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HOW A BANKRUPTCY FRAUD SCHEME WORKS
Its basis in the corruptive power of the lots of money at stake in the U.S. Bankruptcy Code and the unaccountable power of the judges of the Federal Judiciary

A. Means, motive, and opportunity of the Federal Judiciary's institutionalized coordinated wrongdoing as its modus operandi

1. Coordinated wrongdoing in the Federal Judiciary is driven by (a) the most effective means, that is, lifetime unaccountable power to decide over people's property, liberty, and lives; (b) the most corruptive motive, *money!*, staggering amounts of money in controversy; and (c) the opportunity to put both in play in over 2 million cases a year.

2. Although thousands of federal judges and magistrates have served since their Judiciary was created in 1789 –2,132 were in office on 30sep09-, in the last 222 years only 8 have been removed[1]. Likewise, of the 9,466 judicial misconduct complaints filed during the 1oct96-30sep08 period reported online, 99.82% were dismissed with no investigation and no private or public discipline[2a]. In the 13-year period to 30sep09, judicial councils of federal circuits have denied up to 100% of petitions to review such dismissals2[b]. They in effect arrogated to themselves the power to unlawfully abrogate in self-interest the Act of Congress granting the people the right to complaint against judges and to petition for review of complaint dismissals[3]. Judges have also granted themselves absolute immunity from liability for deprivation of civil rights[4]. They have been assured that "A judge will not be deprived of immunity because the action he took was in error, was done maliciously, or was in excess

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[1] **a)** Federal Judicial Center, http://www.fjc.gov/history/home.nsf/page/judges_impeachments.html. To put this in perspective, 2,132 justices, judges, and magistrates were in office on 30 sep9; http://Judicial-Discipline-Reform.org/statistics&tables/num_jud_officers.pdf >njo:6; and "1 in every 31 adults [in the U.S.] were under correctional supervision at yearend '08"; Probation and Pa role in the U.S., 2008, Lauren E. Glaze and Thomas P. Bonczar, Bureau of Justice Statistics, DoJ, BJS Bulletin, dec9, NCJ 228230, p.3; http://bjs.ojp.usdoj.gov/index.cfm?ty=dcdetail&iid =271; and http://Judicial-Discipline-Reform.org/docs/statistics&tables/correctioneers/correctional_population_1in31.pdf; **b)** Cf. Const. Art. III, Sec. 1: "The Judges…shall hold their Offices during good Behaviour"; http://Judicial-Discipline-Reform.org/docs/US_Constitution.pdf

[2] **a)** Table S-22. Report of Action Taken on Complaints (in earlier years Table S-23 or S-24); Administrative Office of the U.S. Courts (AO), Judicial Business of the U.S. Courts; http://www.uscourts.gov/Statistics/JudicialBusiness.aspx; >collected and relevant values tabulated, http://Judicial-Discipline-Reform.org/statistics&tables/judicial_misconduct_complaints.pdf >Cg:1 & 5a/fn.18; **b)** id. >Cg:6, 7

[3] Judicial Conduct and Disability Act of 1980, §352(c) http://Judicial-Discipline-Reform.org/docs/28usc351-364.pdf. Complaint statistics are reported yearly under §604(h)(2) to Congress, which in its own interest ignores the Judiciary's misapplication of its Act; http://Judicial-Discipline-Reform.org/docs/28usc601-613_Adm_Off.pdf

[4] The Court in *Pierson v. Ray*, 386 U.S. 547 (1967), protected its own by granting judges absolute immunity for violating civil rights under 42 U.S.C. 1983, although it is applicable to "every person" who under color of law deprives another person of his civil rights. "This immunity applies even when the judge is accused of acting maliciously and corruptly". But see J. Douglas' dissent; http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?navby=case&court=us&vol=386&invol=547.

of his authority"[5]. To evade accountability, they hold their meetings behind closed doors[6]. By so doing, they ensure their historic unimpeachability. Since they are unaccountable, what they wield is not just enormous, but rather absolute power, which is the feature that renders it absolutely corruptive.[7]

3. As for the corruptive motive of money, judicial salaries constitute the top concern of federal judges.[8] Unfortunately for them, they do not fix their own salaries. By contrast, just the bankruptcy judges in only consumer bankruptcies ruled on $373 billion in CY10.[9] To that must be added the $10s of billions in commercial bankruptcies that they ruled on. The other federal judges also ruled on $10s of billions at stake in cases of eminent domain, fraud, breach of contract, antitrust, patents, etc. Their unaccountable power endows their wrongful ruling on such massive amount of money with the most irresistible attribute: risklessness.[10]

