

PERSONAL WORK SHEET FOR CHAPTER 7/13

1. Your full legal name: _____

Married / Widow / Widower / Never Married / Divorced / Married Living Apart / Single
(Please circle all that apply)

Names you have used during the past six (6) years:

Your Social Security Number: _____

Spouse's Full legal name: _____

Names spouse has used during the past six (6) years:

Spouse's Social Security Number: _____

2. List your home and business telephone numbers, and any car phone or fax numbers:

Home: _____

Work: _____

Spouse's Work: _____

Cell: _____

Spouse's Cell: _____

E-mail: _____

Spouse's E-mail: _____

Facsimile: _____

3. List your home address and any post office box, and indicate where you would like your mail to be received from this office and the Court.

4. Address(es) and dates for the last six (6) years:
- a. _____
Street Address, City, State and Zip Code _____ Dates _____
 - b. _____
Street Address, City, State and Zip Code _____ Dates _____
 - c. _____
Street Address, City, State and Zip Code _____ Dates _____
 - d. _____
Street Address, City, State and Zip Code _____ Dates _____
5. Prior Bankruptcy Filings? No _____ Yes _____
- a. If so, Date: _____ Court: _____
 - b. Provide copies of documents (i.e. Discharge, Petition, etc.)

REAL PROPERTY

1. List all real estate which you own or are buying: (PLEASE PROVIDE A COPY OF THE GRANT DEED(S) FOR EACH PARCEL OF PROPERTY LISTED.)

If more than one property, please answer questions 5 through 7 for each parcel owned.

Address (Location) _____

Market Value: _____

Basis for Valuation: _____

Date **First Mortgage** taken out: _____ Monthly Payments: \$ _____

First Mortgage Holder: _____

Payoff amount on First Mortgage: _____

Date **Second Mortgage** taken out: _____ Monthly Payments: \$ _____

Second Mortgage Holder: _____

Payoff Amount: _____

2. Any other liens on property? (i.e., property taxes or recorded tax liens or judicial liens - abstract of judgment) No: _____ Yes: _____ (If yes, provide information)

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3. What percentage ownership interest do you hold in this parcel?
 _____ 100% _____% (if less than 100%, provide names and addresses of other title holders)
4. Is the property in foreclosure? No: _____ Yes: _____ (if so, provide a copy of the foreclosure papers)
5. Have you had any other property foreclosed on in the last 4 years? No: _____ Yes: _____ If yes, explain.

PERSONAL PROPERTY

LIST THE VALUE OF ALL PROPERTY

1. Cash on hand. \$ _____
2. Checking, savings, or other financial accounts, certificates of deposit, or shares in banks, savings and loan, thrift, building and loan, and homestead associations, or credit unions, brokerage houses, or cooperatives.
LIST THE NAME AND ADDRESS OF THE BANK, AND THE AMOUNT WHICH WILL BE IN THE ACCOUNT AT THE TIME WE FILE YOU PETITION.

a. Checking:

Bank (name) _____ Amount: _____

Address: _____

Joint account? No: _____ Yes: _____

b. Savings:

Bank (name) _____ Amount: _____

Address: _____

Joint account? No: _____ Yes: _____

c. Certificates of Deposit:

Bank (name) _____ Amount: _____

Address: _____

Joint account? No: _____ Yes: _____

3. Security deposits with public utilities, telephone companies, landlords, and others.

(Provide name and address of entity holding the funds)

LIQUIDATION VALUE

- 4. Household goods and furnishings, including audio, video, and computer equipment.

- 5. Books, pictures, and other art objects, antiques, stamp, coin, record, tape, compact disc, and other collections or collectibles. _____
- 6. Wearing apparel. _____
- 7. Furs and jewelry. _____
- 8. Firearms and sports, photographic, and other hobby equipment. _____

- 9. Interests in insurance policies. _____
- 10. Annuities. _____
- 11. Interests in IRA, ERISA, Keogh, or other pension or profit sharing plans. _____

- 12. Stock and interests in incorporated and unincorporated businesses. _____

(LIST NAMES AND PERCENTAGES HELD)

Do you have any 401K's? No: _____ Yes: _____

Do you have any 403K's? No: _____ Yes: _____

Do you have any 401K Loan re-payments? No: _____ Yes: _____

- 13. Interests in partnerships or joint ventures. _____
(List Names and Percentages Held)
- 14. Government and corporate bonds and other negotiable and non-negotiable instruments.

- 15. Accounts receivable. _____
(Provide a Computer Printout, If Possible; Otherwise, List Names, Addresses, and Amounts Due)
- 16. **Alimony**, maintenance, **child support**, and property settlements to which you or the business is or may be entitled.

17. Other liquidated debts owing to you or the business including tax refunds. _____

18. Equitable or future interests, life estates, and rights or powers exercisable for the benefit of the either you, individually, or the business other than those listed in Schedule of Real Property.

