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ADVICE BEFORE FILING BANKRUPTCY

Thank you placing your confidence in our firm for bankruptcy representation. **Refer creditors who telephone you to us; tell them to call 303-954-9532 – at that number, creditors will hear a recorded message that confirms that you have retained our office for bankruptcy.** (except, DO NOT tell secured creditors, like home or car loan lenders, that you are filing bankruptcy). The following information will answer many questions about bankruptcy and the process of filing your bankruptcy.

If you have questions or need assistance:

First, write your questions down;

Second, review these materials for answers;

Third, go to www.my-bankruptcy-helper.com for answers;

Fourth, bring your questions to our review conference; and

Finally, if you can't find the answer and need an answer before we can meet for review, send an email to dchoskins@comcast.net and Mr. Hoskins will respond within 24 hours (or the next business day).

DO NOT DO THE FOLLOWING, without first consulting with Mr. Hoskins:

- Do NOT make changes in the way you conduct your financial affairs, except as indicated below.
- Do NOT move out of your residence (if it has a mortgage), nor turn in your car, nor surrender any mortgaged real or personal property.
- Do NOT transfer money or property, repay loans, dispose of assets or give anything to friends, relatives or close business associates.
- Do NOT use your credit cards or otherwise incur more debt.
- Do NOT spend money for anything that is not necessary for living. If you are expecting to receive or have received a lump sum of money prior to bankruptcy filing, contact Mr. Hoskins by email, BEFORE initiating the process to receive the money and BEFORE you spend the money or pay anyone. This includes tax refunds.
- Do NOT make any sales, purchases, withdrawals or other financial transactions, other than for normal living expenses;
- Do NOT purchase a car, house, or anything with a value of \$1,000 or more;
- Do NOT deposit money into a bank account where you owe money or to any Wells Fargo account. If you maintain a checking or savings account at a financial institution (bank, credit union) to which you owe on an unsecured debt, such as a promissory note, ready reserve, credit card, loan, line of credit, or auto or home loan, make no further deposits, and allow your balance to decrease to zero, the bank will close your account.
- Do NOT use personal checks, debit cards, or automatic withdrawals to pay bills within 2 weeks of filing your bankruptcy (Your case won't be filed until you have completely reviewed your bankruptcy documents with Mr. Hoskins and you have agreed when to file your case). Within 2 weeks of filing your case, we suggest that you pay bills with money orders or cashier checks until after your case is filed.
- Do NOT make payments of more than \$50/month to unsecured creditors (like credit cards or medical bills) prior to filing bankruptcy.

TAKE THESE ACTIONS:

- Open a new bank account(s), at a bank where you do not owe money (**do not bank at Wells Fargo!**).

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BANKRUPTCY PROCESS

Case Preparation:

Worksheet & Required Documents: It is your responsibility to complete the worksheet and return it, with required documents, to our office. Preparation of your case cannot begin, until we receive all requested information.

Draft Court Documents: From the information you provide to us (worksheet and required documents), we will prepare a draft of the Petition, Statement of Financial Affairs, Schedules A through J, Means Test, and other required documents. We will send these documents to you for review, along with a letter that advises you of missing information and of the next step. It is very important that you review and make corrections (or ask questions) on the draft documents, and bring them with you to the Review Conference.

Review Conference: You and Mr. Hoskins will review the draft documents (as corrected by you), together, page-by-page and line-by-line, until all the required information is complete and accurate. Once the documents are complete and accurate, they are ready to sign and file. You and Mr. Hoskins will decide together when to file your case. When you are ready, you will sign the petition, the statement of financial affairs, schedules, and other required documents.

Case Filing & Notice to Creditors:

Case Filing: On or about the agreed date for filing your case, our office will electronically file your case (as corrected) with the U.S. Bankruptcy Court, District of Colorado. You don't need to do anything further to make that happen.

Immediate Notice to certain creditors: If you have a garnishment, repossession, or foreclosure pending, as soon as a case number has been assigned, our office will immediately fax and/or email a notice of your bankruptcy to your employer (ONLY if wages are being garnished), the creditor's attorney (if garnishment, repossession or foreclosure is pending), and the public trustee of your county (if foreclosure pending).

Notice to you: We will also send you an email letting you know that your case has been filed, the case number, and the date of the creditors' meeting. Within the next two weeks, you will receive more detailed information and instructions for the next steps.

