote that "[i]t is up to the Advisory Committee on Rules of Bankruptcy Procedure to consider amendments to the Rules that ensure prompt resolution of debtors' requests for turnover under § 542(a), especially where debtors' vehicles are concerned." The proposed amendment would add an exception to Rule 7001(a)'s general requirement that the recovery of money or property be sought by adversary proceeding. It would allow a debtor to proceed by motion to require the turnover of tangible personal property under § 542(a), thereby permitting a swifter resolution of the matter.

Only one comment on the proposed amendment was submitted in response to publication. Bonial & Associates, P.C., a creditor law firm, wrote that it supported the amendment because it "will streamline the turnover process and should create consistency nationally." The comment noted the inconsistencies in current turnover practices from one district to another and stated that "[c]reditors would benefit from one national and consistent approach to turnovers across all jurisdictions."

The Advisory Committee approved the amendment to Rule 7001 as published.

Action Item 4. New Rule 8023.1 (Substitution of Parties). Rule 8023.1 deals with the substitution of parties in the appeal of a bankruptcy case to a district court or a bankruptcy appellate panel. Bankruptcy Rule 7025, Fed. R. Civ. P. 25, and Fed. R. App. P. 43 do not apply to such appeals, and the new rule is intended to fill that gap. It is modeled on Fed. R. App. P. 43.

No comments were submitted on the proposed new rule. The Advisory Committee approved it with changes suggested by the style consultants.

Action Item 5. Official Form 410A (Mortgage Proof of Claim Attachment). The amendment replaces the first line in Form 410A's Attachment A, Part 3 (Arrearage as of Date of the Petition), which currently asks for "Principal & Interest" in a single line. The amended form would have two lines, one for "Principal" and one for "Interest." Because under Bankruptcy Code § 1322(e) the amount necessary to cure a default is "determined in accordance with the underlying agreement and applicable nonbankruptcy law," it may be necessary for a debtor who is curing arrearages under § 1325(a)(5) to know which portion of the total arrearages is principal and which is interest. The amendment puts the burden on the claim holder to identify the elements of its claim.

The Advisory Committee received one comment on the proposed amendment from attorney William M.E. Powers III. Mr. Powers suggested that the change is unnecessary because the Bankruptcy Reform Act of 1994 abrogated *Rake v. Wade*, 508 U.S. 464 (1993). He also said that mortgage servicers do not routinely separate interest and principal components for delinquent

installments and that this amendment will require them either to upgrade their systems to accommodate the form change or to make manual calculations.

In *Rake v. Wade* the Supreme Court held that an oversecured mortgagee was entitled to postpetition interest on arrearages paid off under a chapter 13 plan, even when the mortgage itself was silent and state law would not have provided for interest to be paid. Section 1322(e) now provides that the amount necessary to cure a default under a chapter 13 plan "shall be determined in accordance with the underlying agreement and applicable nonbankruptcy law," thereby abrogating *Rake*.

The Advisory Committee concluded that the proposed amendment furthers the requirements of § 1322(e). To the extent that the underlying agreement provides for interest only on principal amounts that are in arrears, but not on interest or other amounts payable under the agreement, the court must be able to determine how much of the arrearages is principal. The amended form will facilitate that determination.

The Advisory Committee approved the form as published.

B. Items for Publication

The Advisory Committee recommends that the following rule and form amendments be published for public comment in August 2023. The rules and forms in this group appear in Bankruptcy Appendix B.

