

THE CONSUMER BANKRUPTCY ASSISTANCE PROJECT

FRESH START CLINIC

CONSUMER BANKRUPTCY RESOURCE MANUAL

2011

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PLEADINGS AVAILABLE ON DISK AT THE CBAP OFFICES

ABOUT THIS MANUAL

The topics covered in this resource manual are intended to supplement the basic training you will receive in the Consumer Bankruptcy Practice Session. This manual is just one of many resources available to you during your service as a volunteer with the Consumer Bankruptcy Assistance Project. The area of consumer bankruptcy law and practice is rich and complex. Please refer to the more comprehensive treatment of this area of law as covered by Henry Sommer in *Consumer Bankruptcy Law and Practice*, (National Consumer Law Center).

Please let us know your suggestions for other topics or resource materials that you would find helpful. This manual will be updated as needed so that CBAP volunteers have access to the most current information in the area of consumer bankruptcy law.

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I. OVERVIEW OF CONSUMER BANKRUPTCY LAW

RECOGNIZING THE NEED FOR AND COUNSELING DEBTORS PRIOR TO FILING BANKRUPTCY

When consulted by a client with a debt problem, it is generally appropriate to review the client's whole debt structure. The particular debt crisis that brought the client into the office is often a symptom of a greater problem. In such cases, it is often necessary to attack the debt problem as a whole through bankruptcy. Having more debts than assets, a very common situation, is not in and of itself necessarily a sufficient reason to choose bankruptcy. The client may be so poor that creditors would gain nothing by suing. Examples of common situations where an indigent debtor may benefit from bankruptcy, however, include cases of creditor harassment, threatened utility shut-offs, and threatened execution against significant assets, such as a car or house or a bank account.

Bankruptcy can have a wide variety of uses for low income clients. It can be used to save utilities and homes, prevent execution against the clients' property, save driver's licenses by discharging an auto accident judgment, prevent eviction, or discharge public benefit overpayments.

A. WHAT IS BANKRUPTCY?

In order to be able to recognize preliminary candidates for bankruptcy, it is necessary to have a basic understanding of bankruptcy law and procedure. In "straight bankruptcy" (Chapter 7 of the Bankruptcy Code), all non-exempt assets of an eligible debtor are liquidated. Creditors who file claims are then paid off with the proceeds on a pro rata basis. Under Chapter 13 of the Bankruptcy Code, by contrast, a debtor with "regular income" may present a good faith plan to make payments to creditors over a period of time. Once a bankruptcy has been filed, creditors are informed of the filing by the court and notified that, in most instances, they are barred from attempting to collect on any debt listed in the bankruptcy petition.

Bankruptcy can also be viewed as an administration of the debtor's financial situation as of the day that the petition is filed. Usually, the court will only be concerned with the debtor's assets and obligations as of that date. In both Chapter 7 and Chapter 13 bankruptcies, the court will determine how much money is to be distributed to creditors and what property can be kept by the debtor. Generally, in Chapter 7 cases, the bankruptcy court will have no jurisdiction over debts incurred or property acquired subsequent to the day the petition was filed. As a practical matter, then, this means that the "fresh start" commences with the filing of the petition.

B. ASSETS AND EXEMPTIONS (CHAPTER 7)

When a petition relating to an individual debtor is filed under Chapter 7, the debtor submits a list of all assets and all creditors. The debtor may then elect his/her exemptions either under state law or the federal bankruptcy exemptions found at 11 U.S.C. §522(d). The exemptions determine whether the debtor can protect his or her property because all non-exempt property is subject to liquidation by the bankruptcy trustee.

As explained below, the exemptions a debtor may take are usually expressed in maximum dollar amounts for particular types of property. The debtor seeks to exempt the value of the debtor's interest in the particular property. The debtor's interest in the property is measured by subtracting the amount any liens which have attached to the property from the value of the encumbered property. A lien should be conceptualized as a property interest of a creditor (usually in the form of a security interest, a judicial lien or a statutory lien) which diminishes the debtor's interest in the encumbered property.

The federal bankruptcy exemptions include \$18,450 in real estate, \$2,950 in equity in a motor vehicle, \$9,850 in value in certain life insurance policies, \$1,850 in tools of trade, and the debtor's interest (up to \$475 in value in any particular item) in household furnishings, wearing apparel, and goods not to exceed \$9,850 in the aggregate. 11 U.S.C. §522(d). A married couple may, but need not, file jointly. If they do file jointly, the exemption amounts are doubled. 11 U.S.C. §522(m). There are other federal exemptions that cover public benefits, some tort claims, social security and veterans' benefits and pensions; etc.

The alternative to the federal exemptions is to elect the exemptions available under other, non-bankruptcy federal, state or local law. Pennsylvania provides for the following exemptions:

- a) \$300.00 in any form of property
- b) a sewing machine
- c) all wearing apparel
- d) an American flag
- e) the family Bible
- f) retirement funds

The most significant of the Pennsylvania exemptions is the common law exemption of property (both real and personal) owned by a husband and wife as tenants by the entireties. Property held jointly by a husband and wife would not be subject to distribution if only one spouse files the bankruptcy and elects the state exemptions. However, entireties property is not exempt from the debts of joint creditors of both husband and wife in bankruptcy. Therefore, this exemption is useful primarily when only one spouse has all the debts or the amount of jointly owed debt is minor.

All property which is not exempt may be lost by the debtor because it may be taken by the trustee and sold so that the proceeds can be distributed to the debtor's creditors. The debtor may also lose property if the debtor is unable to maintain payments on debts which are secured by specific property, although in this situation, the property is lost to the secured creditor, not the bankruptcy trustee.

Cases where the exemptions cover all of the debtor's property are called "no asset" cases, meaning that there are no assets to be administered by the court or distributed to the creditors. All cases referred by the Consumer Bankruptcy Assistance Project (CBAP) are initially determined to be "no asset" cases, and the volunteer attorney should verify this as part of the planning process.

C. DISCHARGEABLE AND NON-DISCHARGEABLE DEBTS (CHAPTER 7)

In a Chapter 7 case, regardless whether any property of the debtor is liquidated by the bankruptcy trustee, the debtor's debts are discharged, and creditors are forbidden from attempting to collect on them. See 11 U.S.C. §524. However, if a debt falls under one of the categories of debt that are excepted from the Chapter 7 discharge by 11 U.S.C. §523(a), the debt may not be discharged.

The most important categories of debts which are not dischargeable in a Chapter 7 bankruptcy are:

1. recent taxes or taxes for which returns have not been filed or filed less than 2 years before the bankruptcy, 11 U.S.C. §523(a)(1);
2. debts which a creditor can prove in a separate lawsuit filed during the bankruptcy case (called an adversary proceeding¹) were obtained through fraud (which, in some circumstances, may include "fraudulent" use of credit cards), 11 U.S.C. §523(a)(2)(A)²;
3. alimony or support obligations ("domestic support obligations") and property settlement obligations, 11 U.S.C. §§523(a)(5) and (a)(15);
4. debts for willful and malicious injury to another person or property of another person, 11 U.S.C. §523(a)(6);
5. certain fines, penalties or forfeitures payable to the government, 11 U.S.C. §523(a)(7);
6. most educational loans, 11 U.S.C. §523(a)(8).

D. CATEGORY OF THE CREDITORS PRIORITY, SECURED AND UNSECURED

The Bankruptcy Code divides creditors into three categories: unsecured priority (§507), secured (§506) and unsecured without priority. The effect of the discharge varies with the category of the creditor.

Generally, priority creditors are the first to be paid if there is a distribution of assets. If there are no assets to be distributed, both priority and unsecured debts are discharged (absent the exceptions contained in §523).

¹ See page 12, below

² There is a presumption of nondischargeability under 11 U.S.C. §523(a)(2) for debts arising from the purchase of luxury goods and services of more than \$500 acquired within 90 days of the bankruptcy filing or cash advances of more than \$750 taken within 70 days of the bankruptcy filing.