Notice to your creditors: The bankruptcy court will mail notice of your bankruptcy to all creditors listed in your case, within a week of the date of filing. You will receive in the mail a copy of the notice that has been sent to your creditors.

Creditors' Meeting & Case Administration:

Format of Meeting: The meeting will be held in a meeting room, open to the public. Generally, there are other folks going through bankruptcy, their attorneys, and attorneys representing creditors in the room. The meeting will be electronically recorded and you will be answering the questions of the Trustee and creditors under oath. We will provide you with a list of frequently asked questions.

Representation: Mr. Hoskins will meet with you before the meeting, just outside the meeting room, and answer any last minute questions. He will be at your side during the meeting and will represent your interests in the meeting.

Creditors – Your creditors may appear at the meeting and ask you questions about your finances. Generally, creditors do not appear. In the rare circumstances when creditors appear, it is because they believe they have a legitimate objection to the discharge of their claim. If we are aware of creditors with legitimate objections, we will discuss it and prepare you for that questioning.

Objections to Discharge – If the Trustee or any creditor has an objection to you receiving a bankruptcy discharge, they must file an objection within 60 days of your creditors' meeting. If we are aware of any reason for an objection to your bankruptcy discharge, we will discuss it and prepare you for that possibility.

Preparation: Within two weeks after filing your case, we will send you instructions for preparing for your creditors' meeting. At a minimum, we will require bank statements that show the balance of your bank accounts on the date that we filed your case and a paystub that shows what was owed to you on that same date (the first one received just after we filed).

Tax Returns: It is required by law that we provide the trustee a copy of your most recently required and filed tax return, no less than 7 days before the meeting. We should already have your most recent Federal and state tax returns in our file. If you file a tax return after we file your case, but before the creditors' meeting, please provide our office with a signed copy and we will deliver it directly to the local IRS office and the Colorado Department of Revenue.

Proof of Identity: It is **very important** that you have a valid, government issued, identity card that has your photo on it and your original, signed social security card for the meeting of creditors. If you do not present these two forms of identification at the meeting, the trustee may dismiss your case.

Chapter 7 –

Trustee Information Sheet – We will send you a blank Trustee Information Sheet that must be completed and returned to our office, one week before the creditors’ meeting, along with other documents requested in our written instructions.

Chapter 7 Trustee –

Eligibility to receive a discharge – The Trustee must verify that you are eligible to receive a chapter 7 discharge (we have already determined that you are eligible from the information you have provided)

Non-exempt assets – The Trustee will ask about your statement of financial affairs and schedules to determine whether you have any unprotected (non-exempt) assets that he can collect and sell to pay your creditors (we have already discussed this – there should be no surprises)

Exemptions – We have claimed all exemptions available to protect your assets, in Schedule C. If the Trustee disagrees with the exemptions that have been claim, he/she must file an objection within 30 days of the creditors’ meeting

Collection of Assets – If the Trustee is going to collect assets from you, he/she will ask you to sign an agreement that specifies what you will be required to turn over.

Chapter 7 Discharge – Unless some interested party objects and the court finds a legal cause for that objection, no sooner than 60 days after the creditors’ meeting, the court will issue an order discharging your debts.

Exceptions to Discharge – Certain debts are not discharged, such as most tax debt, most student loan debt, domestic support obligations, debts arising out of criminal actions, HOA dues accruing after filing of the case, debts allocated to you in a divorce, and certain debts for which the creditor must file a separate action in bankruptcy court to prove cause for non-dischargeability (such as debt incurred through fraud).

Secured Debt – Debt that is secured by collateral (such as your home mortgage or a car loan) is also discharged in chapter 7, but the lender’s lien is unaffected (if you default in payments, the lender can still foreclose on your home or repossess your car).

Chapter 13

Chapter 13 Plan – With your petition, we will file a proposed chapter 13 plan. We will prepare this plan based on the information that you provide and we will review it with you, before it is signed by you and filed with the court. In that plan you must pay the following:

Unpaid Attorney Fees – In our fee agreement, we will provide for payment of a certain amount of attorney fees before your case is filed and the balance through your chapter 13 plan payments. The total amount of attorney fees paid to our firm will be determined by the Bankruptcy Court Judge. We can only estimate the total amount in the plan. We intentionally estimate an amount in the plan that is greater than what we expect to charge to get your chapter 13 plan approved by the court.

