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## **\*INFORMATION ABOUT BANKRUPTCY\***

Bankruptcy is a legal process where, with honest and complete disclosure of your assets and liabilities, you are entitled to a discharge of all your dischargeable debts. A discharge means that you are no longer obligated to pay the dischargeable debt. Certain debts may not be dischargeable. Some non-dischargeable debts include student loans, child support, alimony, maintenance, federal income tax, or trust fund taxes. There are also certain types of debts that the Court can determine are not dischargeable such as debts that arose out of fraud, theft, or injuries arising out of the use of a motor vehicle or boat while under the influence of alcohol or drugs. If these types of debts are known to you, please discuss them with us now.

On April 20, 2005, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 were enacted. This Act is commonly referred to as the Reform Act or the BAPCPA. The changes that substantially affect you became effective October 17, 2005. This reform made the bankruptcy process more complicated, we are here to help you navigate this very complex law. However, you must timely provide the required information and documents and do the things necessary to complete your bankruptcy. In other words, **this is your Bankruptcy; its success depends on you.**

The object of bankruptcy is to receive a discharge of your debts and to restructure your financial obligations so that you can get on with your life. Bankruptcy can discharge your debts either in whole or in part, restructure debts that are still owed, manage your cash flow and permit you a fresh start.

Bankruptcy can also allow you to re-instate mortgages, save property such as homes and cars, and manage your payments. In a bankruptcy you are allowed to keep your exempt assets. We have discussed with you the different options available to you under the different chapters of the bankruptcy code that are applicable to your factual situation as you have disclosed it to us. As the process of preparing your paperwork occurs additional facts may be disclosed which may change the legal status of your situation.

You must inform us of any changes to your situation. When you have successfully completed your bankruptcy, the Court will issue a discharge of your dischargeable debts.

Before your final signing, you will carefully review your bankruptcy paperwork. At that time, if your situation has changed, you need to bring that information to our attention so that we can determine if it will impact your bankruptcy filing. Changes may include, but are not limited to, things you have sold such as a home, car, or piece of property, a changed home address, or changed employment.

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### **STEPS TO COMPLETING YOUR BANKRUPTCY PAPERWORK**

The process, though complicated, can be accomplished by individually doing each required step. **Read these instructions carefully and fully.** As you complete each part, check it off. It will also help you if you make a bankruptcy file. You should not only keep all the paper and information you accumulate to prepare your bankruptcy in the file, but also make a separate section for your bankruptcy paperwork that you will receive during your bankruptcy.

Please do not tell your creditors you are going bankrupt or refer your creditors to us until after your case has been filed with the Bankruptcy Court and you have received your Notice of Commencement of Case.

The Reform Act requires you to provide certain paperwork, complete a credit counseling course, file all unfiled tax returns and make certain disclosures. Under the changes by the Bankruptcy Abuse Prevention and Consumer Protection Reform Act, that became effective April 20, 2005.

Below is the required list of things that you must do in order to complete this initial step of your bankruptcy. We have provided you with a questionnaire and a list of required documents. Additionally, you must take a Credit Counseling course. Information on all components is in the subsections below. Read all sections carefully and call us if you have any questions.

- Complete your **Questionnaire**.
- Copy **Drivers License** and **Social Security card** for each person filing.
- Take your **Credit Counseling Course** for the Middle District of Florida and print out your Certificate.
- Copy of **Deed** or Title for all real property owned by you and/or your spouse.
- Copy of your latest **Property Tax Bill** showing the appraised value of your property.
- Copy of **Proof of Income**: Pay Stubs, Social Security, and/or Profit and Loss **Statement** for all contributing household members for the six (6) months prior to the month of filing.
- Copy the last two **Tax Returns** you filed with the IRS.
- Make an **Appointment** to bring back all your documents.

### QUESTIONNAIRE

Under the Reform Act, you are required to make substantial financial disclosures and to provide documentation to prove that the disclosures you are making are truthful. We have provided you with a questionnaire for you to complete. You must carefully and completely fill out the questionnaire. Please provide the information requested. You may use additional sheets if necessary. We are not here to transfer the information from your documents. So please completely fill out the questionnaire providing the information requested. Do not provide additional information with regard to your creditors other than what is requested.