Action Item 6. Rule 3002.1 (Notice Relating to Claims Secured by a Security Interest in the Debtor's Principal Residence in a Chapter 13 Case). In response to suggestions submitted by the National Association of Chapter Thirteen Trustees and the American Bankruptcy Institute's Commission on Consumer Bankruptcy, the Advisory Committee proposed amendments to Rule 3002.1 that were published for comment in 2021. The amendments were intended to encourage a greater degree of compliance with the rule's provisions and to provide a more straightforward and familiar procedure for determining the status of a mortgage claim at the end of a chapter 13 case. The amended rule as published provided for a new midcase assessment of the mortgage claim's status in order to give the debtor an opportunity to cure any postpetition defaults that might have occurred. Provisions were added to prescribe the effective date of late payment-change notices and to provide more detailed provisions about notice of payment changes for home equity lines of credit ("HELOC"). The assessment of the status of the mortgage at the end of a chapter 13 case was changed from a notice to a motion procedure that would result in a binding order.

Twenty-seven comments were submitted on the proposed amendments. They included a letter from a group of 68 chapter 13 trustees who questioned whether there was a need for the amendments. They were particularly concerned about the midcase review because they said that it would impose an unnecessary burden on them and that the needed information about home mortgages is already available. They and other trustees also contended that the new requirements for the end-of-case motion would not work well in a case in which the debtor made mortgage payments directly to the servicer because the trustee would lack records about the postpetition

payments. The comments from some debtors' attorneys, on the other hand, welcomed the requirement of a midcase review. They pointed out that mortgage servicers' records are often inconsistent with trustees' and debtors' records and that an earlier opportunity to reconcile them would be beneficial. The National Conference of Bankruptcy Judges, while stating that it did not oppose the amendments, raised questions about the authority to promulgate several provisions. It also questioned whether the benefits of a midcase assessment and the revised end-of-case procedures were sufficient to outweigh the added burden on courts and parties imposed by the provisions.

At the fall 2022 meeting and by email afterwards, the Advisory Committee approved republication changes to the proposed Rule 3002.1 amendments in response to the comments. Among the changes were the following:

- The provision for giving only annual notices of HELOC payment changes was made optional. The provision is intended to be for the benefit of the claim holder, so if such a claim holder prefers to provide notices more frequently, there would be no reason not to allow it to do so.

- Significant changes were made to subdivision (f), which as published required a midcase review of the status of the mortgage claim. As revised, it would be optional, not mandatory; could be initiated by either the trustee or the debtor, not just the trustee; could be sought at any time during the case, not just between 18 and 24 months after the petition was filed; and would be initiated by a motion, not a notice. The claim holder would have to respond to the motion only if it disagreed with the facts set forth in the motion, rather than in all cases.

- Rather than starting with a motion by the trustee, as the published rule did, the end-of-case procedure would, like the current rule, start with a notice by the trustee indicating whether and in what amounts he or she had cured any prepetition arrearage and made any payments to the claim holder that came due postpetition. Rather than being triggered by the debtor's final cure payment, the notice would have to be filed "within 45 days after the debtor completes all payments due to the trustee" under the plan. As under the current rule, the claim holder would be required to file a response to the notice.

- If thereafter the trustee or debtor wanted the court to determine whether the debtor had cured all defaults and paid all required postpetition amounts, either one could file a motion for a court determination.

- In subdivision (h), authorization is given for "noncompensatory sanctions" in appropriate circumstances. Several comments suggested this addition in response to the Second Circuit's decision in *PHH Mortg. Corp. v. Sensenich (In re Gravel)*, 6 F.4th 503, 515 (2021), which held that "[p]unitive sanctions do not fall within the 'appropriate relief' authorized by Rule 3002.1." The Advisory Committee agreed with commenters that noncompensatory relief, whether punitive, declaratory, or injunctive, could be appropriate under some circumstances and therefore should be expressly authorized.

The Advisory Committee approved a few additional substantive and stylistic changes at the spring meeting.

Because the changes to the originally published amendments are substantial and further public input would be beneficial, the Advisory Committee asks to have the proposed amendments to Rule 3002.1 republished.

Action Item 7. Rule 8006(g) (Request for Leave to Take a Direct Appeal to a Court of Appeals After Certification). Rule 8006(g) currently requires that, within 30 days after the date the certification becomes effective, "a request for permission to take a direct appeal to the court of appeals must be filed with the circuit clerk in accordance with Fed. R. App. P. 6(c)." The rule is written in the passive voice and does not specify who is supposed to file that request for permission to take a direct appeal.