19. Contingent and noncontingent interests in estate of a decedent, death benefit plan, life insurance policy, or trust.

20. Other contingent and unliquidated claims of every nature, **including tax refunds, counterclaims of either you, individually, or the business, and rights to set off claims.**

21. Patents, copyrights, and other intellectual property. _____
22. Licenses, franchises, and other general intangibles. _____

AUTOMOBILES

23. Automobiles, trucks, trailers, and other vehicles or accessories.

Car #1 Make _____ Year: _____ Model (SE/XLT, etc.) _____

Engine Size _____ Mileage _____

Dated purchased: _____ Purchase Price: _____

Name of lender: _____

Address of Lender: _____

Monthly payment: _____ Lease: No: _____ Yes: _____

Payoff Amount: _____ Fair Market Value: _____

Car #2 Make _____ Year: _____ Model (SE/XLT, etc.) _____

Engine Size _____ Mileage _____

Dated purchased: _____ Purchase Price: _____

Name of lender: _____

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Address of Lender: _____

Monthly payment: _____ Lease: No: _____ Yes: _____

Payoff Amount: _____ Fair Market Value: _____

Car #3 Make _____ Year: _____ Model (SE/XLT, etc.) _____

Engine Size _____ Mileage _____

Dated purchased: _____ Purchase Price: _____

Name of lender: _____

Address of Lender: _____

Monthly payment: _____ Lease: No: _____ Yes: _____

Payoff Amount: _____ Fair Market Value: _____

OTHER PERSONAL PROPERTY

24. Boats, motors, and accessories. (Describe Make, Model, Year, Size, Type Motor):

25. Aircraft and accessories. (Describe Make, Model, Year, Size, Type Motor):

26. Office equipment, furnishings, and supplies. _____

27. Machinery, fixtures, equipment, and supplies used in business. _____

28. Inventory. _____

29. Animals of show or breeding value. _____

30. Crops - growing or harvested. _____

31. Farming equipment and implements. _____

32. Farm supplies, chemicals, and feed. _____

33. Other personal property of any kind not already listed. _____

EXECUTORY CONTRACTS AND UNEXPIRED LEASES

1. If you or the business has any incomplete contracts or unexpired leases or **timeshares** not fully paid, please list them here. Additionally, please provide us a copy of any existing leases or agreements.

a. Name and Address of other parties to contract/lease:

b. Contract/lease for? _____

c. When was the Contract/lease entered: _____

d. What are the terms? _____

CODEBTOR(S)

List the name and address of any other party who has personally guaranteed or who shares liability for any existing debts:

Name: _____

Address: _____

What is the debt? _____

If there are others, list them on a separate sheet.

EMPLOYMENT

1. Debtor:

Are you employed? Yes _____ No _____

If yes, provide the name and address of your employer:

How long have you been with this company? _____

Position/Title: _____

2. Spouse:

Are you employed? Yes _____ No _____

If yes, provide the name and address of your employer:

How long have you been with this company? _____

Position/Title: _____

INCOME FROM EMPLOYMENT

Separately list the GROSS amount of income you and your spouse have received from your employment from the beginning of this calendar year to the date this case was commenced. Provide recent check stubs. State also the GROSS amount of income received during the two years immediately preceding this calendar year.

Debtor:

This year: \$ _____

Where employed: _____

Last year: \$ _____

Where employed: _____

Prior year: \$ _____

Where employed: _____

Spouse:

This year: \$ _____

Where employed: _____

Last year: \$ _____

Where employed: _____

Prior year: \$ _____

Where employed: _____

MONTHLY HOUSEHOLD BUDGET

HOW OFTEN ARE YOU PAID? (Please circle one)

Debtor: Monthly Twice a month Every two weeks Weekly

Spouse: Monthly Twice a month Every two weeks Weekly

PLEASE GIVE NAME AND AGES OF CHILDREN LIVING IN YOUR HOME

1. Name: _____ Age: _____

2. Name: _____ Age: _____

3. Name: _____ Age: _____

HOUSEHOLD EXPENSES:

Rent payment \$ _____

Mortgage

 1st Trust Deed Holder. \$ _____

 2nd Trust Deed Holder. \$ _____

 3rd Trust Deed Holder. \$ _____

Homeowner's Association Dues \$ _____

Utilities:

 Electricity and heating fuel \$ _____

 Water \$ _____

 Sewer \$ _____

 Telephone (Land Line) \$ _____

 Telephone (Cell). \$ _____

 Cable T.V. \$ _____

 Internet \$ _____

Home maintenance \$ _____

Food \$ _____

Clothing \$ _____

Laundry and dry cleaning \$ _____

Medical and dental expenses \$ _____

Transportation \$ _____

Recreation, clubs, and entertainment,
Newspapers, magazines, dues, etc.. \$ _____

Property tax \$ _____

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Property insurance \$ _____

Insurance:

 Life \$ _____

 Health \$ _____

 Disability \$ _____

 Auto \$ _____

Installment payments:

 Auto \$ _____

 401(K) Loan Repayments \$ _____

 Unpaid Taxes \$ _____

 Other \$ _____

Child Support \$ _____

Child Care \$ _____

Are You Contributing Money to Another Member of Your Family Not Living in Your Home?
 Yes _____ No _____ If Yes, Please Explain. _____

1. Payments from estate income.

Have you received any income from property of the estate during ONE YEAR immediately prior to the filing of this case? (i.e., income from rental property.)