Secured status is defined by state law. A secured creditor, generally, is one who has the right to sell or repossess specific real or personal property if the debt is not paid. Examples of secured debts include home mortgages and car loans. The bankruptcy discharges any personal obligation that the debtor has to the secured creditor but does not eliminate the security interest. This means that the creditor is free to proceed against the collateral after the bankruptcy is over. For example, a mortgage company would be free to foreclose on the debtor's residence if the debtor failed to maintain the mortgage payments.

For some clients, a Chapter 7 bankruptcy eliminates unsecured debts and allows them to manage the car and mortgage payments. It is therefore crucial to advise your client to pay their secured debts if they wish to retain the collateral.

There are several exceptions to this rule of thumb regarding counseling your client concerning the need to pay secured debts if they wish to retain the property which serves as the collateral. Judicial liens (i.e., a lien against real or personal property arising from a judgment) and non-possessory, non-purchase money security interests in household goods can be avoided under 11 U.S.C. §522(f). In order to do this, the goods must be otherwise exempt under the exemption provisions found in 11 U.S.C. §522(d) and a Motion to Avoid Lien must be filed. (See p. 43 and App. J)

E. AUTOMATIC STAY/RELIEF POSSIBLE

The Code provides for immediate relief from creditors' collection activities under the automatic stay provisions of §362. All attempts to collect upon listed obligations must stop upon the filing of the petition, but there are several important exceptions to this principle, see 11 U.S.C. §362(b), and the automatic stay may last for only a limited duration in some circumstances, see, e.g., 11 U.S.C. §362(c)(3)-(4), (h).

Generally, if an action taken against the debtor after the petition has been filed violates the automatic stay, the action is void. Violations of the stay, after proper notice of the bankruptcy has been given are punishable by contempt of court penalties of fine or imprisonment. Bankruptcy Code provisions enacted in 2005 impose special requirements for giving proper notice to certain creditors and, in the absence of compliance with those requirements, the remedies of the debtor for a violation of the automatic stay may be limited. See 11 U.S.C. §§342(c), (g).

In some circumstances, secured creditors may get relief from the stay, in order to proceed against the collateral in state court. 11 U.S.C. §362(d).

F. OTHER DEBTOR RIGHTS

The Code also provides additional rights to debtors.

Redemption is the right to retain personal property by paying its value to either a creditor or the court. 11 U.S.C. §722. This right is useful where the debt exceeds the value of the collateral or asset. For example, a debtor might wish to "redeem" a \$500.00 car, when it might take \$2,000.00 to pay off the car loan. The redemption must be effected in a single payment.

Reaffirmation is a process by which the debtor foregoes the right to discharge a debt and remains fully obligated on the debt, notwithstanding the entry of the bankruptcy discharge. Reaffirmation requires that an agreement be made between the debtor and creditor, prior to entry of a discharge, and must contain a clear and conspicuous statement advising the debtor of his/her right to rescind the agreement for a 60 day period or prior to the entry of the discharge order, whichever is later. 11 U.S.C. §524(c)(1), (3). The agreement, which must comply with the detailed requirements of 11 U.S.C. §524(k), must be filed with the court. If it is accompanied by an affidavit from the debtor's counsel stating that the agreement represents a fully informed and voluntary agreement by the debtor and does not impose an undue hardship on the debtor and his/her dependents, it may be effective without court approval. Otherwise, a hearing regarding the reaffirmation hearing is required and the court can determine whether the reaffirmation is in the best interest of the debtor and should be approved or denied. 11 U.S.C. §524(c)(6). It is virtually never appropriate for a CBAP client to reaffirm a debt. Before agreeing to a reaffirmation, please consult CBAP staff.

11 U.S.C. §525 of the Code provides that employers and governmental agencies cannot discriminate against debtors. This section has been construed to protect the debtor's rights to public housing, driver's licenses, student loans, public benefits, etc.

G. CHAPTER 13 OF THE BANKRUPTCY CODE

A Chapter 13 bankruptcy provides individuals with "regular income" (a term which, according to the legislative history, includes income from social security and welfare) an alternative to "straight bankruptcy." Under Chapter 13, the individual may retain his or her assets, including non-exempt assets which otherwise would be liquidated and distributed to creditors in a Chapter 7 case. Instead he/she makes periodic payments to creditors under a three to five year payment plan approved by the court. However, a creditor can receive no less under a Chapter 13 than it would under a Chapter 7 liquidation.

Chapter 13 has several additional aspects which might make it more advantageous to a debtor than a Chapter 7 proceeding. First, real estate mortgages in default may be cured. 11 U.S.C. § 1322(b)(5). Second, certain alterations may be made in the repayment terms of other secured obligations, such as lowering the monthly payment and extending the payout period. 11 U.S.C. § 1322(b)(2).

H. DISCHARGE

The net result of the bankruptcy, whether a 7 or 13, is a discharge order which is mailed to the debtor and all of the creditors. The order directs the creditors to make no further attempts to collect upon the obligations. Violations of the discharge order constitute contempt of court and are punishable by fine or imprisonment.

I. CONCLUSION

Choosing bankruptcy often entails embarrassment for the client. Many people believe it is morally wrong not to pay their debts. Still, clients should be made aware that "uniform laws on the subject of bankruptcies" are provided for in the United States Constitution, Art. I, Section 8, C. 4, and going into bankruptcy in an appropriate case is a legal right. In addition, the existence

of the bankruptcy system is very much in the public interest. Instead of being cursed for life by hopeless efforts to get out from under unmanageable debt, a debtor is able to start over as a productive member of the community by filing bankruptcy.

II. OVERVIEW OF BANKRUPTCY PROCEDURE

Bankruptcy law is exclusively federal, except to the extent that the federal statute (all of Title 11, U.S. Code) may expressly incorporate state law. Cases are heard in a special federal court, the Bankruptcy Court, governed by the Federal Rules of Bankruptcy Procedure and a set of Local Rules (as adopted in each jurisdiction). To a practitioner, procedure is as important as the substantive law. If you do not file the required papers on time, your client's case and rights might be irreparably harmed. Listed below are the procedural components of a bankruptcy.

A. ELECTRONIC FILING

Since April 2003, the bankruptcy court in the Eastern District of Pennsylvania has accepted court filings in an electronic format. Since January 2005, the court's standing order on electronic filing has provided that use of the electronic system is mandatory for attorneys. In appropriate circumstances, the court can waive the requirement that all documents filed in a case be filed electronically.

B. CONSUMER CREDIT COUNSELING REQUIREMENT

Before an individual is eligible to be a bankruptcy debtor, the individual must have received, within 180 days before the filing of a bankruptcy petition, an individual or group briefing from an approved nonprofit budget and credit counseling agency. 11 U.S.C. § 109. If there are exigent circumstances, the debtor can file a certification describing the exigent circumstances and stating that the debtor attempted to schedule pre-bankruptcy counseling but was unable to do in the 5 day period preceding the filing. After the filing, the debtor must obtain the credit counseling within 30 days. CBAP usually refers clients to Consumer Credit Counseling Services, 1515 Market Street, Suite #1325, Philadelphia, PA, 19102. Clients may make an appointment for their session by calling this agency at 215-563-5665. Volunteers may utilize any of the certified agencies listed in App. D.

C. FILING FEE

The cost of filing a bankruptcy under Chapter 7 is \$274.00. The cost of filing a bankruptcy under Chapter 13 is \$189.

Under 28 U.S.C. §1930(f), the filing fees in Chapter 7 case may be waived by the court if the debtor's income is less than 150% of the income official poverty line applicable to a family of the size involved and if the debtor is unable to pay the filing fee in installments. Most clients eligible for service by CBAP should qualify for a waiver of the filing fee. To obtain the waiver, it is necessary to file an application with the court, using a form that has been prescribed by the rules of court. (See App. D)

D. PETITION AND ADDITIONAL PAPERWORK REQUIREMENTS

After a determination is made to file for the bankruptcy, and a decision is made between Chapter 7 and Chapter 13, the petition must be prepared. A pre-printed form is used, which includes a number of attached “schedules” detailing the debtor’s financial situation, a Statement of Financial Affairs, a matrix of creditor addresses and several declarations. In addition, a Statement of Intention with respect to secured property must be filed in Chapter 7 cases.