Bankruptcy Judge A. Benjamin Goldgar suggested that the rule be rewritten to clarify the existing meaning, which he (and the Advisory Committee) believes is that any party to the judgment, order, or decree can file the request for permission to take a direct appeal, not just the appellant who initiated the appeal.

At the spring 2022 meeting of the Advisory Committee, the Subcommittee on Privacy, Public Access, and Appeals recommended an amendment to Rule 8006(g) for publication. The reporter to the Standing Committee was concerned that the revised Rule 8006(g) might not work properly with Fed. R. App. P. 6(c)—which also addresses direct appeals from a bankruptcy court to a court of appeals—and asked the reporters for the Bankruptcy Rules Committee and the Appellate Rules Committee to work with their respective committees to ensure that the rules worked in a coordinated fashion.

An amendment to Rule 8006(g) that was the product of that collaboration was approved by the Advisory Committee at its fall 2022 meeting. Because the Appellate Rules Committee at its fall meeting created a subcommittee to consider related amendments to Fed. R. App. P. 6(c) and to report back at its spring meeting, the Advisory Committee decided to wait to seek approval from the Standing Committee for publication of Rule 8006(g) until publication was also sought for amendments to the appellate rule. The Appellate Rules Committee has now completed its work and is presenting amendments to Fed. R. App. P. 6 at this meeting for publication.

Action Item 8. Official Forms 410C13-M1, 410C13-M1R, 410C13-N, 410C13-NR, 410C13-M2, and 410C13-M2R. In 2021 the Standing Committee published five forms drafted to implement proposed amendments to Rule 3002.1 (Official Forms 410C13-1N, 410C13-1R, 410C13-10C, 410C13-10NC, 410C13-10R). The Advisory Committee deferred considering the comments submitted on the forms until after it approved changes to the rule in response to comments.

At the spring 2023 meeting, the Advisory Committee approved for publication 6 new forms to implement the revised amendments to Rule 3002.1. The new forms no longer include a mandatory midcase-trustee notice of the status of the mortgage. Instead, either the trustee or the debtor may choose to file a motion to determine the status of the mortgage claim at any point

during the case prior to the trustee's Final Notice of Payments Made. Official Form 410C13-M1 was drafted for that purpose. No distinction is made between cases in which the trustee makes postpetition mortgage payments and those in which the debtor does so. The moving party—either the trustee or debtor—must only provide the information that she has knowledge of. Official Form 410C13-M1R is the form for the claim holder's response to that motion.

After the debtor completes all payments due to the trustee under a chapter 13 plan, the trustee must file a notice of payments made on the mortgage. Official Form 410C13-N was drafted for that purpose. The claim holder then must file a response, using Official Form 410C13-NR.

If either the trustee or debtor wants a final determination of the mortgage's status at the end of the case, he can file a Motion to Determine Final Cure and Payment, using Official Form 410C13-M2. The claim holder, if it disputes any facts in the motion, must then file a response, using Official Form 410C13-M2R.

III. Information Items

Information Item 1. Suggestion to Require Complete Redaction of Social Security Numbers from Filed Documents. Senator Ron Wyden of Oregon sent a letter to the Chief Justice of the United States in August 2022, in which he suggested that federal court filings should be "scrubbed of personal information before they are publicly available." Portions of his letter, suggesting that the rules committees reconsider a proposal to redact the entire social security number ("SSN") from court filings, have been filed as a suggestion with each of the committees.

To a limited extent, the requirement that SSNs be included on bankruptcy documents, either in whole or in redacted form, is set forth in the Bankruptcy Code. Section 342(c)(1) provides that notices required to be given by a debtor to a creditor must contain the last 4 digits of the taxpayer identification number of the debtor. Section 110 requires disclosure of the complete SSN of a bankruptcy petition preparer ("BPP") on documents, such as the petition and schedules, prepared by the BPP. Changing those requirements must be left to Congress.