Yes _____ No _____ If Yes, Please Explain.

2. Payments to creditors.

a. List all payments on loans, installment purchases of goods or services, and other debts, aggregating more than \$600 to any creditor, made within 90 days immediately prior to the filing of this case. _

b. List all payments made within one year immediately prior to the filing of this case to or for the benefit of creditors who are or were insiders. ("**Insiders**" are generally described as immediate relatives). _____

3. Lawsuits.

a. Are you suing someone else? Yes _____ No _____
 If Yes, Please Explain. _____

b. Is someone else suing you? Yes _____ No _____
 If Yes, Please Explain. _____

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4. Property Attached, Garnished or Seized.

a. Has any of your property been attached, garnished, or seized under any legal or equitable process within one year immediately prior to the filing of this case?

Yes _____ No _____ If Yes, Please Explain. _____

5. Repossessions, Foreclosures, and Returns.

Was any of your property repossessed by a creditor, sold at a foreclosure sale, transferred through a deed in lieu of foreclosure or returned to the seller, within one year immediately prior to the filing of this case?

Yes _____ No _____ If Yes, Please Explain. _____

6. Assignments and Receiverships.

a. Have you made any assignment of property for the benefit of creditors within 120 days immediately prior to the filing of this case?

Yes _____ No _____ If Yes, Please Explain. _____

b. Was any of your property in the hands of a custodian, receiver or court-appointed official within one year immediately prior to the filing of this case?

Yes _____ No _____ If Yes, Please Explain. _____

7. Gifts.

Have you made any gifts or charitable contributions within one year immediately prior to the filing of this case other than ordinary and usual gifts aggregating less than \$200 in value per individual and charitable contributions aggregating less than \$100 per recipient?

Yes _____ No _____ If Yes, Please Explain. _____

8. Losses.

Have you experienced any losses from fire, theft, other casualty or gambling within one year immediately prior to the filing of this case?

Yes _____ No _____ If Yes, Please Explain. _____

Have you received any remuneration in repayment of any of the losses listed above?

Yes _____ No _____ If Yes, Please Explain. _____

9. Payments Related to Debt Counseling or Bankruptcy.

Have you consulted any other persons, including attorneys, concerning debt consolidation, relief under the bankruptcy law or preparation of a petition in bankruptcy within one year immediately preceding the commencement of this case, **other than this office.**

Yes _____ No _____ If Yes, Please Explain. _____

If Yes, how much? _____

10. Transfers.

Did you transfer any property, either absolutely or as security within one year immediately prior to the filing of this case, other than in the ordinary course of business?

Yes _____ No _____ If Yes, Please Explain. _____

IF FOR SECURITY, PROVIDE A COPY OF THE SECURITY AGREEMENT.

11. Closed Financial Accounts:

Did you have any bank accounts or other accounts held in your name or for your benefit which were closed, sold, or otherwise transferred within ONE YEAR prior to the filing of this case?

Yes _____ No _____ If Yes, Name & Address of institution: _____

Date closed: _____ Amount at time of closing: _____

12. Safe Deposit Boxes.

Have you had a safe deposit box or other box or depository which has or had securities, cash, or other valuables in it within one year immediately prior to the filing of this case?

Yes _____ No _____ If Yes, Please Explain. _____

13. Setoffs.

Were any debts to any creditor including any bank, setoff by that creditor against a debt or deposit owing by the creditor to you during the year immediately prior to the filing of this case?

Yes _____ No _____ If Yes, Please Explain. _____

14. Property Held for Another Entity.

Is any property owned by another person being held or controlled by you?

Yes _____ No _____ If Yes, Please Explain. _____

15. If You Own a Business.

List the names and addresses of all businesses in which you were an officer, director, partner, or managing executive of a corporation, partnership, sole proprietorship, or a self-employed professional within the TWO YEARS immediately preceding the commencement of this case, or in which you owned 5 percent or more of the voting or equity securities within the TWO YEARS immediately preceding the commencement of this case. _____ None

Name: _____

Address: _____

Date Business Started: _____ Date Business Closed: _____

Type of Business: _____

16. Books, Records, and Financial Statements.

a. Have you kept books of accounts and records within six (6) years prior to the filing of the case?

Yes _____ No _____ If yes, describe: _____

b. Have your books been audited or has anyone prepared a financial statement for you within the past two years?

Yes _____ No _____ If Yes, Please Explain. _____

c. Does anyone besides you possess your books of account and records?