The debtor must also file: (1) a Statement setting forth the debtor’s “current monthly income” and, in Chapter 7 cases, which includes a statement whether a “presumption of abuse” arises under §707(b) (see further discussion below in Part E.); (2) “payment advices” or other evidence of income received from an employer within the 60 days before the filing.

The debtor’s filing obligations are set forth in 11 U.S.C. §521 and Fed. R. Bankr. P. 1007.

Once all of the paperwork is completed, the petition must be filed with the bankruptcy court. If errors or omissions occur in the petition and schedules, they may be amended after filing. In the Bankruptcy Court for the Eastern District of Pennsylvania the original and four copies must be filed.

E. DEBT RELIEF AGENCY PROVISIONS

A significant change in the Bankruptcy Code introduced by the 2005 amendments to the Bankruptcy Code is concept that certain persons who provide legal assistance to persons who are considering filing for bankruptcy relief or who actually file for bankruptcy relief are “debt relief agencies.” Anyone who provides information, advice counseling, document preparation or legal representation to a persons whose debts are primarily consumer debts whose nonexempt property has a value of less than \$150,000 in return for the payment of money or other valuable consideration is a debt relief agency (“DRA”). See 11 U.S.C. §101(12A), §101(3), 101(4).

A volunteer whose practice does not make him or her a DRA does not become a DRA by virtue of representing a CBAP client. This is because the representation is not “for the payment of money or other valuable consideration.” However, the statute is not clear whether a volunteer who is already a DRA, is also considered a DRA in connection with the representation of a CBAP client. Thus, it may be prudent for a volunteer who is a DRA to comply with DRA provisions of the Bankruptcy Code.

The Bankruptcy Code imposes certain obligations, including information disclosure requirements, upon a DRA in connection with the assistance provided to a bankruptcy client. See 11 U.S.C. §526, 527, 528. [**Attached as Appendix ???? are forms which provide the required disclosures**]. These should be given to the CBAP client and a copy of the forms, signed by the client, maintained in your file.

F. MEANS TESTING

Another significant change in bankruptcy practice introduced by the 2005 amendments to the Bankruptcy Code is the “means testing” requirement. The means test provisions, which are

found primarily in §707(b) and § 1325(b) of the Code, are quite complex. A general summary is set forth below.

In Chapter 7 cases, the means test determines whether a debtor may obtain Chapter 7 relief. In Chapter 13 cases, the means test determines the amount, if any, that must be paid to unsecured creditors for a plan to be confirmed over the objection of an unsecured creditor or the Chapter 13 trustee.

The starting point in means testing is the determination of the debtor's "current monthly income." Current monthly income is defined as all of the income received by the debtor in the six months prior to the commencement of the case divided by six. Allowable expenses are then subtracted from current monthly income. The debtor's allowable expenses are those established by the national and local standards of the Internal Revenue Service, the debtor's actual expenses in the categories of "other necessary expenses" set by the Internal Revenue Service and certain other expenses allowed as set forth in the Bankruptcy Code itself. A debtor whose net income after consideration of allowable expenses (called, as a term of art, "disposable income") is either above \$166.67 per month or whose disposable income is sufficient to pay a 25% of nonpriority, unsecured claims cannot proceed under Chapter 7 of the Bankruptcy Code. In many Chapter 13 cases, a similar analysis is employed to determine the amount that unsecured creditors may demand to be paid in the debtor's Chapter 13 plan.

The means testing provisions in Chapter 7 are **NOT APPLICABLE** to debtors whose current monthly income is less than the median income for the household size in the state in which the debtor resides. This "safe harbor" should apply to all CBAP clients who, by definition, are low income individuals. Thus, once a CBAP debtor-client's current monthly income is calculated and disclosed on the required form, the client's means test obligations should be complete.

G. HEARINGS -- FIRST MEETING OF CREDITORS AND DISCHARGE

One hearing is always scheduled and the debtor's attendance is mandatory. It is called the "First Meeting of Creditors," or "the 341 hearing" (from 11 U.S.C. §341), although only the trustee, the debtor and his or her counsel are likely to appear. The "interim trustee" conducts the meeting and asks a series of about twenty standard questions (See p. 26) to ensure that the petition is complete and accurate. The interim trustee's primary concern is whether the debtor creditors.

Generally, the debtor is expected to bring to the meeting of creditors a government issued photo identification or other personal identifying information and a document verifying the debtor's Social Security number. In addition, 11 U.S.C. §521(e)(2) requires that the debtor provide the trustee, at least 7 days before the 341 hearing, with a copy of the federal income tax return or a tax transcript for the most recent tax year in which a federal income tax return was filed.

Interim Rule 4002 further requires that the debtor produce at the 341 hearing: (1) the debtor's most recent payment advice and (2) a statement for each of the debtor's depository and investment accounts for the time period that includes the date of the filing of the petition.

The meeting is held across a conference table in a meeting room. The debtor is put under oath and the meeting is recorded. After the meeting, the interim trustee will recommend that the debtor be discharged, except in rare circumstances. The debtor will receive the discharge order in the mail approximately three months after the §341 meeting.

H. PERSONAL FINANCIAL MANAGEMENT COURSE REQUIREMENT

As a result of the 2005 amendments to the Bankruptcy Code, debtors in Chapter 7 and Chapter 13 cases must take a course in personal financial management in order to obtain a bankruptcy discharge. The court Rules require that the debtor file the statement within 45 days after the first date set for the 341 hearing. The course may be completed over the internet or by telephone. It may be waived for those physically or mentally unable to complete it, even over the telephone. (See Appendix D)

I. LIEN AVOIDANCE PROCEDURE

Judicial liens and non purchase money, non-possessory security interests can be “avoided” under the Code if the liens otherwise impair the debtor’s exemptions. 11 U.S.C. §522(f). This essentially means that the secured property would be otherwise exempt but for the judicial lien or non purchase money, non-possessory security interest.

In order to avoid the security interest, counsel must file a Motion to Avoid Lien. Under Local Rule 9014 for the Eastern District of Pennsylvania, the Motion must be accompanied by a proposed Order for Relief, an Order Requiring Answer and Notice of Hearing on Motion and a Certification of Service.

The hearing dates are “self-scheduled” and the proper hearing date for a particular motion can be determined by checking the court’s website at <http://www.paeb.uscourts.gov/>, clicking on “court information” and looking up the dates for the judge who is presiding over the case.

Counsel must serve the Notice, proposed Order, and Motion upon all interested parties including the Trustee. If the respondent is represented by counsel who has appeared in the case, the motion will be served electronically as part of the ECF system. Most likely, in connection a motion to avoid a lien, the party which holds the lien will not have entered an appearance through an attorney and will have to be served in the conventional manner. Service by regular mail is usually sufficient. Fed. R. Bankr. P. 9014 and 7004 should be consulted.

If no response is timely filed (and these Motions usually go unanswered and uncontested), a Certification of No Response should be filed.

After filing a Certificate of No Response, counsel may contact the Judge’s courtroom deputy clerk the day before the hearing to ask that the Judge enter the proposed order or counsel may attend the hearing and inform the Court that no response has been filed. The Judge will usually then sign the avoidance order.

Should a response be filed, then, of course, counsel should prepare for a full hearing on the hearing date. (See page 50 and App. J for detail on procedure & sample pleading.)

J. CHAPTER 13 PROCEDURE

Under Chapter 13 procedure, there is also a First Meeting of Creditors § 341 Meeting), at which the debtor is examined by the trustee and any creditors who wish to appear. In order to receive money (distribution by the Trustee), a creditor must file a Proof of Claim. The debtor can object, if necessary, to excessive claims, or amend the plan; if necessary, to provide for payment to the creditors who have filed claims.

The plan must put the different types of debts into separate classifications and specify the proposed treatment for each class.

Usually, Chapter 13 plans provide for payment of debts secured by property that the debtor wishes to retain. It should be noted that the Chapter 13 plan need only cure arrearage on long-term secured claims (while paying all mortgage payments which fall due after the filing of the bankruptcy petition) and need not pay the debt in full. Alternatively, the debtor can propose to pay off the secured debt in full or not “provide for” the secured claim at all (although a secured creditor whose claim is “not provided for” ordinarily has the right to obtain an order granting relief from the automatic stay to pursue its remedies in state court). There are now several provisions which may impose limitations on the manner in which a debtor provides for debts secured by automobiles, depending upon the particular facts of the case. See 11 U.S.C. §§1325(a)(9), 1326(a)(1).