Unpaid Domestic Support Obligations – You must pay any currently owed child support and spousal support, as ordered by the family court. 100% of any amounts of support obligations that are past due must be paid over the period of your chapter 13 plan.

Unpaid Taxes – You must pay 100% of any non-dischargeable tax debt over the period of your chapter 13 plan.

Mortgage and car loan arrears – If you want to keep your home and/or your car, and you are behind in payments, you must pay 100% of the arrears through your chapter 13 plan. The regular monthly payment due, beginning in the month after filing your case, must be paid directly to the lender.

Unsecured creditors – Through your chapter 13 plan, you must pay your monthly disposable income to the unsecured creditors (credit cards, medical providers).

Trustee’s Fee – The chapter 13 plan will provide for a trustee’s fee of 10% of all moneys paid through the plan.

Chapter 13 Trustee –

Eligibility to receive a discharge – The Trustee must verify that you are eligible to receive a chapter 13 discharge (we have already determined that you are eligible from the information you have provided)

Feasibility of Chapter 13 Plan – The Trustee must determine whether you are able to make the proposed chapter 13 payments; do you have enough income to pay your living expenses and the plan payment; are your living expenses reasonable

Payments to Creditors – The Trustee must determine whether your plan pays an appropriate amount to your unsecured creditors.

Best Interests of Creditors Test – Will your creditors receive as much through your chapter 13 plan as they would've received in a chapter 7? In other words, are the creditors receiving an amount equal to or greater than the value of your non-exempt assets?

Disposable Income – Does your chapter 13 plan devote all of your disposable income to your unsecured creditors? In other words, is all of your income, less reasonable and necessary expenses going to pay back your unsecured creditors?

Chapter 13 Plan Confirmation – Confirmation of your plan is a process that begins with your proposed plan . . .

Objections to Chapter 13 Plan – If the Trustee or any creditor has an objection to your proposed plan, they must file a written objection with the Bankruptcy Court, 3 court days before the creditors' meeting.

Resolving Objections to the Plan – If the Trustee or any creditor files an objection (they usually do), then we must either prepare an amended plan that resolves their objection, or we must tell the court that we have a dispute that requires a hearing.

Amended Plan – Usually objections made to the proposed plan are easily resolved; this is because we may not have had all the necessary information available when we prepared the proposed plan (like the correct amount due to the creditor – usually tax debt and mortgage or car loan arrearages), or we made an error in calculating the plan payments.

Once we know the correct amounts to pay, we simply file an amended plan.

The Court will order that notice be given of any amended plans, with a definite date by which objections must be filed.

If no objections are filed to the amended plan, then we file a “Verification of Confirmable Plan” letting the court know that it is proper to issue an order approving the plan.

Contested Confirmation Hearing – In rare circumstances, we may not be able to reach an agreement with an objecting creditor or trustee. Then we will ask the court to schedule a hearing at which you and other witnesses will testify and we will present evidence to demonstrate to the court that your proposed plan complies with the law and pays to creditors an appropriate amount. This is more expensive. Estimated attorney's fees and costs sufficient to pay for this proceeding will be added to your plan, and will be a factor in the calculation of your plan payment.

Confirmation Order – Either because no one objected or because the Bankruptcy Judge heard evidence and made a ruling in favor of the proposed plan, an order will issue that approves the plan and requires that you comply with its provisions; that is, make the required payments to the trustee and secured creditors. Once the plan is confirmed, all of your property is returned to your absolute control, except as provided in the plan.

Modification of Chapter 13 Plan – At any time during the period of your chapter 13 plan, if your income decreases or your expenses increase, or if you decide that you can no longer afford to pay for your home or your car, you may ask the court to modify your plan. We will ask you for an updated budget and proof of income, and prepare a modified plan. It will be filed with the court with a notice setting a deadline for objections. If no objections are filed, the court will approve the modified plan and you must make payments in accordance with that plan.

Chapter 13 Discharge – Once you have completed all plan payments, we will assist you in preparing a certification of your eligibility for a chapter 13 discharge, and we will file that with the court. The trustee also must file a certification that you have completed the plan. Once the court is satisfied that you have completed your plan, it will order the balance of your unsecured debt discharged.

Exceptions to Discharge – Certain unpaid debts are not discharged, such as most student loan debt, debts arising out of criminal actions, HOA dues accruing after filing of the case, and certain debts for which the creditor must file a separate action in bankruptcy court to prove cause for non-dischargeability (such as debt incurred through fraud or debts allocated to you in a divorce which are in the nature of child support).