Yes _____ No _____ If Yes, Please Explain. _____

d. Have you issued a financial statement within the TWO YEARS immediately prior to the filing of this case to any creditor?

Yes _____ No _____ If Yes, Please Explain. _____

NECESSARY DOCUMENTS

PLEASE PROVIDE THIS OFFICE WITH COPIES OF THE FOLLOWING DOCUMENTS:

1. Completed questionnaire.
2. Signed Disclosures.
3. A list of all creditors and statements for the last six months, including:
 - (a) Complete addresses (including collection agencies),
 - (b) Account/loan numbers,
 - (c) Amounts(s) owing,
 - (d) Description of each debt, and
 - (e) Date debt was incurred; in the case of credit cards-when it was opened and when it was last used.

Please provide copies of billing statements from each of your creditors. Your actual bill is needed to verify the names and addresses of creditors so that they can be properly notified of your bankruptcy case. Notification of the bankruptcy case stops creditor harassment.

4. For each real estate mortgage:
 - (a) Copy of the latest statement(s) for each mortgage (i.e. first, second, lines of credit, etc.) showing the balance(s) due on the debt,
 - (b) Fair Market Value (Broker's Price Opinion, Zillow.com, Eppraisal.com),
 - (c) Copy of any recorded trust deeds, and
 - (d) Declaration Page from insurance policy on the property showing policy limits.
5. Complete list of all creditors (including names and address of creditors, amount(s) paid and dates upon which payments were made) to whom you made payments to in the aggregate amount of \$600 or more during the past 90 days (include name).
 - (a) A copy of your check register is good source for this information.
6. For each Car and or Car Loan:
 - (a) Copy of the latest statement(s) showing the balance(s) due on the debt,
 - (b) Fair Market Value (KBB.com or NADA.com, run two evaluations ("Private Party Sale" and "Trade-In Value") for each vehicle,
 - (c) Copy of the current DMV registration, and
 - (d) Declaration Page from insurance policy on the vehicle(s) showing policy limits.
7. Income tax returns for the last two years (including W-2, 1099, and K-1 information).
8. Copies of any documents related to any distributions from a retirement account (i.e. IRA, 401(k), 403(b), etc.) received during the last twelve calendar months.
9. Pay stubs for the last six calendar months.

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10. **Statements for all bank accounts (checking, savings, money market, certificates of deposit, etc.) for the last six (6) calendar months.**
11. **If self-employed, copies of monthly profit-and-loss statements for the past twelve (12) months.**
12. **A detailed list of your monthly living expenses (i.e., food, clothing, housing, utilities, taxes, transportation, medicine, etc.).**
13. **Copies of any lawsuits or judgments, regardless of whether Client is a plaintiff or defendant.**
14. **Copies of any divorce decrees and/or property settlement agreements entered into with the last three years.**
15. **Copies of any orders for child support or alimony obligations; and**
16. **Copies of any family trusts, prenuptial agreements, or divorce decrees.**

**IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES
FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER**

If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not, an attorney.

THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST.

1. Ask to see the contract before you hire anyone. "The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.
2. Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief available under the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations.
3. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affairs, as well as in some cases a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of creditors where you may be questioned by a court official called a 'trustee' and by creditors.
4. If you choose to file a chapter 7 case, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so. A creditor is not permitted to coerce you into reaffirming your debts.
5. If you choose to file a chapter 13 case in which you repay your creditors what you can afford over 3 to 5 years, you may also want help with preparing your chapter 13 plan and with the confirmation hearing on your plan which will be before a bankruptcy judge.

6. If you select another type of relief under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to find out what should be done from someone familiar with that type of relief.

7. Your bankruptcy case may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can give you legal advice."

ACKNOWLEDGMENT OF RECEIPT

The undersigned acknowledges that The Law Offices of Gerald L. Bohart, A.P.C. has given me/us a copy of this disclosure as required by Bankruptcy Code § 527(b)

Dated: _____

_____ Debtor

Dated: _____

_____ Debtor

PURPOSES, BENEFITS AND COSTS OF BANKRUPTCY

The United States Constitution provides a method whereby individuals, burdened by excessive debt, can obtain a fresh financial start and pursue newly productive lives unimpaired by past financial problems. It is an important alternative for persons mired deep in financial difficulty.

The federal bankruptcy laws were enacted to provide debtors with a fresh start and, to establish a ranking and equity among all the creditors who are clamoring for the debtor's limited resources. Bankruptcy helps people avoid the kind of permanent discouragement that can prevent them from ever reestablishing themselves as hard-working members of society. Also, creditors are ranked so that the debtor's nonexempt property can be fairly distributed according to established rules guaranteeing identical treatment to all creditors of the same rank.

This discussion is intended only as a brief overview of the types of bankruptcy filings and of what a bankruptcy filing can and cannot do. Anyone considering this course of action is encouraged to seek the advice and assistance of an attorney specializing in bankruptcy law.