As to other situations in which the debtor's SSN (or a truncated version) is used on bankruptcy filings, the Advisory Committee has been informed that the Committee on Court Administration and Case Management of the Judicial Conference of the United States ("CACM") has requested the Federal Judicial Center ("FJC") to design and conduct studies regarding the inclusion of sensitive personal information in court filings and in social security and immigration opinions. Those studies would update the 2015 FJC privacy study and gather information about compliance with privacy rules and the extent of unredacted SSNs in court filings. The Advisory Committee has elected to defer consideration of the suggestion until those studies are completed.

Information Item 2. Deferral of Consideration of a Suggestion to Adopt a National Rule Addressing Debtor's Electronic Signatures. Attorney A. Bradley Goodman submitted a suggestion for the adoption of a national rule that would allow debtors to sign petitions and schedules electronically without the retention by their attorneys of the original documents with wet signatures. He says that "it is time to take everything electronic, without exception."

At the spring 2022 meeting, the Advisory Committee decided to take no further action on a suggestion by CACM that a national rule on electronic signatures of non-CM/ECF users be considered. The Advisory Committee decided that a period of experience under local rules allowing the use of e-signature products would help inform any later decision to promulgate a national rule. It reasoned that electronic signature technology will also likely develop and improve in the interim.

In light of that decision, the Advisory Committee decided to defer action on Mr. Goodman's suggestion. Not enough has changed since last year to provide the experience that the Advisory Committee seeks, and the rules committees' ongoing consideration of electronic filing by self-represented litigants may also have implications for the e-signature issue.

Information Item 3. Consideration of Suggestions Regarding the Required Course on Personal Financial Management. The Consumer Subcommittee has been considering a suggestion to change the timing of the notice to chapter 7 and 13 debtors under Rule 5009(b)—which reminds them of their need to file a statement of completion of a course on personal financial management—and a related suggestion to change the deadline for chapter 13 debtors to file the statement. As discussed at Action Item 3, the Bankruptcy Code generally requires individual debtors in chapter 7, in certain chapter 11 cases, and in chapter 13 to complete a course in personal financial management in order to receive a discharge. Rule 1007(c) provides the deadline for filing a statement certifying course completion: in a chapter 7 case, 60 days after the first date set for the meeting of creditors; in a chapter 11 or 13 case, no later than the date that the debtor makes the last payment as required by the plan or a motion is filed for a hardship discharge. In order to promote the debtor's compliance with these requirements, Rule 5009(b) provides that, if an individual debtor in a chapter 7 or 13 case who is required to file a statement under Rule 1007(b)(7) fails to do so by 45 days after the first date set for the meeting of creditors, the court must promptly notify the debtor of the obligation to do so by the prescribed deadline. The notice must also explain that the failure to comply will result in the case being closed without a discharge.

Professor Bartell submitted the first suggestion. Based on her research that revealed that in a recent year over 6000 cases were closed without a discharge because of the failure to file the required statement, she suggested that the Rule 5009(b) notice be sent just after the conclusion of the § 341 meeting and that, to the extent possible, a specific filing deadline should be stated. She suggested that, with the current timing, the notice may not reach the debtor or may be delayed by changes in address or circumstances and that the debtor's attorney may no longer be in contact with the debtor at that time. A notice sent at the conclusion of the meeting of creditors, she said, is more likely to reach the debtor and to be acted on, especially if it specifies a date by which compliance must occur.

The other suggestion, submitted by chapter 13 trustee Tim Truman, focuses on the deadlines in Rule 1007(c) for filing the statement of course completion. He suggested that the deadline for chapter 13 debtors be the same as the one for chapter 7 debtors—60 days after the first date set for the meeting of creditors—rather than when the debtor makes the last payment required by the plan. He explained that "[c]ompletion of the personal financial management course

at the beginning of the process rather than at the end is more beneficial to the debtor and better insures the successful completion of the plan."