Plan payments are made to the trustee beginning the first day of the first month after the petition is filed.

The plan must provide for the full payment of all priority claims. Priority claims typically include many tax obligations, support and alimony and administrative expenses (trustee’s commissions, debtor’s counsel’s attorney’s fee).

Unsecured claims must be paid at least as much as they would receive in a Chapter 7 case (which may be zero in a case that would be a “no-asset” Chapter 7 case).

The debtor must devote to the plan the amount of the debtor’s “disposable income” for either a 36 or 60 month period, depending upon the level of the debtor’s “current monthly income” as that term is defined in 11 U.S.C. § 101(10A). Disposable income means the debtor’s current monthly income less the amount of the reasonably necessary living expenses of the debtor and the debtor’s dependents or for, for a debtor engaged in business, the amounts necessary for the operation of the debtor’s business. 11 U.S.C. § 1325(b). In cases of above median debtors, the determination of the debtor’s reasonably necessary living expenses may be determined using most of the methodology employed in Chapter 7 cases in determining abuse under §707(b).

A confirmation hearing will be held approximately three to six months after filing. If everything is in order, the court will enter a confirmation order and the trustee will commence distributing money to the creditors pursuant to the filed plan.

K. ADVERSARY PROCEEDINGS

When relief is sought against a particular creditor, in most instances, it must be done by adversary proceeding. (See page 42 for detail on procedure). Examples include actions for contempt and for determination of student loan dischargeability. The matter proceeds like a typical federal court case requiring the filing and service of a complaint and responsive pleading, discovery and in some cases a trial.

This action is commenced by complaint. The caption in all adversary proceedings brought by the debtor should be as it is in the sample complaint in the appendices. The complaint must be filed with an adversary cover sheet and a summons. The clerk's office will return the summons with the judge's signature to debtor's counsel. The summons and complaint should then be served on all parties in interest by first class mail within 10 days of issuance. A Certificate of Service should be filed. If the deadline cannot be met, then counsel should praecipe for the summons to be reissued.

The summons may have both an answer due date and a hearing date, an answer due date and a pretrial conference date or only an answer due date depending on the judge to whom the case is assigned. If discovery is desired, it should be served along with the complaint. (If discovery is not completed, the court will generally grant a continuance.) If no answer is filed, counsel should appear at the hearing and request that a default judgment be entered. (Debtor's counsel should have a prepared form of order ready for the judge at that time.) If a default is not entered, counsel should be prepared for a full hearing on the hearing date.

III. SOURCE & REFERENCE MATERIAL IN THE BANKRUPTCY AREA

The preceding overview of bankruptcy law and procedure will give you a general idea of the issues that arise in a typical bankruptcy. It is not intended to provide the definitive answer for every problem you encounter, but will point you in the right direction. As a practitioner, you will be required to consult source and reference material in order to properly represent your client.

Listed below are some useful materials:

Statute and Rules:

Bankruptcy Code - 11 U.S.C. §101 et. seq.

Rules of Bankruptcy Procedure - At the end of Title 11 of the Bankruptcy Code

Local Rules of Bankruptcy Procedure

Case Law:

Bankruptcy Reporter series

Treatises:

Collier on Bankruptcy (15th rev. ed.)

W. Norton, Norton Bankruptcy Law and Practice 2d

H. Sommer, Consumer Bankruptcy Law and Practice, 7th Edition, (National Consumer Law Center)

IV. COUNSELING A DEBTOR

A. GET A COMPLETE LIST OF ALL DEBTS AND PROPERTY

Frequently your client will fail to tell you about one or more debts. Therefore, if the client has not yet done so, ask that they obtain a free copy of their credit report from at least one of the three credit reporting bureaus. (See listing and sample form at page of this manual.) Also ask that s/he give you copies of her/his most recent bills (and collection letters, if the debt is in collection) from each creditor. The unlisted creditor may provide a great deal of difficulty in the bankruptcy or may make the bankruptcy impracticable. Also, if the creditor is not listed, in some circumstances that obligation might not be discharged and the client will not get all of the relief to which he or she is entitled.

Similarly, it is important to get a complete list of all of the property that the client owns. Although it is unlikely that any of the CBAP clients will have non-exemptable property, the failure to disclose property could be construed as grounds for the denial of the discharge. See 11 U.S.C. §727(a). In light of these high stakes, it is important that a complete list of property be obtained from the client.

The client's failure to inform counsel of this information is usually inadvertent. The client may have forgotten about the obligation or may have been totally unaware of it.

You should explain that all debts must be listed, even those debts they desire to pay after bankruptcy. In addition, sometimes clients feel that particular property or particular creditors simply cannot be handled in a bankruptcy. Accordingly, they exercise their own discretion in not telling you about these items. Frequently, they are pleased to hear that you can do something about these things.

It is useful to ask your client about the standard types of debts that they might have. These could include utility debts, car payments, credit card accounts, medical bills, student loans and mortgages. This frequently reminds your client of debts they may have forgotten. It is also useful to ask them about the various kinds of property that they might have. This would include their household furnishings, bank accounts, automobile, house; and lawsuit claims for money, pending or anticipated.

You should check the records at the County Courthouse to determine what obligations are "of record." Lien and judgment searches are available for a small fee from security search

businesses (Contact CBAP staff or consult the CBAP Volunteer Handbook for information about ordering a search for your CBAP case). Frequently, you will find that there are obligations that have been recorded at the County Courthouse of which your client is unaware. Even more importantly, you must determine the status of the “record” creditors. Although both a mortgage and a judgment creditor may be secured, the difference between a judgment creditor and a mortgage may mean the difference between a Chapter 7 or a Chapter 13.

Finally, there are other questions that should be asked to make sure that long-forgotten debts, such as motor vehicle judgments, tax liabilities, alimony or child support obligations or assets, such as security deposits, alimony or child support claims are uncovered. The best way of making sure you have covered all the bases is to use the interview questionnaire from Consumer Bankruptcy Law and Practice. (Available in App. E)

B. DISCLOSING THE DRAWBACKS OF A BANKRUPTCY

There are a number of matters that you should be sure to discuss with your client before filing a bankruptcy. First, a Chapter 7 bankruptcy discharge can only be received once in any eight (8) year period. 11 U.S.C. §727(a)(8).

The fact that your client has filed a bankruptcy will appear on your client’s credit record for up to ten years under the Fair Credit Reporting Act. Although there is no law that says that your client cannot get credit because a bankruptcy has been filed, the information about the bankruptcy will remain available to creditors for ten years. You should tell clients that there is no way to predict the effect of a bankruptcy on their credit, but that they most likely already have a poor credit history.

As we discussed earlier, several types of debt are not dischargeable in a Chapter 7, 11 U.S.C. §523(a), and some debt is not dischargeable in a Chapter 13, 11 U.S.C. §1328(a). In addition, some creditors will require special treatment in a bankruptcy. Particularly, secured creditors and priority creditors possess certain rights, some of which will survive the bankruptcy. You should be sure to discuss these with your client.

The obligation of co-signers is treated specially in bankruptcy cases. In a Chapter 7, only the obligation of the filing debtor can be discharged. The obligation of the co-signer is not discharged and the creditor is free to proceed against the co-signer at any time. In a Chapter 13 case, the creditor is prevented from proceeding against a co-signer with respect to a consumer debt, unless the creditor first gets relief from the stay created by the bankruptcy filing. 11 U.S.C. §1301. However, if the creditor is not being paid in full under the Chapter 13 plan, relief almost certainly would be granted. Accordingly, you should be sure to check with your client about co-signers.