Secured Debt – Debt that is secured by collateral (such as your home mortgage or a car loan) is not discharged in chapter 13, unless the collateral is surrendered in the chapter 13 plan.

MISCELLANEOUS ISSUES OF INTEREST

PROPERTY OF THE BANKRUPTCY ESTATE

As of the date of filing bankruptcy, your property legally belongs to the Trustee, subject to your claimed exemptions. Non-exempt property will be subject to being turned over to the trustee (chapter 7) or the value of that property will become the minimum amount you will pay to the bankruptcy trustee (chapter 13).

CASH RESOURCES

Large Amounts of Cash. If you are expecting to receive or have received a lump sum of money prior to bankruptcy filing, for example, monies from a closed PERA or stock account, 401(k) distribution, severance pay, lawsuit settlement, bonus, gift, inheritance, etc., contact our office for advice **BEFORE** initiating the process to receive the money and **BEFORE** you spend the money or pay anyone.

Bank Accounts. Do not bank at Wells Fargo Bank! Also, do not bank at any bank where you owe money. If you maintain a checking or savings account at a financial institution (bank, credit union) where you owe a debt, such as a promissory note, ready reserve, Visa or MasterCard, auto loan, home loan, or line of credit, do not make any further deposits into that bank. Instead, you should open up a separate checking account at another bank or credit union. It is best to open that new account prior to filing bankruptcy because some banks will not allow you to open an account after you have filed bankruptcy. Automatic payments to creditors should also be stopped.

Automatic payments – There are two ways of setting up automatic payments: 1 – by setting up the payment through your bank; or, 2 – by setting up the payment through the creditor. We recommend that you set up automatic payments through your bank; you will have control and can make changes more easily.

Direct deposits – It is important that you **stop immediately** any direct deposits into a bank to which you owe money and **any direct deposits into a Wells Fargo account.**

Bank Balances. Money in bank accounts may be non-exempt (that is, it can be taken by the bankruptcy trustee), depending upon the source of the funds. **To be safe, at the time of filing, the total in all bank accounts, should be below \$200.** It is your responsibility to have your account(s) under \$200 when your case is scheduled for filing. If your account balance will be more than \$200, please discuss with us at the time of signing. At the time of case filing, you should call your bank and confirm the balance and not rely on the balance in your check register. **DO NOT write checks or make deposits within two weeks of the anticipated filing date of your petition. If you need to pay bills, then we recommend that you pay such bills with a money order or cashier's check.**

REAL ESTATE

- **Foreclosure.**

- If your real property has already been sold in foreclosure, the filing of bankruptcy will not return the property to you.
- If the foreclosure is pending and you wish to keep the property,
 - file a “Notice of Intent to Cure” with the Public Trustee of your county (forms for that purpose may be obtained from the Public Trustee), and
 - provide our office with a copy of the Public Trustee’s response, as soon as you receive it.
- If you own investment real estate, be aware that should that property go into foreclosure, unfavorable tax consequences may arise when there is a bankruptcy petition in conjunction with a foreclosure. Specifically, if you have taken depreciation expense deductions on past tax returns, the filing of the bankruptcy and eventual foreclosure will result in the recapture of the depreciation and a potential tax liability. There may also be capital gains tax implications from the foreclosure. Please review this issue with your **tax preparer or accountant** so as to become fully informed of the forthcoming liability.

- **Keeping Property that is Collateral.**

- **Your Home:**
 - In Chapter 7, if you wish to keep your home, just keep making mortgage payments, maintaining insurance and paying property taxes. If, at any time, after the Chapter 7 discharge, you decide you can’t make the payments, you may simply let it go into foreclosure; the lender will not be able to sue you for the balance.

