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Procedures for Chapter 7 & 13 Bankruptcy

The downturn in the economy has created a situation in many people's lives that leave them no alternative other than to file for bankruptcy. My firm offers clients the ability to efficiently file for Chapter 7 or Chapter 13 Bankruptcy in an environment that is most comfortable for them. My firm strives to bring forward the best legal avenue to handle the bankruptcy with honesty, integrity and maintenance of client dignity. For many, bankruptcy may be perceived as a failure of one's ability to successfully handle finances, and it can feel like the end of the world. However, as an attorney, I can help in instructing clients about the nature of bankruptcy and how it is designed to give people of all economic levels a fresh start. Once a client is comfortable with his or her decision, I can then move forward with the legal process.

CHAPTER 7 & CHAPTER 13 DEFINED

Chapter 7 Bankruptcy involves the liquidation of one's non-exempt assets in order to pay back as much debt owed as possible. Any debts that are not paid back from the liquidation will be discharged. Typically, a debtor who has no assets will end up with what is called a Liquidating 7, where all debts are liquidated. A debtor can re-affirm or keep paying certain debts, such as a mortgage or car loan if there is no equity in the asset and the payments are current.

Chapter 13 Bankruptcy is usually used when a debtor has assets that he wants to keep, such as a home, but he is behind in the mortgage payments or the asset has equity. The court will structure a monthly payment plan based upon the amounts of equity and the outstanding debt that the client has. A 3 year plan is allowed by code, but the court can approve a plan for a 5 year period based upon each individual situation.

If the client owns any real estate, an appraisal will be ordered immediately so that a determination can be made whether to file for Chapter 7 or Chapter 13.

The Intake Many clients who are forced to file for Bankruptcy have lost their jobs, become ill or are going through divorce. Each situation is going to be quite different, and will require a uniquely tailored approach. In response to this, I offer the client an opportunity to meet with me on-line, in the home, or in the office. I have designed a company web site that has a user-friendly link to a simple intake form that clients can fill out prior to a formal meeting. Clients who are ill and cannot leave home, and prefer a more intimate meeting can request that I meet within their home. An additional fee of \$400.00 will be charged for this service. Of course, those who desire a face-to-face meeting can meet with me at the office. The typical meeting time for a Chapter 7 or Chapter 13 Bankruptcy is usually 2-4 hours.

It is my goal to expeditiously handle the process so that the client is not inconvenienced and my firm does not expend unnecessary time or expense. Therefore, the meeting will encompass a combination of consultation, information gathering, and the collection of fees. The clients are advised to bring with them copies of all bills, 2 years' tax returns, pay stubs, car loan information, mortgage information, bank statements, retirement accounts, credit union statements and all other applicable information. Those who cannot leave their homes are asked to have this information ready for pick-up at the time of the visit.

CREDIT COUNSELING

In order to file for Bankruptcy, an individual must take an approved Credit Counseling Course and provide me with a Credit Counseling certificate prior to filing.

FILING

During the intake, the information is entered into its proper format via computer. It is then reviewed for errors and subsequently filed with the court. All bankruptcy filings in the Southern District of New York (i.e., Westchester, Putnam, Rockland, and Dutchess) are now filed electronically via the Internet. The electronic filing provides the client with instant relief from harassing creditors, because once the filing is completed, an automatic stay is instituted for all collection efforts. The court will send a letter to each creditor notifying them about the bankruptcy, and that the stay is in effect. After filing, a hard-copy version of the form will be printed and must then be signed by the client. Once completed, the signed form will be kept in the client's file.

341 MEETING

The court will send a notice to all interested parties once the 341 Creditor's meeting has been scheduled. Upon notification, I will call the client, confirm the receipt of their notice, and inform them that they will need to attend the meeting. In simple bankruptcy cases, the creditor meetings are quite uneventful and do not last more than 10 minutes. Usually, the creditors do not attend these meetings and the Trustee speaks to both the client and me about the case. Once the Trustee ascertains that the filing is legitimate and has been handled correctly, he or she will end the meeting. I will continuously keep the client informed as to what to expect.

FINANCIAL MANAGEMENT COURSE

In order to receive a discharge, an individual must take an approved Financial Management Course and provide me with a Financial Management Certificate. The Course can be taken with the same entity that the Credit Counseling Course was taken with. Chapter 7 filers must complete the Financial Management Course within 45 days after the first scheduled 341 meeting. Chapter 13 filers must complete the course prior to making all of their scheduled plan payments.

THE DISCHARGE

In Chapter 7 cases, the court will issue a discharge of the bankruptcy within 60 to 90 days. This means that the client is no longer financially responsible for any of the debts scheduled on the bankruptcy filing. The court will issue a discharge letter and send a copy to all parties involved, including the creditors. Once the office receives the discharge, a copy will be sent to the client with an explanation of what the discharge actually means.

Chapter 13 cases may involve more meeting time in order to determine an acceptable plan, and the proper administration of such a plan. They also entail an additional court appearance called a confirmation hearing.

CONCLUSION

I fully realize that undergoing the process of Bankruptcy is stressful and traumatic for most clients and their families. My goal is to make the experience a little less mysterious and to allow the client an opportunity to go through the process with support and empathy. Above all, I want to help the client endure this most difficult time while still maintaining his dignity.

For more information on this and other topics, please visit my website at

rcowlelaw.com