Types of Bankruptcy

The Bankruptcy Code is divided into chapters. The chapters which usually apply to consumer , debtors are chapter 7, known as a Liquidation, and chapter 13, known as an Adjustment of the Debts of an Individual with Regular Income.

An important feature applicable to all types of bankruptcy filings is the automatic stay. The automatic stay means that the mere request for bankruptcy protection automatically "stays" or forces an abrupt halt to repossessions, foreclosures, evictions, garnishments, attachments, utility shut-offs, and debt collection harassment. It offers debtors a breathing spell by giving the debtor and the trustee assigned to the case time to review the situation and develop an appropriate plan. Creditors cannot take any further action against the debtor or the property without permission from the bankruptcy court.

Chapter 7

In a chapter 7, or liquidation case, the bankruptcy court appoints a trustee to examine the debtor's assets and divide them into exempt and nonexempt property. Exempt property is limited to a certain amount of equity in the debtor's residence, motor vehicle, household

goods, life insurance, health aids, specified future earnings such as social security benefits and alimony, and certain other personal property. The trustee may then sell the nonexempt property and distribute the proceeds among the unsecured creditors. Although a liquidation case can rarely help with secured debt (the secured creditor still has the right to repossess the collateral), the debtor will be discharged from the legal obligation to pay unsecured debts such as credit card debts, medical bills and utility arrearages. However, certain types of unsecured debt are allowed special treatment and cannot be discharged. These include some student loans, alimony, child support, criminal fines, and some taxes.

Chapter 13

In a chapter 13 case, the debtor puts forward a plan; following the rules set forth in the bankruptcy laws, to repay all creditors over a period of time, usually from future income. A chapter 13 case may be advantageous in that the debtor is allowed to get caught up on mortgages or car loans without the threat of foreclosure or repossession and is allowed to keep both exempt and nonexempt property. The debtor's plan is a simple document outlining to the bankruptcy court how the debtor proposes to pay current expenses while paying off all the old debt balances. The debtor's property is protected from seizure from creditors, including mortgage and other lien holders, as long as the proposed payments are made. The plan generally requires monthly payments to the bankruptcy trustee over a period of three to five years. Arrangements can be made to have these payments made automatically through payroll deductions.

Chapter 11

(Taken from the official Public Information Series Bankruptcy Judges Division brochure on "Bankruptcy Basics" prepared by the Administrative Office of the United States Courts, June 2000)

A case filed under chapter 11 of the United States Bankruptcy Code is frequently referred to as a "reorganization" bankruptcy.

Upon the filing of a voluntary petition for relief under chapter the debtor automatically assumes an additional identity as the "debtor in possession."

The term refers to a debtor that keeps possession and control of its assets while undergoing a reorganization under chapter 11, without the appointment of a case trustee. A debtor will remain a debtor in possession until the debtor's plan of reorganization is confirmed, the debtor's case is dismissed or converted to chapter 7, or a chapter 11 trustee is appointed. The appointment or election of a trustee occurs only in a small number of cases. Generally, the debtor, as "debtor in possession," operates the business and performs many of the functions that a trustee performs in cases under other chapters. 11 U.S.C. § 1107(a). A written disclosure statement and a plan of reorganization must be filed with the court. 11 U.S.C. § 1121.

The disclosure statement is a document that must contain information concerning the assets, liabilities, and business affairs of the debtor sufficient to enable a creditor to make an informed judgment about the debtor's plan of reorganization. 11 U.S.C. § 1125. The information required is governed by judicial discretion and the circumstances of the case. The contents of the plan must include a classification of claims and must specify how each class of claims will be treated under the plan. 11 U.S.C. § 1123. Creditors whose claims are "impaired," i.e., those whose contractual rights are to be modified or who will be paid less than the full value of their claims under the plan vote on the plan by ballot. 11 U.S.C. § 1126. After the disclosure statement is approved and the ballots are collected and tallied, the bankruptcy court will conduct a confirmation hearing to determine whether to confirm the plan. 11 U.S.C. § 1128.

The Chapter 11 Debtor-in-Possession

While individuals are not precluded from using chapter 11, it is more typically used to reorganize a business, which may be a corporation, sole proprietorship, or partnership. A corporation exists separate and apart from its owners, the stockholders. The chapter 11 bankruptcy case of a corporation (corporation as debtor) does not put the personal assets of the stockholders at risk other than the value of their investment in the company's stock.

A sole proprietorship (owner as debtor), on the other hand, does not have an identity separate and distinct from its owner(s); accordingly, a bankruptcy case involving a sole proprietorship includes both the business and personal assets of the owners-debtors. Like a corporation, a partnership exists separate and apart, from its partners. In a partnership bankruptcy case (partnership as debtor), however, the partners personal assets may, in some cases, be used to pay creditors in the bankruptcy case or the partners may, themselves, be forced to file for bankruptcy protection. Section 1107 of the Code places the debtor in possession in the position of a fiduciary, with the rights and powers of a chapter 11 trustee, and requires the performance of all but the investigative functions and duties of a trustee. These duties are set forth in the Bankruptcy Code and Federal Rules of Bankruptcy Procedure. 11 U.S.C. §§ 1106, 1107; Fed. R. Bankr. P. 2015(a). Such powers and duties include accounting for property, examining and objecting to claims, and filing informational reports as required by the court and the United States trustee, such as monthly operating reports. The debtor in possession also has many of the other powers and duties of a trustee including the right, with the court's approval, to employ attorneys, accountants, appraisers, auctioneers, or other professional persons to assist the debtor during its bankruptcy case.