Unavoidably, the filing fee should be discussed with the client. The \$274.00 filing fee can be a considerable obstacle to many clients. The filing fee in Chapter 7 case may be waived by the court if the debtor’s income is less than 150% of the income official poverty line applicable to a family of the size involved and if the debtor is unable to pay the filing fee in installments. (See Appendix C)

Finally, utilities do receive a special form of treatment in a bankruptcy. Under 11 U.S.C. §366, utilities have the right to request adequate assurance of future payment. Section 366(b) requires that adequate assurance be posted within twenty days of the filing of the petition. This **frequently means that the client** will have to come up with a security deposit in order to retain his or her utility service.

The law is also clear in the Eastern District of Pennsylvania that the electric and gas companies must restore service once the bankruptcy is filed. They cannot demand a security deposit in advance of the restoration of service during the first twenty days after filing. After that, they can refuse service unless the deposit is first tendered to them. As a practical matter, this means that a demand for restoration of service should be made immediately upon the filing of the petition.

C. CHOOSING A CHAPTER 7 OR A CHAPTER 13 BANKRUPTCY

There are several factors that you will probably want to look at in determining whether a Chapter 7 or a Chapter 13 would be appropriate for your client. Most commonly, you would want to advise your client to file a Chapter 13 if they were seeking to cure a default on a secured obligation, such as a home mortgage or automobile loan. This is provided for by 11 U.S.C. §1322(b)(3). This enables your client to keep the secured property while he or she catches up on the arrearage.

Your client may be forced to file a Chapter 13 if she/he has property that cannot be fully exempted from liquidation by the Chapter 7 trustee. In such cases, by paying the amount that creditors would receive in a distribution in a hypothetical Chapter 7 case, the debtor can retain his or her property, even if it is not fully exempt, and receive a discharge of his or her debts. Another situation in which Chapter 13 case may be necessary is if your client received a Chapter 7 discharge within the past eight (8) years. In some circumstances, a debtor can receive a Chapter 13 discharge in a new case filed within the eight (8) year period. See 11 U.S.C. §1328(f).

V. LEASES

Section 365 of the Bankruptcy Code provides for the assumption or rejection of leases. Section 1322(b)(3) of the Code allows Chapter 13 debtors to “cure or waive a default.” Both sections are crucial to dealing with leases in bankruptcy.

Under §365 of the Code, leases of residential real property in a Chapter 7 case must be assumed by the Chapter 7 trustee within sixty (60) days of the initial bankruptcy filing; otherwise they are considered to be rejected. In Chapter 13, the lease must be assumed or rejected prior to confirmation. If the lease is assumed and if it is in default, default must be promptly cured. If the Chapter 7 trustee rejects the lease by inaction, as normally occurs, it is usually considered to be abandoned to the debtor. If the debtor is current, the bankruptcy usually has no effect on the lease, and the debtor continues to have rights under the lease as long as the rent is paid. If the debtor does later default, however, any monetary liability the debtor might have under a lease that began before the bankruptcy would be discharged.

If a lease of personal property is not assumed by a Chapter 7 trustee, there is a procedure by which an individual debtor may assume the lease. See 11 U.S.C. §365(p).

A. THE STANDARD FOR ASSUMPTION BY THE TRUSTEE

Assumption of a lease will be allowed where sound business judgment would find it to be in the best interest of the bankruptcy estate. In other words, where it would generate more money to be distributed to creditors.

Section 365 of the Bankruptcy Code states that the trustee has the power to assume or reject. It does not mention the Chapter 7 debtor, except for 11 U.S.C. §365(p) involving leases of personal property. Normally, a Chapter 7 debtor has no need to assume a lease and the landlord will continue to accept rent without any problems. A public housing authority is not permitted to discriminate against a debtor based upon the bankruptcy or the rent discharged in bankruptcy. 11 U.S.C. §525.

B. CURE OF A MONETARY DEFAULT

Assumption requires that defaults be promptly cured. The Bankruptcy Code does not define what must be provided-to cure a default. A subsidized housing tenant's proposal to cure her rent delinquency over a period of slightly less than two years in a Chapter 13 has been found to be a "prompt cure." See, In re Whitsett, 163 B.R. 752 (Bankr. E.D. Pa. 1994). For a public housing tenant with a monetary default only, a Chapter 7 serves to discharge all pre-petition rent arrears and by virtue of 11 U.S.C. §525, the debtor maintains the right to remain in public housing. See In re Sudler, 71 B.R. 780 (Bankr. E.D. Pa. 1987). In a Chapter 7, a public housing debtor must maintain all post-petition rent payments so that his/her tenancy is not further jeopardized. But see In re Bacon, 212 B.R. 66 (Bankr. E.D. Pa. 1997).

C. CURE OF A NON MONETARY DEFAULT

A non-material, non-monetary breach of a lease by a tenant in subsidized housing may be cured in a Chapter 13 bankruptcy. In re Whitsett, 163 B.R. 752 (Bankr. E.D. Pa. 1994), held that a tenant of federally subsidized housing being evicted for failure to inform the housing authority of changes in her family income, that would effect her subsidy, could maintain her tenancy after a showing that she had made attempts to provide the information and could still do so post-petition.

A Chapter 13 may be a useful legal remedy to cure a non-monetary default where the facts are sympathetic to the tenant, for example, where a technical lease violation could cause the tenant to lose a low-rent unit or force the tenant to move away from a vital location.

D. CURING A TERMINATED (NON-EXECUTORY) LEASE

Case law is clear that a debtor/tenant cannot cure a lease that has been properly terminated. However, a lease is not terminated until the final step to evict has been taken under state law. There are many theories and strategies that can be used to prevent a lease termination; these include: pay and stay, appeal of a Municipal Court judgment, attack the lease termination

as invalid, and enforce an agreement to reinstate. Thus, even where an eviction has occurred, the tenancy can be restored if the eviction was illegal or if a post judgment agreement was reached.

E. SECTION 525 AND LEASES

Section 525 of the Bankruptcy Code provides that governmental agencies cannot discriminate against debtors because a petition has been filed or a debt has been discharged. There is already good authority in the Eastern District of Pennsylvania that §525 would prevent a public housing authority from evicting a debtor/tenant based upon a debt that is being discharged. In re Sudler, 71 B.R. 780 (Bankr. E.D. Pa. 1987). But see In re Bacon, 212 B.R. 66 (Bankr. E.D. Pa. 1997). Section 525 does not apply to private landlords. Tenants of private landlords will have to assume and cure in order to remain in the rental unit.

F. REJECTION

This is, perhaps, one of the haziest areas of all. The Code states that if a residential lease is rejected it is deemed to have been breached immediately prior to the filing of the bankruptcy. This legal fiction enables the landlord to file a claim in the bankruptcy for all damages arising under the lease. The model does not work well where there has been no breach and the parties are happy with their relationship. Why would a debtor assume his lease where he is current in his rent under a long term lease and where the landlord is satisfied with the tenant? Why would the landlord even wish to file a claim in the bankruptcy in lieu of accepting future rent payments from the debtor/tenant?

The growing trend in the case law is to treat the rejection of a residential lease, not as a total termination of the lease, but as leaving the parties in their non-bankruptcy status. The landlord would still be required to seek relief from the stay in order to proceed with eviction. However, the tenant would possess all the usual non-bankruptcy rights, such as the right to pay and stay.

G. REASONS NO TO ASSUME A LEASE

There may be good reason not to assume a lease. If the debtor will be moving out, the post-petition rent under the lease will be clearly dischargeable. There is, however, at least some case law in the Eastern District of Pennsylvania that would allow a landlord to collect post-petition rent based upon a tenancy at sufferance. If the debtor/tenant does not assume the lease, it reduces the possibility of liability for post-petition rent.

Some landlords may assume that the debtor does not have to cure (or assume, for that matter), and let the debtor stay by making only the post-petition rental payments. This may be an option available to the debtor who seeks to remain in the residence and cannot cure, but it is not one that can be counted on. You should be sure to disclose the risk to the debtor that the landlord may still discover how to get relief from the stay and proceed to evict.

