

Bankruptcy Basics

CHAPTER 7

Presenter

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- ▶ Jen is the creator of several innovative programs to deal with financial stress and rebuilding after financial disaster. She works closely with each client to come up with long-term solutions to make their lives bearable and allow the client to breathe again.
- ▶ Jen is the co-author of Preventing Credit Card Fraud: A Complete Guide for Everyone from Merchants to Consumers, published by Rowman & Littlefield in March of 2017. She is a graduate of the University of Richmond School of Law in Richmond, VA.



Purpose of Chapter 7

- The honest but unfortunate debtor
- Fresh start
- No debtor's prison

POLL CODE 1: JK947

2005 Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA)

- Latest overhaul to the bankruptcy code
- Developed a means test to qualify for Chapter 7
- Required credit counseling before filing
- Required debtor education before discharge

Identifying a Good Chapter 7 Candidate

- Types of debt
 - Credit Cards
 - Online Loans
 - Car Loans
 - Mortgages
 - Student Loans
 - Taxes
 - Other debts

Identifying a Good Chapter 7 Candidate

- Assets

 - Overview of exemptions in bankruptcy

 - Red flags when evaluating assets and options

- Income

 - Means test based on median income for household size

 - Business debt exception (or non-consumer debt exception)

 - Evaluating above-median incomes for qualification

Chapter 7

Intake

- Mandatory disclosures required § 342(b), § 527(a), and § 527(b)
- Signed agreement within 5 days § 528
- Explaining the process
- Evaluating for eligibility
- Retainer, fees, and disclosure of fees

Gathering Information

- Documents you should ask for from the beginning of the case
 - Bank statements for 6 months
 - Paystubs for 6 months
 - Tax returns for 3 years
 - Retirement account statements
 - Any other financial account statements
 - Insurance policy declaration pages
- Software options
- Credit counseling certificate requirement

Signing and Filing

- Review every page with the client
- Know your local rules for signatures and electronic signatures
- Electronic filing required

After Filing

- Meeting of Creditors pursuant to § 341
 - Often referred to as the trustee meeting or hearing
 - Trustee assignment and compensation
 - § 521 outlines documents required prior to the meeting
 - Prepping the client for the meeting
- Debtor education requirement
- Reaffirmation agreements

Discharge

- ▶ Approximately 90 days after filing
- ▶ Objections to discharge
- ▶ Case closing

Automatic Stay § 362

- Overview of the automatic stay
- Proceedings that are not stayed

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Discharge Violations § 524

- Enforcing the discharge order
- Best practices with creditors post-discharge