You must list all your creditors. If you do not list a creditor, that creditor may not be discharged. You are entitled to an annual free credit report from the three major credit reporting agencies once a year for free. The report can be obtained by calling 877-322-8228 or on the internet at [www.annualcreditreport.com](http://www.annualcreditreport.com). You do not need to provide us with a copy of a recent credit report. The credit report is for your use to double check that you have listed all of your creditors. If you are not sure if you owe someone or a creditor any money, list them anyway. If you are going to make a mistake as to listing a creditor, better to have included a creditor that you did not owe money to than to fail to list a creditor. If you are going to err, it is better to err on the side of inclusion.

A creditor may designate on a bill sent to you an address at which they desire to receive bankruptcy notices. This will probably be in the fine print on the back of your monthly statement. Please use this address in your questionnaire, if no specific address is listed for bankruptcy purposes, then any address at which the creditor will receive its mail will be sufficient.

It is imperative that you fully and truthfully answer each and every question on your bankruptcy questionnaire. **Each question is very important. Your financial future may depend upon full disclosure.** In addition to disclosing all of your assets and all of your creditors, you must also disclose all transfers of property in the last **two years**. A transfer is a reassignment of an asset other than in the ordinary course of your business and affairs. Common types of transfers include, but are not limited to, any items that you sold, gave away, were taken from you, and/or pawned. Ask yourself if you: have traded or sold a car, bought or sold a house, or piece of real property, sold any stocks or bonds, gave any gifts, had a garage sale, or gave away any property or possession to anyone even if you received nothing in return for the property or possession.

If you are having trouble completing the questionnaire or have any questions, you can call and ask us questions over the telephone or make an appointment. We are here to help you. Please do not write or fax us letters as this takes too much time to compose an answer and the question you propose may require further inquiry.

#### **DRIVERS LICENSE and SOCIAL SECURITY CARD**

After you file your bankruptcy, you will need to meet with your Trustee at the Federal Court House in Fort Myers. He or she will need to see a copy of your current Drivers License with your home address accurately represented as well as a copy of your Social Security card showing your legal name and official social security number. If you do not have both available, now is the best time to obtain them and provide us with a copy.

#### **CREDIT COUNSELING CLASS**

You must complete **WITHIN 180 DAYS BEFORE FILING** a pre-bankruptcy briefing from an approved nonprofit budget and credit counseling agency which will advise you as to the opportunities for available credit counseling and budget analysis.

The U.S. Trustee in this district has approved the following agencies. None of the agencies are located in the district, but are available by telephone or by the internet. They are:

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Springboard Nonprofit Consumer Credit Management, Inc.  
800-947-3752  
www.credit.org

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Green Path, Inc.  
800-630-6718  
www.greenpath.com

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Money Management International, Inc.  
877-918-2227  
www.moneymanagement.org

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InCharge Education Foundation  
1-866-729-0049  
www.PersonalFinanceEducation.com

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Debt Education and Certification Foundation  
866-859-7013  
www.BKcert.com/code  
Attorney Code: BTX92096

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The credit counseling agency will mail, email, or fax you your certificate. You must have one certificate for each person filing. When you receive the certificate, make a copy for us to keep in your file, and place an additional copy in **your** own bankruptcy file. Please verify that your certificate is issued for the Middle District of Florida

#### **DEED**

All Real Estate Property must be listed on your Questionnaire as well as Time Shares and burial plots. If you own any property or shares in property we will need a **copy** showing legal ownership and legal description. The Clerk of the County in which the property resides should have the deed or title recorded in the Official County Record Books. Most County Clerks can furnish the document on-line via an internet search. Print out a copy for your files as well as a copy to bring in with the rest of your documents.

## PROPERTY TAX BILL

In addition to a deed or title to your property, we will need a copy of your most recent Property Tax Bill that shows your **property's assessed value**. Again, if you do not have your copy, the Property Appraiser's office in the county in which the property is located will have a copy. Please provide the copy that shows the Appraised Value of the property.

You need to contact one of the agencies to receive your credit counseling. When you have completed the credit counseling course, you will be given a certificate number. Write this number down along with the telephone number of the credit counseling agency. The credit counseling agency will either email, mail, or fax you a copy of your certificate. There must be one credit counseling certificate for each person filing. When you receive the certificate, provide us with a copy for your file and keep your original in **your** bankruptcy file.