- In Chapter 13, if you wish to keep your home or other real property, the Chapter 13 Plan must provide for payments; and, you must complete the Chapter 13 Plan.
 - In Chapter 13, if the amount owed on your 1st mortgage exceeds the value of the property, you may be able to strip off a 2nd and subsequent mortgages.
- **Sale or Refinance.** If you plan to sell or refinance real property before, during, or after bankruptcy, please consult with Mr. Hoskins, before you commit yourself: - where you live and whether you are paying rent or a mortgage will have an effect on the Means Test calculation; and the title company, before you can close on a sale or refinance, will require an order of abandonment from the bankruptcy court. Obtaining that order requires extra fees and takes a minimum of 30 days to process. Please plan ahead by discussing this situation with us and your real estate agent well ahead of listing or selling your property.
 - **Judgment Liens.** We recommend that you obtain an ownership & encumbrance report (“O&E”) on your property to determine if any judgment liens exist. We can obtain this report from a Title Insurance company at a small cost. Judgment liens may be removed from the title to your home in some circumstances. Please make an appointment with an attorney in our office to discuss judgment liens on real property.
 - **Surrender.** If you are surrendering your house to the lender, and have moved out, write to the lender and advise them of your move-out and that the house is vacant. Be sure to remove all personal property from the house on or before the sale date. However, if you vacate the property before the foreclosure sale and delivery of trustee’s deed to the new owner, you are still the owner and are still responsible for its maintenance and any damages that may be caused to others on your property.
 - **Mortgage Loans.** You must be current in your house payments upon filing bankruptcy. If you are in default, the lender will begin immediately (within a few days of bankruptcy filing) the process of seeking the permission of the bankruptcy court to begin a foreclosure. So long as you remain current, the lender cannot foreclose (loan payments are typically due on the 1st of the month and are **IN DEFAULT ON THE 2ND** day of the month -You may not rely upon “grace” periods, and will be assessed late charges if payments are not made timely). Make your monthly payment even if you do not receive statements from the mortgage company.
 - **First Time Homebuyer’s Credit:** If you have received a **First-Time Homebuyer Credit** on your federal income taxes, depending on when you purchased the home, you may be required to repay the amount credited, **as part of your federal income taxes**, over a certain period of time. In addition, under certain circumstances, the entire amount of the credit will become due and payable in one tax year. In any event, the total amount of unpaid credit is a tax debt that must be reported as debt in your bankruptcy. Please consult with your tax preparer regarding this issue to make sure you are proceeding properly.

EXEMPTIONS

Most of your property will be exempt, as the law recognizes the necessity of certain things for living. For a listing of available exemptions, please visit my website, Client Resources (www.my-bankruptcy-helper.com). It will be your attorney’s responsibility to claim exemptions; be sure to ask about available exemptions for your property.

INHERITANCE or LIFE INSURANCE PROCEEDS

Any inheritance or life insurance proceeds to which you become entitled, within 180 days after filing of your bankruptcy, will become property of the bankruptcy estate. It is your obligation to amend the schedules of assets in your bankruptcy once you learn of any inheritance or life insurance proceeds. If that occurs, please contact our office for a consultation.

PROPERTY SETTLEMENT IN DIVORCE

Any property settlement to which you become entitled, within 180 days after filing of your bankruptcy, will become property of the bankruptcy estate. It is your obligation to amend the schedules of assets in your bankruptcy once you learn of any property settlement. If that occurs, please contact our office for a consultation.

DEBT

SECURED DEBT

If you borrowed money to purchase personal property, such as an automobile, or if you have given property as collateral on a loan, the creditor has a security interest in the property (for example: by placing its name on the title of a vehicle). Since the valuation of that property is very important, you should obtain a trade-in value (what a dealer would pay, in cash, to buy it) of your property by someone who deals in that type of property. For autos, you can check the www.NADA.com or www.KBB.com.

WARNING: If you are planning to keep mortgaged property (house, cars, etc.), there are many lenders who stop sending monthly bills. They believe the bankruptcy code prevents them from sending bills; however, they may

send them to our office. Our legal services contract does not include communicating any information sent to us to be forwarded to you. Therefore, you should contact the lender and request that they communicate (mail) any loan information to you.

Surrendering. Before surrendering property to the lender, discuss it with us, first. If we have advised you to surrender your car, take it to the lender's office and leave it. If you take it on a Sunday and lock the keys inside, you will avoid being hassled. Then write a letter and inform the lender what you have done. It is advisable that you maintain insurance coverage, until notified that the car will be sold, or for at least a month after you surrender the car.

Recent purchases of personal property that are titled by a certificate (e.g. automobiles & mobile homes) must be reviewed carefully for protection of your interests. If such property was purchased within 90 days of the filing of bankruptcy (12 months, if the lender is a friend, relative, or other insider), the lien rights of lenders must be recorded on the certificate of title within 30 days of purchase, or the vehicle may be lost to the bankruptcy trustee.