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Other responsibilities include filing tax returns and filing such reports as are necessary or as the court orders after confirmation, such as a final accounting. The United States trustee is responsible for monitoring the compliance of the debtor in possession with the reporting requirements. in a small business case. 11 U.S.C. § 1102(a)(3). A small business case proceeds faster than a regular chapter 11 case because the court may conditionally approve a disclosure statement, subject to final approval after notice and a hearing and solicitation of votes for acceptance or rejection of the plan. Thereafter, the disclosure statement hearing may be combined with the confirmation hearing. 11 U.S.C. § 1125(f). In addition, the debtor has a shortened period of time (100 days from the date of the order for relief) within which only the debtor may file a plan.

Chapter 12

(Taken from the official Public Information Series Bankruptcy Judges Division brochure J on "Bankruptcy Basics" prepared by the Administrative Office of the United States Courts, June 2000)

Chapter 12 of the Bankruptcy Code was enacted by Congress in 1986, specifically to meet the needs of financially distressed family farmers. The primary purpose of this legislation was to give family farmers facing bankruptcy a chance to reorganize their debts and keep their farms.

Background

In tailoring chapter 12 to meet the economic realities of family farming, this law has eliminated many of the barriers that family farmers had faced when seeking to reorganize successfully under either chapter 11 or 13 of the Bankruptcy Code. For example, chapter 12 is more streamlined, less complicated, and less expensive than chapter 11, which is better suited to the large corporate reorganization. In addition, few family farmers find chapter 13 to be advantageous, because it was designed for wage earners who have smaller debts than those facing family farmers. In chapter 12, Congress sought to combine the features of the Bankruptcy Code which can provide a framework for successful family farm reorganizations. At the time of the enactment of chapter 12, Congress could not be sure whether chapter 12 relief for the family farmer would be required indefinitely. Accordingly, the law (which first provided that no chapter 12 cases could be filed after September 30, 1993) currently provides that no cases may be filed under chapter 12 after July 1, 2000. As of June 30, 2000, legislation is pending in Congress to extend that deadline.

The Bankruptcy Code provides that only a family farmer with "regular annual income" may file petition for relief under chapter 12. 11 U.S.C. §§ 101(18), 109(f). The purpose of this requirement is to ensure that the debtor's annual income is sufficiently stable and regular to permit the debtor to make payments under a chapter 12 plan. Allowance is made under chapter 12, however, for situations in which family farmers may have income that is seasonal in nature. Relief under this chapter is voluntary; thus, only the debtor may file a petition under chapter 12.

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Under the Bankruptcy Code, those eligible to file as "family farmers" fall into two categories: (1) an individual or individual and spouse and (2) a corporation or partnership. Those falling into the first category must meet each of the following four criteria as of the date the petition is filed in order to qualify for relief under chapter 12.

1. More than one-half of the outstanding stock or equity in the corporation or partnership must be owned by one family or by one family and its relatives.
2. The family or the family and its relatives must conduct the farming operation.
3. More than 80% of the value of the corporate or partnership assets must be related to the farming operation.
4. The total indebtedness of the corporation or partnership must not exceed \$1.5 million.
5. Not less than 80% of the corporation's or partnership's total debts which are fixed in amount must come from the farming operation owned or operated by
6. If the corporation has issued stock, the stock cannot be publicly traded.

What Bankruptcy Can and Cannot Do

Bankruptcy may make it possible for financially distressed individuals to:

1. Discharge liability for most or all of their debts and get a fresh start. When the debt is discharged, the debtor has no further legal obligation to pay the debt.
2. Stop foreclosure actions on their home and allow them an opportunity to catch up on missed payments.
3. Prevent repossession of a car or other property, or force the creditor to return property even after it has been repossessed.
4. Stop wage garnishment and other debt collection harassment, and give the individual some breathing room.
5. Restore or prevent termination of utility service.
6. Lower the monthly payments on debts, including secured debts such as car loans.
7. Allow debtors an opportunity to challenge the claims of certain creditors who have committed fraud or who are otherwise seeking to collect more than they are legally entitled to.