## PROOF OF INCOME

You must provide us with **COPIES** of Payroll Stubs for each employed person, including a non-filing spouse, who contributes to the household income, documentation from a third party, or any other income other than social security for the **six (6) months** prior to the month of filing. If you receive Social Security or pension, we will need a **copy** of the letter you received stating what you will receive monthly from Social Security or pension fund. If these aren't available, you may copy the Deposit section of your Bank Statements showing the **Social Security or Pension direct deposits**. We do not need the whole bank statement, just the deposit page for the last six (6) months. If you own your own business or DBA you must provide us with a **Monthly Profit and Loss Statement** for the last six (6) months showing what income you have received from your business.

## TAX RETURNS

You need to provide us with a complete copy of your tax returns or tax transcripts for the **two (2) tax years** immediately preceding the filing of your case, **including W2 or 1099** statements. If you are not sure if you have filed, visit the IRS office, and request a transcript for all outstanding returns or amounts due. **Though you must file all tax returns for all previous tax years, please consult with us before the returns are filed to help you determine the timing of the filing in relationship to the bankruptcy.** If you have not filed taxes recently, you will need to sign an affidavit stating that you were below the required income level and therefore did not need to file returns.

**MAKE AN APPOINTMENT TO RETURN YOUR QUESTIONNAIRE**

Make an appointment to drop off your completed **Questionnaire** and documents. Making an appointment insures that your documents are filed correctly in your file, that you haven't missed any important information, and gives you a chance to have any additional questions that you might have answered. We WILL NOT accept documents without appointments.

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**GENERAL BANKRUPTCY INFORMATION**

Credit Card Usage

You may NOT use credit cards any longer. However, you may use the debit card associated with your checking account which may or may not have a credit card logo on it. If you use your credit cards within the ninety days prior to filing your bankruptcy, the credit card company can bar or block the discharge of all or part of the debt owed to that credit card company. Discuss your recent credit card usage with one of the attorneys if you have any questions or usage within this time period.

Bank Accounts

If you have a bank account (i.e., savings account, checking account, certificate of deposit, etc.) and you owe that bank money (i.e., home mortgage, car loan, personal note, credit card, etc.) it is time to change banks. Reduce the account to \$10.00 and transfer the balance to a new bank account at another bank. This should definitely be done before your bankruptcy is filed in order to avoid the bank from placing an administrative freeze upon your account and taking your money to satisfy any obligations you owe to the bank.

Florida allows you \$1,000 exemption of personal property per person if you claim a homestead exemption and an additional \$4,000 personal property exemption if you claim no Florida real property homestead exemption. It is necessary that you reduce all of your bank accounts to a total of not more than \$100.00 of cleared funds. This means that the balance in the bank after all checks have cleared should be less than \$100.00.

You should check the balances in your account(s) before authorizing us to file. This is especially important for clients filing Chapter 7, as The Chapter 7 Trustees regularly and the Chapter 13 Trustee sometimes, request all bank statements that reflect the balances in all accounts as of the date your case was filed.

## Pension and Profit Sharing Plans

In most cases, your pension and/or profit sharing plans may be exempt from your creditors' claims. However, there is no practicable way to assure you of this because the plan may not be properly managed, qualified, or uses the required words pursuant to the Internal Revenue Code or Bankruptcy Code.

## Avoiding Liens on Exempt Property

You may have a lien on your exempt property (such as a judgment lien on your homestead or a non-possessory, non-purchase money security interest in household goods and furnishings, etc.) that may be avoided. If you have such a lien and want it removed, it is your responsibility to inform us that you desire to avoid such liens. There is an additional charge for this service.

## Bankruptcy Tax Consequences

This office does not hold itself out as tax experts. Therefore, please consult your tax advisor or accountant as to your tax consequences, if any, of your filing for bankruptcy relief. You should advise your tax adviser or accountant that a discharge in bankruptcy affects the issue of income from forgiveness of indebtedness pursuant to 11 U.S.C. Sec. 346.

## Chapter 13 Secured Creditor Payments

Under the Reform Act current monthly mortgage payments, car payments and other secured debt may be paid through the plan. It is important that you read and understand what payments are being paid through the plan and what payments are not being paid for through the plan. Usually, current child support and alimony maintenance are paid directly to the recipient. Past due support and maintenance is to be paid through the plan as well as mortgage payments that are in arrears. If you are unsure, first read your plan and then if you need any clarification, please make an appointment to see us.

