

GLOSSARY

ADVERSARY PROCEEDING - A separate law suit within the bankruptcy case. Usually to determine if a specific debt is dischargeable or if a debtor has committed acts that make him/her not eligible for a discharge.

AUTOMATIC STAY-Section 362 of the Bankruptcy Code acts as a self- executing order to prevent the creditors from continuing any acts to collect a debt. All acts including: deducting payments from bank accounts, making telephone calls, repossessing items, filing law suits, obtaining judgments in law suits filed before the case is filed and sending collection letters are stopped by the automatic stay.

CONFIRMATION HEARING- In Chapter 13 or 11, this is the hearing in front of a Judge where creditors can object to the terms and conditions of the plan.

DEBTOR- the person filing for bankruptcy either a human being or a legal entity such as a partnership, LLC or Corporation.

DISCHARGE-the goal of a bankruptcy to eliminate all debt.

DISCHARGEABILITY-if debt fits into a category that makes it eligible to be discharged.

DISMISS-the case is disposed of prior to receiving a discharge usually because the debtor has not met a requirement for the case to continue or to receive discharge.

DISPOSABLE INCOME-A defined term in the bankruptcy code determined after the means test calculations which are based upon the prior 6 month's income compared with the state's median income and deducting expenses. The expenses are based upon the Internal Revenue standards in some categories and the Debtor's actual expenses in other categories.

DOMESTIC SUPPORT OBLIGATION-Alimony or child support owed by the Debtor.

EXEMPTION-A State or Federal law that allows debtors to keep property away from the creditors. Exemptions do not change the rights of secured creditors.

MEANS TEST-the calculation that determines if a debtor is eligible for a Chapter 7 or the length of the Chapter 13 or if there is a minimum amount that must be paid to unsecured creditors through a Chapter 13.

MOTION TO LIFT THE AUTOMATIC STAY- A motion a creditor files if they believe the debtor is not complying with either a Chapter 13 or 11 plan. It can be filed in chapter 7 if the debtor indicated he wants to surrender and item.

PANEL TRUSTEE- In Chapter 7, the trustee in charge of collecting non-exempt property selling it and making payments to creditors. In Chapter 13 it is the person who collects monthly payments from the Debtor and makes payments to creditors.

Reaffirmation Agreement – An agreement between a creditor and a debtor.

PREFERENCE-Payments made within a certain time frame known as the “look back period” prior to filing. The time frame depends upon the type of creditor. If it is a normal unsecured creditor, the look back period is 90 days prior to filing, if it is an insider such as a relative or business associate the look back period is a year.

PROFIT AND LOSS STATEMENT-a document that shows income and expenses for a business or self-employed individual.

PROPERTY OF THE ESTATE-everything owned by a debtor on the day of filing. This includes the right to sue people and corporations.

REAFFIRMATION AGREEMENT- an agreement between a creditor and a debt that allows the Debtor to remain personally liable on a debt even though a Chapter 7 discharge has been received.

REDEMPTION- Debtor can pay \$5,000 and get clear title to the vehicle. The debt usually has to be paid in a lump sum in order to complete the redemption.

SECURED CREDITOR-a creditor who has a security interest in a piece of property. The interest can be obtained either by a purchase money lien, a judgment lien or a grant of an interest in the title such as a title loan.

TRANSFER-parting with ownership of property either by granting a security interest in the property, selling the property for fair market value or signing the title over to a relative for nothing in return.

US TRUSTEE- a branch of the Justice Department. The job of the US Trustee is to police the bankruptcy system to make sure people don't try to defraud their creditors or the system. Their main job is to enforce the means test.

341 MEETING-the court hearing that all Debtors who file bankruptcy must attend. This gives the Creditors, Trustee and US Trustee the opportunity to appear and question the Debtor. It is very rare for creditors to attend.