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[5] *Stump v. Sparkman*, 435 U.S. 349 (1978); http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?navby=case&court=us&vol=435&invol=349. Appeals from decisions holding malicious judges harmless are not a remedy: Most litigants cannot afford to appeal and ignore how to, especially if pro se; more than 99% of appeals to the Supreme Court are denied; so appeals offer no deterrence; http://Judicial-Discipline-Reform.org/statistics&tables/SCt/SCt_caseload.pdf.

[6] http://judicial-discipline-reform.org/Follow_money/unaccount_jud_nonjud_acts.pdf >2

[7] Lord Acton, Letter to Bishop Mandell Creighton, April 3, 1887: "Power corrupts, and absolute power corrupts absolutely".

[8] **a)** "I will reiterate what I have said many times over the years about the need to compensate judges fairly. In 1989, in testimony before Congress, I described the inadequacy of judicial salaries as "the single greatest problem facing the Judicial Branch today." Eleven years later, in my 2000 Year-End Report, I said that the need to increase judicial salaries had again become the most pressing issue facing the Judiciary." Chief Justice William **Rehnquist**, 2002 Year-end Report on the Federal Judiciary, p.2. http://www.supremecourtus.gov/publicinfo/year-end/2002year-endreport.html; and http://Judicial-Discipline-Reform.org/docs/Chief_Justice_yearend_reports.pdf >CJr:79

"[Administrative Office of the U.S. Courts] Director Mecham's June 14 letter to you makes clear that judges who have been leaving the bench in the last several years believe they were treated unfairly…[due to] Congress's failure to provide regular COLAs [Cost of Living Adjustments]…That sense of inequity erodes the morale of our judges." Statement on Judicial Compensation by William H. Rehnquist, Chief Justice of the United States, Before the National Commission on the Public Service, July 15, 2002. http://www.supremecourtus.gov/publicinfo/speeches/sp_07-15-02.html; and http://Judicial-Discipline-Reform.org/docs/CJ_Rehnquist_morale_erosion_15jul2.pdf

b) Congress's failure to provide regular COLAs [Cost of Living Adjustments]…That sense of inequity erodes the morale of our judges." Statement on Judicial Compensation by William H. Rehnquist, Chief "Congress's inaction this year vividly illustrates why judges' salaries have declined in real terms over the past twenty years…I must renew the Judiciary's modest petition: Simply provide cost-of-living increases that have been unfairly denied!" C.J. John **Roberts**, Jr., 2008 Year-end Report on the Federal Judiciary, p. 8-9. http://www.supremecourtus.gov/publicinfo/year-end/year-endreports.html >2008; http://Judicial-Discipline-Reform.org/docs/Chief_Justice_yearend_reports.pdf >CJr:162.

[9] http://Judicial-Discipline-Reform.org/statistics&tables/bkr_stats/bkr_dollar_value.pdf

[10] Salary's key importance for federal judges, fn.9, and their unaccountable power to dispose of money in controversy provide probable cause to suspect that they resort to wrongful self-help to supplement what they deem unfair salaries and lend credence to the evidence of their running a bankruptcy fraud scheme.

4. Eighty percent of all federal cases enter the Federal Judiciary through its bankruptcy courts. Of the 1,571,183 bankruptcy cases filed in the year to March 31, 2011, 1,516,971 were filed by consumers.[11] The overwhelming majority of them are individuals appearing in court pro se, for they lack the money to hire lawyers. They also lack the knowledge of the law to detect bankruptcy judges' wrong or wrongful decisions, let alone to appeal. As a result, only 0.23% of bankruptcy court decisions are reviewed by district courts and fewer than 8% by circuit courts.[12]

5. Even when a bankruptcy decision reaches the circuit court of the respective circuit, it is reviewed by the very circuit judges that appointed the bankruptcy judge.[13] They are biased toward affirmance, lest a reversal impugn their judgment for having appointed an incompetent or dishonest bankruptcy judge. Thereby they assure the immunity of their appointees. Consequently, bankruptcy decisions are the facto unreviewable. Even a small benefit ill-gotten from each case multiplied by so many cases adds up quickly to a very large benefit, such as a massive amount of ill-gotten money.[14]

6. In turn, circuit courts get rid of about 75% of all appeals by rubberstamping summary orders that carry no explanation and are non-precedential[15]; and about 15% by opinions so perfunctory[16a] and arbitrary that they mark them "not for publication" and "non-precedential"[16b]. To ensure that those decisions stand, they systematically deny review en banc of each other's decisions[17]. Finally fewer than 1 out of 100 petitions for certiorari to the Supreme Court is taken up for review.[18] Unreviewability[19] breeds arrogance. It turns federal judges into Judges Above the Law.