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8. Bankruptcy, however, cannot cure every financial problem. It is usually not possible to:
 - a. Eliminate certain rights of secured creditors. Although a debtor can force secured creditors to take payments over time in the bankruptcy process, a debtor generally cannot keep the collateral unless the debtor continues to pay the debt.
 - b. Discharge types of debts singled out by the federal bankruptcy statutes for special treatment, such as child support, alimony, some student loans, certain court ordered payments, criminal fines, and some taxes.
 - c. Protect all cosigners on their debts. If relative or friend co-signed a loan which the debtor discharged in bankruptcy, the cosigner may still be obligated to repay the loan.
 - d. Discharge debts that are incurred after bankruptcy has been filed.

Bankruptcy's Effect on Your Credit

By federal law, a bankruptcy can remain part of a debtor's credit history for 10 years. Whether or not the debtor will be granted credit in the future is unpredictable. In some cases it may actually be easier to obtain future credit, because new creditors may feel that since the old obligations have been discharged, they will be first in line. They also recognize that the debtor cannot again file bankruptcy for at least the next six years.

Debtors have the option after bankruptcy of voluntarily paying some creditors, such as a doctor or hospital, with whom they wish to maintain credit. The payments are voluntary and do not reaffirm the past obligation.

About Credit Counseling Agencies

11 U.S.C. § 342(b)(1)(8)

The following information is taken verbatim from the web site of the Federal Trade Commission - www.ftc.gov.

Credit Counseling

If you're not disciplined enough to create a workable budget and stick to it, can't work out a repayment plan with your creditors, or can't keep track of mounting bills, consider contacting a credit counseling organization. Many credit counseling organizations are nonprofit and work with you to solve your financial problems. But be aware that, just because an organization says it's "nonprofit," there's no guarantee that its services are free, affordable, or even legitimate. In fact, some credit counseling organizations charge high fees, which may be hidden, or urge consumers to make "voluntary" contributions that can cause more debt.

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Most credit counselors offer services through local offices, the Internet, or on the telephone. If possible, find an organization that offers in-person counseling. Many universities, military bases, credit unions, housing authorities, and branches of the U.S. Cooperative Extension Service operate nonprofit credit counseling programs. Your financial institution, local consumer protection agency, and friends and family also may be good sources of information and referrals.

Reputable credit counseling organizations can advise you on managing your money and debts, help you develop a budget, and offer free educational materials and workshops. Their counselors are certified and trained in the areas of consumer credit, money and debt management, and budgeting. Counselors discuss your entire financial situation with you, and help you develop a personalized plan to solve your money problems. An initial counseling session typically lasts an hour, with an offer of follow-up sessions.

Debt Management Plans

If your financial problems stem from too much debt or your inability to repay your debts, a credit counseling agency may recommend that you enroll in a debt management plan (DMP). A DMP alone is not credit counseling, and DMPs are not for everyone. You should sign up for one of these plans only after a certified credit counselor has spent time thoroughly reviewing your financial situation, and has offered you customized advice on managing your money. Even if a DMP is appropriate for you, a reputable credit counseling organization still can help you create a budget and teach you money management skills.

In a DMP, you deposit money each month with the credit counseling organization, which uses your deposits to pay your unsecured debts, like your credit card bills, student loans, and medical bills, according to a payment schedule the counselor develops with you and your creditors. Your creditors may agree to lower your interest rates or waive certain fees, but check with all your creditors to be sure they offer the concessions that a credit counseling organization describes to you. A successful DMP requires you to make regular, timely payments, and could take 48 months or more to complete. Ask the credit counselor to estimate how long it will take for you to complete the plan. You may have to agree not to apply for - or use - any additional credit while you're participating in the plan.

ACKNOWLEDGMENT OF RECEIPT

The undersigned acknowledges that The Law Offices of Gerald L. Bohart, A.P.C. has given me/us a copy of this disclosure as required by Bankruptcy Code § 527(a)(1) & § 342(b)(1).

Dated: _____

_____ Debtor

Dated: _____

_____ Debtor

FULL DISCLOSURE & ACCURACY

If you file bankruptcy -

A. The information that you provide to your attorney, the bankruptcy trustee, and the court in the course of your bankruptcy, both before and after you file your bankruptcy petition, must be complete, accurate and truthful.

B. All of your assets (everything you own that has value, such as real estate, personal items, vehicles, money, etc.) and all of your liabilities (all of your debts) are required to be completely and accurately disclosed in the documents filed to start your case, and the replacement value of each asset must be stated in those documents where requested after reasonable inquiry to establish their value. The value should be your best understanding of how much it would cost you to replace the item in the same or similar condition.

C. You must provide your attorney with a monthly budget, including your current monthly income, all of your regular expenses, and the amount of your income that is left over after deduction of expenses. In listing your income and expenses, try to avoid guessing or estimating, and do your best effort to be accurate and truthful. For income, you are required to provide information about all sources of your income, including your employment, any government assistance you may receive, social security, pension or other retirement income, income from side jobs, investment income, and similar sources.

D. The information that you provide to your bankruptcy attorney, the bankruptcy trustee, or the bankruptcy judge may be audited and will be available for inspection by the office of the United States Trustee, which is a branch of the U.S. Department of Justice.