H. STRATEGIES - CHAPTER 7 OR CHAPTER 13?

The safest strategies for our clients are as follows:

1. Public housing tenants should file a Chapter 7 bankruptcy and not make any effort to assume or cure monetary breaches. Despite some uncertainty in the caselaw, past practice suggests that public housing tenants can safely rely upon §525, provided that they timely pay their post-bankruptcy rent payments as they fall due. Should this fail, the debtor can convert to a Chapter 13. Where there are non-monetary breaches, it would be best to file a Chapter 13, assume and offer a non-monetary cure.
2. Section 8 tenants should offer to make a lump sum cure in a Chapter 7 or full payment (or non monetary cure) in a Chapter 13.
3. Private tenants should cure and assume in the same manner as Section 8 tenants, unless it is clear that they do not wish to remain in the property.

DOCUMENT CHECKLIST: CHAPTER 7 CASE

The following listed below be filed in a Chapter 7 case. Unless waived by the court upon request, all documents must be filed electronically.

1. A bankruptcy petition
2. Credit counseling certificate
3. Schedules A-J
4. Statements of Financial Affairs
5. Statement of Intention pursuant to 11 U.S.C. §521(a)(2)
6. Statement of Current Monthly Income and Means Test Calculation (Official Form 22A)
7. “Payment advices” or other evidence of income received from an employer within the 60 days before the filing
8. Matrix of creditor names and addresses. If you use the CBAP address as your address on the petition, and wish to receive notices directly list your own address on the matrix. Do not list the client on the matrix, but do put the client’s name on the back of each page of the matrix.
9. Application of Leave to Proceed In Forma Pauperis
10. ***For delivery to Chapter 7 trustee and not for filing with the court (7 days prior to 341 hearing):*** copy of the federal income tax return or a tax transcript for the most recent tax year in which a federal income tax return was filed or a statement that such a document does not exist.
11. ***For presentation to the Chapter 7 trustee at the 341 hearing:***
 - a picture identification issued by a governmental unit or other personal identifying information
 - evidence of social security number(s), or a written statement that such documentation does not exist
 - evidence of current income such as the most recent payment advice or a statement that such documents do not exist.
 - statements for each of the debtor’s depository and investment accounts, including checking, savings, and money market accounts, mutual funds and brokerage accounts for the time period that includes the date of the filing of the petition.

12. *After filing of case, no later than 45 days after the 341 hearing:* statement regarding completion of a course in person financial management.

The Difference Between Chapter 7 and Chapter 13 Bankruptcies

Chapter 7 and Chapter 13 are two different kinds of bankruptcies available to individuals, some businesses, and married couples with financial problems.

A straight liquidation bankruptcy, known as a Chapter 7 bankruptcy, involves the filing of a bankruptcy petition and statement of all property, debts, and budget information. The filing of the petition stops all creditor action against the Chapter 7 debtors and their property, including mortgage foreclosure, sheriff's sale, utility shut-offs, and other creditor harassment. Chapter 7 debtors can generally keep all of their personal property, **but debtors can keep their home and cars only if arrangements are made separately by the debtors themselves for payment of all current and back payments for auto loans, mortgage payments and finance company liens against their home.**

Chapter 7 debtors usually have one short meeting with a trustee. After Chapter 7 discharge, debtors no longer have personal liability for most of their utility and consumer debts. Chapter 7 does not discharge debts such as mortgage payments (if the debtor wants to keep the property), city water/sewer liens, ongoing utility bills, auto loan payments (if the debtor wants to keep the automobile), alimony, child support, fines, traffic tickets, most student loans, most taxes, amounts owed because of malicious injury, drunk driving, criminal restitution, and certain debts owed creditors not listed on the Chapter 7 list of creditors filed with the court. The discharge order is usually entered approximately six months after the filing of the Chapter 7 petition. Debtors may receive a Chapter 7 discharge only once every eight (8) years. **After discharge, a mortgage company can continue with foreclosure and sheriff's sale and an automobile lender can repossess an automobile if the car loan payments are delinquent.**

Chapter 7 is appropriate for debtors who either do not have mortgages, are current in their mortgage payments, are able to bring current their mortgage arrearage in the few months prior to Chapter 7 discharge, or for debtors who are unable to afford to keep their home.

A debtor reorganization plan, known as a Chapter 13 bankruptcy, is an alternative under the federal bankruptcy law to Chapter 7 bankruptcy. As with Chapter 7, the Chapter 13 petition stops mortgage foreclosure, sheriff's sale, utility shut-offs, and other creditor harassment. Chapter 13 also provides for monthly payments by debtors to a Chapter 13 trustee for three to five years. Out of these payments, the Chapter 13 trustee pays the following: mortgage arrearage, interest, late charges, court costs, and fees for the mortgage company's lawyer. Out of the plan payments, the Chapter 13 trustee also pays amounts owed prior to the filing of the Chapter 13 for taxes, water/sewer liens, arrearage on second mortgages, and usually a small percentage of unsecured debt. Unsecured debt includes back medical and utility bills, credit card, store charge and loan balances for which there is no mortgage lien on the debtor's home. The trustee also pays the balance of any fees due the debtor's lawyer and applies a percentage (usually between 10 %) of each plan payment toward the cost of running his office.

During the Chapter 13 plan, debtors must make current mortgage and utility payments as well as payments on any second mortgage, home improvement or auto loan. A mortgage company can obtain relief from Chapter 13 and continue foreclosure if current mortgage

payments are not made. A Chapter 13 bankruptcy can be dismissed if payments to the trustee are missed.

At the end of a Chapter 13 plan in which all trustee and mortgage payments have been made, the mortgage is reinstated and pre-bankruptcy unsecured debts are discharged. **Chapter 7 or 13 bankruptcies will be dismissed if court hearings are missed.**

The filing of a bankruptcy petition will remain on the debtor's credit report for up to ten years.

Deadlines and Procedures for Bankruptcy Filings

Deadline for Filing Complete Bankruptcy Packet

Except in cases of emergency or where a waiver has been requested, the certificate showing that the debtor has completed a credit counseling briefing must be filed with the bankruptcy petition.

If you have an emergency petition, the completed schedules, matrix, Statement of Financial Affairs and Statement of Intent are due no later than fifteen (15) days after the petition is filed unless, an Application for an Extension of Time was filed and approval was received.

Meeting of Creditors, Deadlines for Filing Objections to Exemptions and Complaints to Determine Dischargeability.

Within one to two weeks of the filing of the petition, a notice of the §341 meeting of creditors will be mailed to the debtor, all creditors and the attorney of record. The notice provides the date, time and place of the meeting, the deadlines for filing Objections to Exemptions and Complaints to Determine Dischargeability.

The meeting of creditors will be ordinarily be held within **twenty (20) to forty (40) days** of the filing of the petition. The deadline for filing Objections to Exemptions is **thirty (30) days** after the conclusion of the meeting of creditors and the deadline for filing Complaints to Determine Dischargeability is **sixty (60) days** after the first date set for the meeting of creditors.

Amendments to the Voluntary Petition, Schedules and the Statement of Financial Affairs

Amendments to the Petition, Schedules or the Statement of Financial Affairs may be made as of right at any time prior to the closing of the case. Fed. R. Bankr. P. 1009(a). The amended document should be filed along with debtor's Verification and a Certificate of Service. Fed. R. Bankr. P. 1008. In addition, Local Bankruptcy Rule 1009.1(a) requires that amendments to the voluntary petition, schedules and the statement of affairs be served on the Trustee, the U.S. Trustee and all affected parties. If no parties are affected by the amendment, then the Certificate

Amendments to the Statement of Intention

Amendments to the Statement of Intention may be made at any time before the expiration of the period provided by 11 U.S.C. §521(a)(2)(B), which is thirty (30) days after the filing of the Statement of Intent. The amended Statement of Intent must be verified by the debtor and served on the Trustee and all interested parties. Fed. R. Bankr. P. 1008 and 1009(b).

Adding Creditors

An amended schedule adding a creditor shall be accompanied by an amended matrix, a \$20.00 fee (only if filed after the Meeting of Creditors), the debtor's verification and certificate of service. Fed. R. Bankr. P. 1008, L.B.R. 1009-1(b). The fee to add a creditor may be waived if the debtor has been granted in forma pauperis status under 28 U.S.C. §1930(f). Regardless whether an order granting IFP status has been granted, it may be possible to request a waiver of

the fee pursuant to Local Bankruptcy Rules 5080-1 and 9013-1(d)(4). An Amendment adding a creditor shall be served on the creditor, the Trustee and the United States Trustee. L.B.R. 1009.1(a). The original plus three copies must be filed with the clerk's office.