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[11] http://Judicial-Discipline-Reform.org/statistics&tables/latest_bkr_filings.pdf

[12] http://Judicial-Discipline-Reform.org/statistics&tables/bkr_non-biz&pro_se&appeals.pdf

[13] http://Judicial-Discipline-Reform.org/docs/28usc151-159_bkr_judges.pdf >§152(a)(1)

[14] See the more detailed statistical analysis at http://Judicial-Discipline-Reform.org/statistics&tables/bkr_stats/bkr_as_percent_new_cases.pdf

[15] http://www.ca2.uscourts.gov/clerk.htm >2nd Circuit Handbook, pg.17; http://Judicial-Discipline-Reform.org/docs/CA2_Handbook_9sep8.pdf >17. Summary orders have no opinion, appended explanatory statement, or precedential value. They are ad hoc, arbitrary, raw power fiats to ensure the needed unaccountability to cover up laziness, expediency, and wrongdoing.

[16] **a)** In *Ricci v. DeStefano*, aff'd per curiam, including Judge Sonia Sotomayor, 530 F.3d 87 (2d Cir., 9 June 2008); http://Judicial-Discipline-Reform.org/docs/Ricci_v_DeStefano_CA2.pdf, CA2 Judge Jose Cabranes sharply criticized the use of a meaningless summary order and an unsigned per curiam decision. id. >R:2, as a "perfunctory disposition" of that case; id. >R:6.

b) Unpublished opinions; Table S-3; U.S. Courts of Appeals-Types of Opinions or Orders Filed in Cases Terminated on the Merits After Oral Hearings or Submission on Briefs During the 12-Month Period Ending 30sep08; Judicial Business of the U.S. Courts, 2008 Annual Report of the AO Director; http://www.uscourts.gov/judbus2008/JudicialBusinespdfversion.pdf >p.44; http://Judicial-Discipline-Reform.org/statistics&tables/perfunctory_disposition.pdf. Cf. http://Judicial-Discipline-Reform.org/docs/CA2_summary_orders_19dec6.pdf

[17] CA2 Chief J. Dennis Jacobs wrote that "to rely on tradition to deny rehearing in banc starts to look very much like abuse of discretion"; *Ricci,* fn.16 >R:26. Thereby judges protect each other from review of wrong and wrongful decisions, abrogating in effect the right to petition for rehearing.

[18] http://Judicial-Discipline-Reform.org/statistics&tables/cert_petitions.pdf

[19] http://Judicial-Discipline-Reform.org/statistics&tables/bkr_non-biz&pro_se&appeals.pdf.

B. The mechanics of the bankruptcy scheme under the Bankruptcy Code[20]

7. Given that the Judicial Conduct and Disability Act[21] has been misapplied for decades, the Supreme Court has had no regular indication of the nature and extent of judicial misconduct and its impact on the integrity of the judiciary or the kind of justice that litigants receive and their current perception of "the appearance of justice"[22]. However, the Court is aware of a situation in the judiciary that is a potent cause for misconduct: *money!*[23] It has known for years that judges are discontent because of inadequate pay and Congress' failure to provide the promised regular COLAs (Cost of Living Adjustments). This problem has "serious effects", as Chief Justice Rehnquist put it:

> Although we cannot say that the judges who are leaving the bench are leaving only because of inadequate pay, many of them have noted that financial considerations are a big factor.[4] The fact that judges are leaving because of inadequate pay is underscored by the fact that most of the judges who have left the bench in the last ten years have entered private practice.[5] It is no wonder that judges are leaving when law clerks who join big law firms in large cities can earn more in their first year than district judges earn in a year. Inadequate pay has other serious effects on the judiciary. [Administrative Office of the U.S. Courts] Director Mecham's June 14 letter to you makes clear that judges who have been leaving the bench in the last several years believe they were treated unfairly…[due to] Congress's failure to provide regular COLAs…That sense of inequity erodes the morale of our judges. *Statement on Judicial Compensation by William H. Rehnquist, Chief Justice of the United States, Before the National Commission on the Public Service, July 15, 2002*; at http://www.supremecourtus.gov/publicinfo/speeches/sp_07-15-02.html.[24]

8. It cannot come as a surprise if such erosion of morale has stripped some judges of the moral standards that should prevent every person from resorting to illegal means of self-help to increase his income. Should one reasonably expect judges to have remained unaffected by the lure of money in the midst of a society that values material success above anything else and pursues it with unbound greed and conspicuous disregard for legal and ethical constraints?