## Mortgage Foreclosure

If your home is in foreclosure and you are intending on trying to keep your home, **it is imperative that you advise us at least 14 days in advance of the sale date set in the foreclosure proceeding. Your Chapter 13 bankruptcy must be on file with the clerk of the bankruptcy court before the sale occurs or you will lose your home and we will be unable to help you save your home.**

## Reviewing Your Bankruptcy Papers

When your bankruptcy paperwork is completed, you will be given the opportunity to review it. You should do this thoroughly and carefully. This is your time to check the paperwork and make sure it is correct. We make every effort to correctly transpose your information. However, if your information, such as an address, zip code or social security number, is transposed incorrectly, and you do not catch it before your bankruptcy papers are filed, the error is yours and you may be required to pay for the amendment.

**Be advised that you are fully responsible for any errors in the paperwork. You are the one that is signing this paperwork under penalty of perjury.** If there is a mistake, the bankruptcy judge may hold you accountable. Therefore, please take your time and review the paperwork that will be submitted to the court with utmost care.

### SOME POST FILING REQUIREMENTS

After you have reviewed your documents and signed them with an Attorney, your bankruptcy Petition will be electronically filed with the U.S. Bankruptcy Court. Immediately after signing, you will be given a **"What Will Happen Next"** packet. It details all of your After Filing Requirements. Below are two Requirements that are so important they need to be mentioned.

#### Personal Financial Management Course

Before you can receive your discharge, you are required to complete a second personal financial management course. The same organizations listed previously provide this course. You cannot take the personal financial management course until after you file. We suggest that after you receive notice that your bankruptcy has been filed and you have the case number, that you again contact one of the previously listed organizations and take the personal financial management course, get your certificate, provide a copy to us and keep your original. This certificate must be filed with the U.S. Bankruptcy Court in order for you to receive your discharge.

## Certification Regarding Domestic Support Obligation by Debtor

If you have filed a bankruptcy under Chapter 13, you are required to certify that you are either current in your domestic support obligations or that you have no domestic support obligations. Domestic support obligations are payment of alimony, maintenance, support or child support. At the time that you sign your bankruptcy paperwork for filing, you will be given "What Will Happen Next". The **CERTIFICATION REGARDING DOMESTIC SUPPORT OBLIGATION BY DEBTOR** is attached to that paperwork. In addition, you cannot file the **CERTIFICATION REGARDING DOMESTIC SUPPORT OBLIGATION BY DEBTOR** until the last payment has been made pursuant to your Chapter 13 plan.

If you filed a Chapter 7 bankruptcy, you are not required to file a CERTIFICATION REGARDING DOMESTIC SUPPORT OBLIGATION BY DEBTOR. Be advised that past due and current domestic support obligations under the Bankruptcy code are non-dischargeable in bankruptcy and you will still be legally liable to pay those obligations.

### ADDITIONAL DISCLOSURES

The bankruptcy code requires that:

A. ALL INFORMATION THAT YOU PROVIDE WITH THE PETITION AND THEREAFTER DURING YOUR CASE IS REQUIRED TO BE COMPLETE, ACCURATE AND TRUTHFUL;

B. ALL ASSETS AND ALL LIABILITIES ARE REQUIRED TO BE COMPLETELY AND ACCURATELY DISCLOSED IN THE DOCUMENTS FILED TO COMMENCE THE CASE;

C. EACH ASSET MUST BE VALUED AT ITS REPLACEMENT VALUE. REPLACEMENT VALUE MEANS THE PRICE A RETAIL MERCHANT WOULD CHARGE FOR PROPERTY OF THAT KIND CONSIDERING THE AGE AND CONDITIONS OF THE PROPERTY AT THE TIME THE VALUE IS DETERMINED.

D. DISCLOSURE OF YOUR CURRENT MONTHLY INCOME SHOULD BE BASED ON YOUR LAST SIX MONTHS OF WAGE STATEMENTS OR OTHER MEANS AFTER REASONABLE INQUIRY.

E. ANY INFORMATION THAT YOU PROVIDE DURING YOUR CASE MAY BE AUDITED AND THAT FAILURE TO PROVIDE THE INFORMATION MAY RESULT IN DISMISSAL OF YOUR CASE OR OTHER SANCTION, INCLUDING A CRIMINAL SANCTION.

Remember we are here to help you. If you have any questions, please call or make an appointment.

The undersigned hereby acknowledge that I (we) have received a copy of Miller and Hollander's pamphlet "**Information About Bankruptcy**", read the above and fully understand it.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

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Date: \_\_\_\_\_

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Signature

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Signature

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