Cross-Collateral. If you have two or more debts owing to a credit union or other lender, one of which is secured by a motor vehicle, then the credit union or lender may claim that the motor vehicle is also security (cross-collateral) for the other unsecured debt. In such event, they will refuse to release the title to the vehicle until ALL of their debt is paid, including any unsecured debt owing to them. You may either surrender the vehicle, in which case all of your debt owing to them is discharged, or you may keep the vehicle and continue to make payments until the automobile loan is paid in full. You do not have to pay more than the balance owing on the vehicle loan, but the credit union or lender will refuse to return the title certificate. Thus, you risk paying off the vehicle loan, but never being able to sell or trade-in the vehicle. In some cases, creditors have repossessed the vehicle due to an unpaid line of credit or credit card.

Liens on Household Goods and Other Personal Property. If you borrowed money to purchase household goods, the lender probably has a purchase money security interest (PMSI) in those goods.

In chapter 7, if your household goods or other personal properties are collateral for a PMSI loan (obtained within one year), the law requires that you give a written statement of intention, choosing between reaffirming your loan for the goods, redeeming the goods (purchasing at its current retail value), or surrendering it to the lender. Failure to choose one of these options will result in the lender seeking to repossess. Because of the economics of lending money on household goods, in our experience, it is unlikely that the lender will be interested in repossessing most household goods. If you are in default on the purchase of furniture and appliances, our approach is to do nothing and wait for the creditor to make the first move, then negotiate a resolution. If you have expensive household goods, tools or luxury items that are collateral for loans, it is important that you discuss them at an office conference with one of our attorneys, **before** we file your case.

If you pledged your household goods as collateral to obtain a loan, then that lien may be terminated by the court, but you must inform us so that we can file the appropriate motion.

In chapter 13, if your household goods are collateral for a PMSI loan (obtained within 1 year), the 2005 bankruptcy law requires that you pay the PMSI creditor the retail replacement value of the item through the Plan.

DISCHARGE OF SECURED DEBT:

- A **Chapter 7 discharge** in bankruptcy ends your personal obligation to pay the debts that are secured by real estate, vehicles or other collateral, whether you are keeping the collateral or not. However, the bankruptcy discharge does not remove the lien, mortgage, or deed of trust; thus, the lender will still have the right to repossess/foreclosure in the event you default in payments.
- A **Chapter 13 discharge** ends your personal obligation to pay the debts that are secured by real estate, vehicles or other collateral, but only if you surrender the property to the lender as part of your Chapter 13 Plan. If you want to keep the collateral (e.g. your home or your car), you must make provisions in the Plan to pay any debt secured by that property.
- **HOA dues and assessments** incurred after your case is filed are non-dischargeable; so long as you own the property, you will have to pay the dues and assessments. However, if you are keeping your home, the HOA lien is not affected by the bankruptcy discharge and you will have to pay all dues & assessments.

NON-DISCHARGEABLE DEBTS. Some debts are non-dischargeable. These debts include the following: taxes; money obtained by fraud, false representations, or under false pretenses; debts based on fraud while acting as a fiduciary; omitted creditors; court-ordered child support and alimony/maintenance obligations; damages for willful and malicious injury to a person or property; and criminal fines, penalties, government fines, student loans, educational overpayments, debts to pay taxes, fines or penalties, condominium dues, assessments & obligations under HOA covenants, and drunk driving damages. Divorce property settlements and hold harmless covenants are not dischargeable in chapter 7, but they might be dischargeable in chapter 13. If these debts are non-dischargeable, it means that the creditor will continue to collect the debts. Some government creditors may recoup a non-dischargeable debt by withholding a payment due to you. If

you have personally guaranteed repayment of a debt of your business, your personal liability will be discharged; however, the liability of your business (corporation or limited liability company) will be unaffected.

CRIMINAL FINES AND PENALTIES. If you have been fined because of criminal violations, including traffic offenses, those fines or restitution orders are not dischargeable in bankruptcy. Therefore, make plans to repay those diligently, otherwise the judge could imprison you. Bad checks may or may not be dischargeable.

CHILD SUPPORT AND MAINTENANCE (Alimony)

Current Payments. Current child support and maintenance orders are non-dischargeable. Therefore, your budget should reflect the amounts necessary to meet that obligation. Bankruptcy does not prevent a judge from holding a person in contempt and jailing a delinquent person. If you are the recipient of child support or maintenance, you should reflect that on the income section of the worksheet. If the payments are not made regularly, you should average in the actual amount of child support or maintenance you are receiving into your income so that an accurate determination can be made of how much available income you have.