9. In the bankruptcy context, the lure of money is extremely powerful because there is not just money, but rather lots of money.[25] Indeed, a bankruptcy debtor's approved plan of repayment of debts to

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[20] Excerpt from Dr. Cordero's petition to the Supreme Court of the United States for a writ of certiorari to the Court of Appeals for the Second Circuit in *Cordero v. Trustee Gordon et al.*, 04-8371, http://Judicial-Discipline-Reform.org/Follow_money/for_certiorari_SCt.pdf

[21] http://Judicial-Discipline-Reform.org/docs/28usc351_Conduct_complaints.pdf

[22] *In re Murchison*, 349, U.S. 133, 136 (1955)

[23] Here are applicable the aphorisms of Lord Acton, Letter to Bishop Mandell Creighton, April 3, 1887: "Power corrupts, and absolute power corrupts absolutely", and 1 Timothy 6:10: 'Money is a root of all evil and those pursuing it have stabbed many with all sorts of pains': When unaccountable power, the key component of absolute power, strengthens the growth and is in turn fed by the root of all evil, money, the result is that both corrupt absolutely and inevitably.

[24] http://Judicial-Discipline-Reform.org/docs/DrCordero_v_TrGordon_SCt.pdf, 04-8371 >A:1666§1

[25] In CY10 alone, bankruptcy judges ruled in just the consumer bankruptcies on *$373 billion!,*

his creditors[26] followed by debt discharge can spare the debtor an enormous amount of money. For instance, the plan in the *DeLano* case[27], contemplates the repayment of only 22¢ on the dollar. This means that its approval would spare the DeLano debtors 78% of their total liabilities of $185,462[28a] or over $144,462. This does not take into account all the money saved on their total credit card debt of $98,092[28b], which given their over 230 late payments would otherwise be charged annual compound interest at the delinquent rate of over 23%.

10. Others too can make lots of money. A standing trustee is appointed under 28 U.S.C. §586(b)[29] for cases under Chapter 13. He or she is technically a private person. But in fact, standing trustees are federal agents inasmuch as their performance is dictated and supervised by a U.S. trustee, who in turn is under the general supervision of the Attorney General, §586(c). However, standing trustees earn part of their compensation from 'a percentage fee of the payments made under the repayment plan of each debtor', §586(e)(1)(B) and (2).

11. After receiving a debtor's bankruptcy petition for relief from his debt burden –that is, his 'filing for bankruptcy'-, the standing trustee, who represents the interests of the creditors[30], is supposed to investigate the debtor's financial affairs to determine the veracity of his statements, 11 U.S.C. §1302(b)(1) and §704(4) and (7). If satisfied that the debtor deserves bankruptcy relief, the trustee approves the debtor's repayment plan. In that event, the debtor can count with the trustee's support when the plan is submitted to the court for confirmation, §1325(b)(1). A confirmed plan generates a stream of payments from which the trustee takes her fee. But even before confirmation, money begins to roll in because the debtor must commence to make payments to the trustee within 30 days after filing his plan and the trustee must retain those payments, §1326(a).

12. If the plan is not confirmed, which is likely if the trustee opposes its confirmation, the trustee must return the money paid, less certain deductions, to the debtor, §1326(a)(2). This provides the trustee with a motive to approve the plan and get it confirmed by the court because no con-firmation means no further stream of payments and, hence, no fees for her. That is a perverse motive, for it leads to a bankruptcy petition mill: To insure her take, the trustee might as well rubberstamp every petition

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http://Judicial-Discipline-Reform.org/statistics&tables/bkr_stats/bkr_dollar_value.pdf, in 1,583,081 cases, http://Judicial-Discipline-Reform.org/statistics&tables/latest_bkr_filings.pdf