If you fail to honestly and fully provide information about your property, income, expenses, and other financial circumstances, your case could be dismissed, and you could be subject to criminal sanctions.

ACKNOWLEDGMENT OF RECEIPT

The undersigned acknowledges that The Law Offices of Gerald L. Bohart, A.P.C. has given me/us a copy of this disclosure as required by Bankruptcy Code § 527(a)(2).

Dated: _____

Debtor

Dated: _____

Debtor

**The Law Offices of
GERALD L. BOHART, A.P.C.**

9988 Hibert Street, Suite 208
San Diego, California 92131
Telephone: (858) 536-5500
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gbohart@bohartlaw.com
www.bohartlaw.com

FRAUD & CONCEALMENT PROHIBITED

Debtor's Duties in Bankruptcy

If you decide to file bankruptcy, it is important that you understand the following:

1. Some or all of the information you provide in connection with your bankruptcy will be filed with the bankruptcy court on forms or documents that you will be required to sign and declare as true under penalty of perjury.

2. A person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury in connection with a bankruptcy case shall be subject to fine, imprisonment, or both. 11 U.S.C. § 342(b)(2)(A).

3. All information you provide in connection with your bankruptcy case is subject to examination by the Attorney General. 11 U.S.C. § 342(b)(2)(B).

ACKNOWLEDGMENT OF RECEIPT

The undersigned acknowledges that The Law Offices of Gerald L. Bohart, A.P.C. has given me/us a copy of this disclosure as required by Bankruptcy Code § 342(b)(2)(A) and (B).

Dated: _____

Debtor

Dated: _____

Debtor

NOTICE OF DEBTOR AUDITS

Commencing with cases filed by individual debtors on and after October 20, 2006, Chapter 7 and Chapter 13 cases will be selected for audit pursuant to §603(a)(1) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (“BAPCPA”). These Debtor Audits will be focused on determining the accuracy, veracity and completeness of petitions, schedules and other information provided by debtors under §§521 and 1322 of the Bankruptcy Code.

Cases will be selected both randomly (one out of at least every 250 cases filed for the district) and based upon debtor’s income or expenses having a greater than average variance from the statistical norm for the district. The Debtor Audits will be performed by independent firms selected by the United States Trustee pursuant to §603(a)(1) of the BAPCPA using auditing standards developed by the United States Trustee Program (the “USTP”). These Debtor Audit Standards have been published in the Federal Register and are posted to the USTP’s website at: www.usdoj/ust.gov.

The Office of United States Trustee will send a letter to Debtor’s Attorney, or a *pro se* Debtor, indicating that a case has been selected for audit, enclosing a form for the attorney to indicate whether the audit firm can directly contact a represented debtor about documents and an information sheet about the audit for the debtor. The letter will also identify the firm that will be conducting the audit and the documents that must be produced to the audit firm. These documents include the following:

- Pay stubs for the six calendar months prior to filing;
- Two years of federal tax returns, including any schedules and forms;
- Account statements for all depository and investment accounts for the six calendar months preceding the date of the filing of the petition, plus the month in which the petition was filed, along with sufficient documentation to reasonably explain the source of deposits or credits, and the purpose of checks, withdrawals or debits; and
- A copy of any divorce decree and/or property settlement entered within the last three years, and any current child support/alimony obligation involving the debtor.

Debtors will have 21 days to provide the audit firm with the requested documents. Debtors must cooperate with the audit firm (11 U.S.C. §521(a)(3)) and provide records to the auditor (11 U.S.C. §521(a)(4)). A debtor's discharge may be revoked if the debtor does not satisfactorily explain the failure to make available all documents or property requested by the audit firm. (1 U.S.C. Sec. 727(d)(4)(B)).

Once the audit is complete, the audit firm will issue a report which must specify any material misstatements of income, expenses, or assets that were identified by the audit firm. Before including a material misstatement in an audit report, the audit firm will contact the debtor's counsel, or the *pro se* debtor, in writing, notifying the debtor of the concern and offering the debtor an opportunity to provide an immediate written explanation for the item(s) in question.

Audit firms must file the audit report with the court and transmit it to the United States Trustee. Pursuant to 28 U.S.C. §586(a)(2), the clerk of court must send a notice to creditors in cases in which one or more material misstatements have been identified in an audit report.

If material misstatements are not adequately explained by the debtor, the United States Trustee may take appropriate civil action and, where appropriate, make a criminal referral to the U.S. Attorney. 28 U.S.C. §586(f)(2)(B)(1).

A public report will be issued annually by the USTP, and will include the percentage of cases by district in which a material misstatement is reported.

For more information regarding Debtor Audits, please visit the Program's website at www.usdoj/ust.gov.

ACKNOWLEDGMENT OF RECEIPT

The undersigned acknowledges that The Law Offices of Gerald L. Bohart, A.P.C. has given me/us a copy of this notice.

Dated: _____
Debtor

Dated: _____
Debtor

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