In considering these suggestions, the Consumer Subcommittee has discussed a number of issues, including the following:

- Should the Rule 5009(b) notice be sent earlier?
- Should more than one reminder notice be sent?
- What date or dates should be selected?
- Should the timing of the 5009(b) notice be the same for chapter 7 and chapter 13 debtors?
- Should the deadlines for filing the certificates of course completion be changed?

At the spring meeting, the Subcommittee presented several options to the Advisory Committee for discussion, including proposals that the deadlines for filing certificates of completion be eliminated and that two reminder notices be sent: one relatively early in the case and a follow-up notice to those who did not file a certificate after the first notice. Based on the input it received, the Subcommittee will continue its deliberation and report back to the Advisory Committee at the fall meeting.

Information Item 4. Proposed amendment to Rule 1007(h) to Require Disclosure of Postpetition Assets. Bankruptcy Judge Catherine McEwen, a member of the Advisory Committee, submitted a suggestion to require the reporting of a debtor's acquisition of postpetition property in the chapter 11 case of an individual or in a chapter 12 or 13 case. She noted that Rule 1007(h) (Interests Acquired or Arising After Petition) requires the filing of a supplemental schedule only for property covered by § 541(a)(5)—that is, property acquired within 180 days after the filing of the petition by bequest, devise, or inheritance; as a result of a property settlement with a spouse or a divorce; or as a beneficiary of a life insurance policy. Not included within Rule 1007(h) are other postpetition property interests that become property of the estate under § 1115, 1207, or 1306. Judge McEwen suggested that the rules should impose a deadline for the disclosure of these other postpetition property acquisitions. She pointed out that a number of bankruptcy courts have imposed such requirements by local rule or administrative order.

Sections 1115, 1207, and 1306 of the Bankruptcy Code bring into the bankruptcy estate property that the debtor acquires after commencement of the case and before the case is closed, dismissed, or converted, as well as earnings for services performed by the debtor during that same period. No Code or Bankruptcy Rule provision expressly requires that a debtor disclose the acquisition of such property, although some disclosure is required by § 521(f). That provision requires a chapter 7, 11, or 13 individual debtor to file with the court, upon request, a copy of his or her federal income tax returns while the case is pending.

The Consumer Subcommittee considered the suggestion and recommended at the spring meeting that no further action be taken on it. The Subcommittee had concluded that currently there is not a problem that needs to be resolved by a national rule. Courts are not being prevented from requiring chapter 12 and 13 debtors and individual debtors in chapter 11 cases to supplement their schedules to report acquisitions of property or income increases while their cases are pending.

Indeed, courts impose such a requirement by several means, such as by local rule, administrative order, or model chapter 13 plan. The Subcommittee also considered the challenge of drafting an effective amendment to Rule 1007(h) to include property under §§ 1115, 1207, and 1306. It is not feasible to include within a supplementation requirement all postpetition property that comes within those provisions. Either specific types of property need to be stated, or the rule needs to describe some degree of impact on the debtor's financial condition, such as substantial or significant. A specification of types of property gives greater guidance, but it runs the risk of being underinclusive.

After the Subcommittee presented its recommendation at the meeting, Judge McEwen explained why she thought a national rule is needed. She noted that in the Eleventh Circuit there is a well-developed body of judicial estoppel law that is driven by nondisclosure in chapter 13 cases. Debtors lose the right to pursue undisclosed claims, and creditors lose the benefit of those claims. She noted that courts apply a rule of reasonableness to disclosure, even with respect to the initial statements and schedules in a case. Disclosure applies to meaningful assets. She said that she was asking for guidance not only for uniformity, but also to bring to the attention of debtors' counsel the importance of disclosure because it may end up hurting their own clients.

After a full discussion by the Advisory Committee, the matter was sent back to the Consumer Subcommittee for further consideration.