[26] U.S. Bankruptcy Code, 11 U.S.C., http://Judicial-Discipline-Reform.org/docs/11usc_Bkr-Code_10.pdf, Chapter 13–Adjustment of Debts of an Individual with Regular Income

[27] *In re DeLano*, 04-20280, WBNY; http://Judicial-Discipline-Reform.org/Follow_money/DeLano_docs.pdf >§V >W:43

[28] **a)** Summary of Schedules; id., >W:49; **b)** Schedule F; id. >W:58

[29] http://Judicial-Discipline-Reform.org/docs/28usc586_trustees_duties.pdf

[30] 11 U.S.C. §1302(b)(1) makes applicable to the trustee under Chapter 13 most of the duties set out in §704 for the trustee under Chapter 7–Liquidation. The Revision Notes and Legislative Reports, 1978 Acts, on §704 state that 'the trustee represents the general unsecured creditors'. That representation requires the trustee to adopt the same inquisitorial, distrustful attitude that the creditors are legally entitled to adopt at their §343 meeting of creditors, where they examine the debtor. The Statutory Note on §343 unequivocally requires the trustee to adopt that attitude by explicitly stating: "The purpose of the examination is to enable creditors and ***the trustee*** to determine if assets have improperly been disposed of or concealed or if there are grounds for objection to discharge". (emphasis added).

and do whatever it takes to secure the confirmation of its plan by any judge or any other officer or entity that can derail confirmation, §1325(b)(1)(A). If the plan is not confirmed, the debtor is left at the mercy of any party in interest, which includes the creditors, or the U.S. trustee, any of whom can move the court for the debtor's estate to be liquidated under Chapter 7 or for his petition to be dismissed, §1307(c).

13. The trustee would be compensated for her investigation of the petition –if at all, for there is no specific provision therefor– only to the extent of "the actual, necessary expenses incurred", 28 U.S.C. §586(e)(2)(B)(ii); cf. 11 U.S.C. §330(a) and (c). Now, an investigation of the debtor that allows the trustee to require him to pay his creditors another $1,000 will generate a percentage fee for the trustee of $100 (in most cases, §586(e)(1)(B)(i)). Such a system creates another perverse motive:

14. The trustee and the debtor see it in their common interest to skip any investigation in exchange for an unlawful fee of, let's say, $300. This nets the trust three times as much as if she had sweated in an investigation of the petition and supporting documents; and saves the debtor $700. Even if the debtor has to pay $600 to the trustee for her to have money to 'grease' other officers –such as the judge to have him confirm the plan; an accountant[31a] to have her reduce the value of a debtor's debt by $1,000; or an attorney to have him crank out an opinion that a $1,000 contract with a creditor is invalid–, the debtor still comes $400 ahead.

15. To avoid a criminal investigation for bankruptcy fraud, a debtor may well pay more than $1,000 to the trustee or the judge who realized that the debtor concealed assets by declaring in the petition's schedules that he had $1,000 less than his bank account statement shows that he had or that he inflated his debt burden by declaring that he owed a $1,000 to a relative that a receipt shows he already paid. After all, it is not necessarily as if the debtor were broke and had no money for bribes. Obviously, the judge and the trustee can conspire with one or more creditors to violate bankruptcy law and share unlawful profits among them, e.g., by inflating debt, disapproving exemptions so as to increase the estate; not confirming the plan and granting a motion to liquidate the debtor's estate; liquidating estate properties at depressed prices to their own; etc.

16. Add the corruptive power of money to the corruptive power of judicial power that escapes any effective control and discipline system, let alone any investigation, and the end product is a morally corrosive mix. It can dissolve the will to abide by the oath of office already weakened by a "sense of inequity [over unadjusted judicial compensation that] erodes the morale of our judges", para. 7 above. In contact with such mix, due process ends up severely deteriorated. Judges, who with the assistant of trustees, clerks of courts, lawyers, etc., dispose of $100s of billions annually how-ever they want with statistically near certainty that their decisions will not be appealed and their wrongdoing exposed have the most insidious motive to engage in wrongdoing: riskless enormous profit.

17. What does an honest person have when he complains to the judges' peers, who either share in those profits, engaged in the same corrupt practice earlier in their careers so that they cannot risk an investigation that may end up incriminating them, or have shown knowing indifference or willful blindness to those judges' wrongdoing? A statistically near certainty that the complaint will be dismissed and a reasonable expectation that Judges Above the Law who engage in or tolerate corruption in bankruptcy court will do likewise in every other aspect of their work.