If a creditor is added after the §341 meeting of creditors notice has been mailed, a copy of the §341 notice along with any other notices served on creditors must be mailed to the creditor being added. L.B.R. 1009-1(b). Please refer to the sample pleadings at Appendix. While there is no deadline for amending schedules to add creditors, please note that it is good practice, if possible, to provide an omitted creditor with notice of the bankruptcy before the deadline to file Complaints to Determine Dischargeability in order to avoid any exception to discharge problems. See, Sommer, NCLC's Consumer Bankruptcy and Law Practice, 7th Ed. §14.4.3.3.

THE §341 MEETING OF CREDITORS

The following materials and sample notices to help you prepare your client for the §341 Meeting of Creditors. Items included are:

- * Sample notice of Commencement of Case sent by the U. S. Bankruptcy Court to the Debtor and Creditors, Scheduling the §341 Meeting. You might want to show this sample notice to your client so that they have an idea of what the notice looks like (remember, not all clients may be able to read their mail) and so that they will call you immediately upon their receipt of the notice
- * 20 plus Questions Usually Asked by the Trustee of Debtors at the Meeting
- * Sample letter from volunteer attorney confirming notice and scheduling of §341 Meeting

UNITED STATES BANKRUPTCY COURT Eastern District of Pennsylvania	
Notice of Chapter 7 Bankruptcy Case, Meeting of Creditors, & Deadlines A Chapter 7 bankruptcy case concerning the debtor(s) listed below was filed on 11/23/05.	
You may be a creditor of the debtor. This notice lists important deadlines. You may want to consult an attorney to protect your rights. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below. NOTE: The staff of the bankruptcy clerk's office cannot give legal advice.	
See Reverse Side for Important Explanations	
Debtor(s) (name(s) used by debtor(s) in the last 8 years, including married, maiden, trade, and address): N. 6 th Street Philadelphia, PA 19122	
Case Number 05-	Social Security/Taxpayer ID/Employer ID/Other Nos.:
Attorney for Debtor(s) (name and address): HENRY J. SOMMER Consumer Bankruptcy Assistance Project 42 South 15 th Street 4 th Floor Philadelphia, PA 19102 Telephone number: 215-523-9511	Bankruptcy Trustee (name and address): ARTHUR PL LIEBERSOHN Arthur P. Liebersohn, Trustee 924 Cherry Street Fourth Floor Philadelphia, PA 19107 Telephone number: (215) 922-7990
Meeting of Creditors <i>**Debtor's Photo ID & Social Security Card Must Be Presented at 341 Hearing**</i> Date: December 21, 2005 Time: 11:30 AM Location: Office of the U.s. Trustee, Meeting Room , Suite 501, 833 Chestnut Street, Philadelphia, PA 19107	
Presumption of Abuse under 11 U.S.C. § 707(b) <i>See "Presumption of Abuse" on reverse side.</i> The presumption of abuse does not arise.	
Deadlines: Papers must be received by the bankruptcy clerk's office by the following deadlines: Deadline to File a Complaint Objecting to discharge of the Debtor or to Determine Dischargeability of Certain Debts: 2/19/06	
Deadline to Object to Exemptions: Thirty (3) days after the <i>conclusion</i> of the meeting of creditors	
Creditors May Not Take Certain Actions: In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions the debtor and the debtor's property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.	
Please Do Not File a Proof of Claim Unless You Receive a Notice To Do So.	
Foreign Creditors A creditor to whom this notice is sent at a foreign address should lead the information under "Do Not File a Proof of Claim at This Time" on the reverse side.	
Address of the Bankruptcy Clerk's Office: 900 Market Street Suite 400 Philadelphia, PA 19107 Telephone number: (215)408-2800	For the Court: Clerk of the Bankruptcy Court: Timothy B. McGrath
Hours Open: Monday Friday 8:30 AM - 5:00 PM	Date: 11/28/05

20 Plus Questions Usually Asked by the Trustee of Debtors at the Meeting of Creditors

1. State your name
2. State your address
3. Identify the signature on debtor's oath form
4. Do you rent or own your home?
5. Are you married?
6. Are you employed?
7. Have you ever filed for bankruptcy before?
8. Have you sold or otherwise disposed of any property in the past twelve months?
9. Do you have any credit cards in your possession for which you listed debts on your petition?
10. Identify the signature on first page of bankruptcy petition.
11. Did you review the petition before you signed it to make sure that everything in it was true and correct?
12. Did you list all of your real estate on Schedule A?
13. Did you list all of your personal property on Schedule B?
14. Do you own any individual items of personal property worth more than \$200.00?
15. Is Schedule C a complete list of the property that you are claiming as exempt (that you want to keep)?
16. Did you list all of your secured creditors on Schedule D?
17. Did you list all of your priority creditors on Schedule E?
18. Did you list all of your other creditors on Schedule F?
19. Was Schedule I an accurate reflection of your income when you filed?
20. Was Schedule J an accurate reflection of your monthly expenses when you filed?
21. Have you paid your filing fee in full, or received the required waiver from the Court?
22. What did you pay your attorney for representing you in your bankruptcy?
23. Why did you have to file for bankruptcy?

Remind client that his/her discharge order will arrive in approximately in three months and will close the bankruptcy.

If the client has not already completed the personal financial management course, remind the client that the course must be completed and a statement filed with court within 45 days of the fist date set for the 341 hearing.

The client should contact you if any creditors try to collect upon discharged debts.

For PHA tenants: Review post-petition rent payments. Make sure the client started paying rent in the first post-petition month. If the client has not done so, they should be told to catch up as soon as possible on post petition rent. Remind the client that the bankruptcy only discharges their rent payments due through the month in which they filed and that if they fail to make the post-petition rent payments, PHA can start the eviction process all over again.

[DATE]

[CLIENT ADDRESS]

Dear [CLIENT]:

Your Meeting of Creditors is scheduled for [DAY OF WEEK], [DATE] at [TIME]. You must attend this meeting - **if you do not, your case will be dismissed**. The building for the Meeting of Creditors is located on the corner of 9th & Chestnut Streets. The building is 833 Chestnut Street. You may enter the building from either Chestnut Street or 9th Street. Please check in at the security desk on the 1st floor, and then take the elevator to the 5th floor, where you want to look for suite 501. It is very rare that any creditors actually come to this meeting, but you must attend. Someone from our staff will meet you in suite 501.

You must bring a photo ID and a social security card to the Meeting of Creditors.

If you have any questions, please do not hesitate to call me.

Sincerely,

[NAME]

THE §341 MEETING OF CREDITORS

Important Information for Clients Regarding the Meeting of Creditors:

After your bankruptcy petition is filed, the Bankruptcy Court will schedule a 341 hearing, also called a “meeting of creditors.” It will probably be scheduled within one month of filing.

These hearings are held at:

833 Chestnut Street
Suite 501 West, 5th Floor
Philadelphia, Pennsylvania

You and your attorney (or the law student/paralegal volunteer) must attend this meeting with the United States Bankruptcy Court Trustee.

At the 341 hearing, the United States Bankruptcy Trustee will review your bankruptcy petition and will ask you questions. The Trustee will ask you to verify in person the written information you have already listed in your petition. The 341 hearing is usually short and routine. After the hearing, the Trustee will recommend to the Bankruptcy Court Judge whether or not to discharge your debts.

It is very important that you appear before the Trustee at the 341 hearing. You must be present or your bankruptcy could be dismissed.

If you are unable to attend, you must call your attorney immediately so that the Trustee can be contacted. Your attorney can request that the Trustee reschedule the meeting.

When you receive your 341 hearing notice, please contact your attorney to confirm that you will attend.