Arrearages. If you owe back child support or maintenance, you will have to pay. The law requires repayment of back alimony and back child support through a chapter 13 plan. If a plan is approved that does not provide for the repayment of back child support during the existence of the plan, the plan will not be confirmed. In addition, wage assignments or garnishments for child support or alimony collection will not be stopped by the filing of bankruptcy. If a garnishment occurs, that reduces the amount of income available to make the payments. If divorce payments are a problem in your case, please give us a copy of the documents that relate to the child support or maintenance order and any documents you have received from an attorney, district attorney, or other collection agency. Actions affecting driver's, tradesmen's or professional license due to non-payment of family support are not stopped by bankruptcy, and withholding of tax refunds for unpaid support is not stopped by bankruptcy.

CASH ADVANCES, BALANCE TRANSFERS, and RECENT CREDIT CARD USAGE. Credit card charges, cash advances, and balance transfers made on the eve of Bankruptcy filing may result in a creditor seeking a determination that its debt is not discharged in the Bankruptcy. To avoid that result **DO NOT USE CREDIT CARD or BORROW ANY MORE MONEY.** In addition, if you have had recent (within the last 6 months) transactions over \$1,000 on one account, continue making a minimal or token (e.g. something less than \$100) monthly payment to that creditor.

UTILITY BILLS

Bankruptcy discharges debts for utilities and telephone. However, the provider may require a deposit for future service. It is your obligation to work this out directly with the utility company.

PERSONAL PROPERTY LOANS AND LEASES

- **Recent purchases of personal property that are titled by a certificate** (e.g. automobiles & mobile homes) must be reviewed carefully for protection of your interests. If such property was purchased, and financed, within 90 days of the filing of bankruptcy (12 months, if the lender is a friend, relative, or other insider), the lien rights of lenders must be recorded on the certificate of title within 30 days of the purchase, or the vehicle will be lost to the trustee.
- **Keeping Property that is Collateral for a Loan:**
 - In Chapter 7, if you wish to keep your vehicles (or other personal property) that is collateral for a loan, you must continue to make payments and maintain insurance. However, the lender may repossess the collateral, simply because you have filed bankruptcy, unless you either redeem the collateral (pay off the loan) or reaffirm the loan (sign a new agreement). Discuss these options with Mr. Hoskins.
 - In Chapter 13, if you wish to keep your vehicles or other personal property that are collateral for loans, the Chapter 13 Plan must provide for payments; and, you must complete the Chapter 13 Plan.

COMMUNICATIONS WITH CREDITORS

After you have hired us to represent you, provide creditors that call with our firm name and this phone number - **303-954-9532** (**except secured creditors**, e.g. home loan or car loan). The creditor will proceed to call our office for confirmation that you will be filing a bankruptcy. A recorded message will inform the creditor that you have hired us to file bankruptcy. Collection agencies must stop contacting you, so long as you are represented by an attorney for purposes of filing a bankruptcy.

COURT APPEARANCES

If you are required to respond to a lawsuit, then **you should file an “Answer” before the appearance date stated on the Summons or within 20 days of the date the lawsuit was received by you, if no date is stated.** If you do not file an Answer, you will be in default and lose certain rights.

If you receive a **subpoena or contempt citation** that requires your appearance in court, you must appear, as ordered. If you have been served with **interrogatories**, you must answer them, as instructed. If you fail to appear when ordered or answer interrogatories, the court will issue a bench warrant for your arrest, and, upon arrest, place you in jail until you can be brought before the judge. **IF IN DOUBT, FILE AN ANSWER or ATTEND THE COURT HEARING.** Note: **You are not required to attend any hearing relating to foreclosure on a property you are giving up.**

CHANGE OF ADDRESS

During the period your case is open, and for two years thereafter, you must notify the court **in writing** of any changes in your address and/or telephone number. As part of our service to you, upon receipt of changed address information from you, we will notify the court.

DIVORCE OR LEGAL SEPARATION

Generally, we recommend that couples who intend to divorce or legally separate complete a joint bankruptcy first; but, if husband and wife are not filing a joint bankruptcy petition, we recommend that an individual bankruptcy be filed after the divorce is completed. It is important that you discuss the timing of your divorce and bankruptcy with a divorce attorney and Mr. Hoskins.

I hope this has been helpful,

Dave Hoskins