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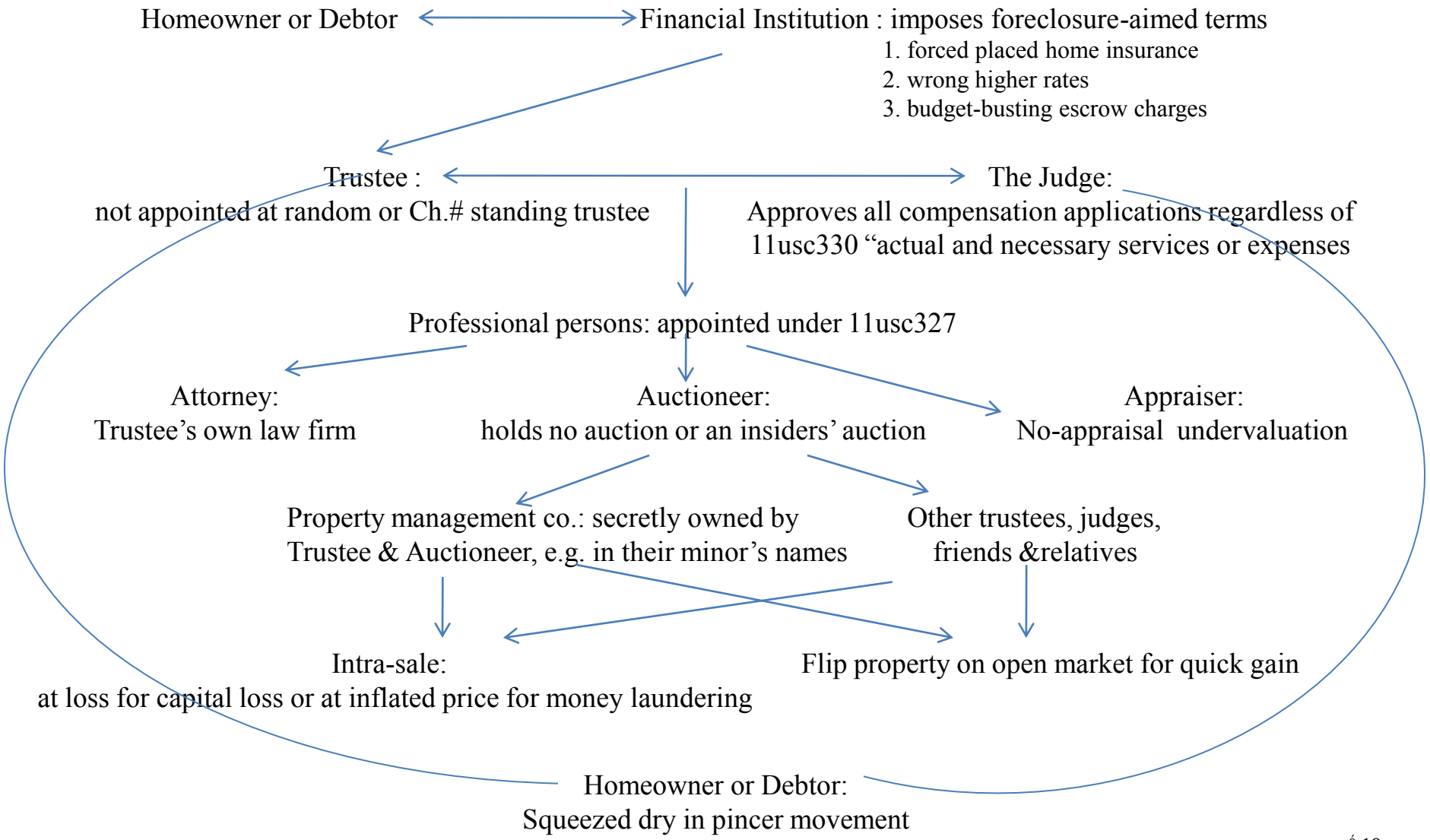
[31] **a)** Under §327–Employment of professional persons, (a), "…the trustee, with the court's approval, may employ one or more attorneys, accountants, appraisers, auctioneers, or other professional persons … to represent or assist the trustee in carrying out the trustee's duties this title [11 U.S.C.]"; **b)** Fn.2b

Fraudulent Coordination
Among The Main Players In The Bankruptcy System



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