Handling Calls from Clients' Creditors

There are several overriding considerations in speaking with your clients' creditors:

1. Be sure the debtor is your client before undertaking any discussions with third parties on their behalf -- the debtor should have signed the representation authorization form prior to any communications by you with third parties.
2. Do not divulge confidential information to the creditor.
3. Explain your role to the creditor. If you are the intake interviewer and you are not yet a lawyer, the creditor should understand that you are assisting in the administration of the client's case. If you are a supervising attorney or a mentor, you can indicate that, but you may also wish to be sure that the creditor is aware that papers are being prepared for filing by others than yourself.
4. Extract as much information as you can from the creditor
 - How much is the-creditor's claim?
 - What actions has the creditor taken to enforce its rights?
 - What actions does the creditor intend to take?
 - Is the creditor aware of the effect of the bankruptcy stay on the enforcement of its rights?
5. Alert the creditor to the imminence of bankruptcy and the futility of any precipitous action because of the stay.

When you are talking with creditors, remember that there are two kinds. There are those with "loaded guns" (rights that can be exercised immediately to the extreme detriment of your client -- the utilities which can shut off service, the landlords who can evict your client, the judgment creditors or mortgage companies whose remedies have been pursued to the brink of execution or seizure, and governmental entities that can exercise lien rights, terminate licenses and the like). There are also those who have rights, but who have not yet enforced them by suit or otherwise.

Creditors carrying "loaded guns" must be dealt with much more circumspection than those in the latter. An encounter with a landlord intent on eviction or a utility determined to shut off service should be made only if you can offer some immediate comfort to the creditor, in order to forestall any peremptory action. For example, if your client is behind in rent or utility payments, the most productive approach is often to indicate that, although past due payments will not be made during the pendency of a bankruptcy case, you will see to it that your client understands the necessity to stay current on future payments. You (or your intake interviewer) will already have determined your client's ability to make such future payments. If your client does not have sufficient means to make such payments, other arrangements for living space and utilities may have to be made.

Many calls from creditors can be easily resolved by advising them of the pending (or impending) bankruptcy of your client. This advice is duly noted by the creditor representative, who will diary his or her file forward for a period of time.

Hostile creditors should never be met with hostility from you. Do your best to calm the creditor down, make the disclosure of a bankruptcy filing (if a petition has been filed), and get as much information as you can.

There is no “script” for a creditor telephone conversation. Use common sense, courtesy and the rules set forth above.

Valuation of Real Property

There are several ways to value the real property of the debtor. Any single manner of valuation or a combination thereof is an acceptable way to value the debtor’s real property solely for the purpose of completing the bankruptcy schedules. For situations where the value of the debtor’s real property is an issue of fact that must be established in a tribunal, a real estate appraisal would be more appropriate.

There are three methods of valuation that may be used to arrive at the fair market value of the property.

The first source of valuation, the City of Philadelphia’s tax assessment record that is mailed out annually to the homeowner, lists a fair market value for the property assessed by the City for tax purposes. However, this value, is often inaccurate and may not be accepted by a Chapter 7 trustee.

The sale prices of other homes on the block or in the immediate vicinity also provide a basis for valuing the debtor’s residence. The homeowner usually has personal knowledge regarding the sale price of homes in the area.

Finally, the purchase price of the property, if recently purchased, is likely to adequately reflect the current market value of the property. Again, any single form of valuation or a combination of the above-mentioned methods is acceptable as long as the debtor is aware of the manner in which she/he arrived at the value. It is likely that the Trustee at the meeting of creditors will inquire into the basis for the debtor’s valuation.

Valuation of Personal Property

While the debtor’s assessment of the value of his/her own real property may be accurate, his/her valuation of personal property could be unrealistic. Debtors tend to use the purchase price as the basis for assessing the value of personal property at the time of completing the bankruptcy petition. Personal property, unlike most real property, depreciates rapidly. Therefore, a good way to elicit an accurate valuation from the debtor is by asking what she/he would receive for the item or items if they were sold at a yard sale today.

For certain purposes, however, as set forth in 11 U.S.C. §506(a)(2), the Bankruptcy Code provides that the value of property acquired for personal, family and household purposes shall be

determined based on its “replacement value.” Replacement value is described as the price a retail merchant would charge for that property considering the age and condition of the property. For the types of used, personal property owned by CBAP clients, it is difficult to envision a retail merchant even selling such items and how the replacement value methodology will produce a result that differs from the prices the property would bring at a yard. sale.

Student Loans and Chapter 7 Bankruptcy

Many low income clients have student loan debt resulting from their enrollment in proprietary trade schools, two year community colleges or four year colleges. Most student loans are obtained from a lending institution and are ultimately guaranteed by the United States Department of Education. In many situations the loans are guaranteed by a middle entity, usually one of the forty-seven state guarantee agencies. The Pennsylvania Higher Education Assistance Agency (PHEAA) is such a guarantee agency. If a student defaults on a student loan, the original lender seeks reimbursement from the guarantee agency. Once the lender is repaid, the guarantor then holds the promissory note and commences collection action. PHEAA has state statutory authority to commence an administrative action to garnish the borrower’s wages. There is also federal authority to collect on defaulted loans through income tax refund intercepts. These collection actions often prompt clients to inquire about bankruptcy as a way of preventing or eliminating these collection practices.

As a general rule, a student loan guaranteed by the government or made by a nonprofit institution is not dischargeable under 11 U.S.C. §523(a)(8). As a result of the 2005 amendments to the Bankruptcy Code, student loans made by private entities for which repayments are tax deductible are also nondischargeable. Normally, the debtor should attempt to obtain a nonbankruptcy discharge, as discussed below, before seeking a bankruptcy hardship discharge.

There is an exception to this general rule of student loan nondischargeability for student loans. If the repayment of the loan would create an undue hardship on the debtor and his/her family, the debt may be discharged. This discharge is commonly referred to as an undue hardship discharge.

Since 1995, student loan nondischargeability in the Third Circuit has been governed by Court of Appeals decision on November 28, 1995, the Third Circuit issued its decision in In re Faish, _____ F.3d _____, 1995 WL 737887 (3d Cir. 1995), which adopted a three part test based upon the Second Circuit’s decision in Brunner v. New York State Higher Education Services Corp., 831 F.2d 395 (2d Cir. 1987). After Faish, to satisfy the undue hardship test, the debtor must show that: (1) the debtor cannot, based on current income and expenses maintain a “minimal” standard of living for himself or herself and the debtor’s dependents if forced to repay the student loan; (2) additional circumstances exist indicating that the debtor’s financial circumstances are likely to persist for a significant portion of the repayment period for the loan; and (3) the debtor has made “good faith” efforts to repay the loans (which means that the debtor’s student loan default was caused by circumstances beyond the debtor’s control and not the debtor’s willful negligent conduct).

PLEASE CONTACT CBAP STAFF SUPERVISING ATTORNEYS IF YOU WOULD LIKE TO CONSULT ABOUT EVALUATING YOUR CLIENTS' STUDENT LOAN UNDER THE HARDSHIP CRITERIA.

Volunteers are frequently confused as to what parties should be listed on the bankruptcy schedules, matrix and/or in a complaint due to the nature of the student loan guaranty and the collection practices. As previously mentioned, the debtor obtains a student loan from a lending institution but as soon as the debtor defaults on the obligation the note is paid off by the guarantor. Volunteers will find that most debtors' loans are held by a guaranty agency or the United States Department of Education ("US DOE"). The guarantee agency will commence collection activity or employ a collection agency to do so once the loan is acquired from the lender. After years of unsuccessful collection activity by the guaranty agency, the loan is then paid by the US DOE and the department then holds the note.

The current holder of the promissory note, the US DOE (if it does not currently hold the note), and the collection agency, if applicable, should be listed on the bankruptcy schedules and matrix.

In an adversary action to determine dischargeability of a student loan, the holder of the note and the US DOE should be named defendants even though the US DOE may not take an active role in the litigation. A determination as to the dischargeability of the student loan against the holder is viewed by the US DOE as binding on the Department. Due to principles of sovereign immunity, it may be preferable to name the Secretary of the US DOE as the party defendant, rather than the US DOE itself, in a complaint to determine the dischargeability of a student loan.

NON-BANKRUPTCY REMEDIES AVAILABLE FOR STUDENT LOAN DEBT

As a result of the 1992 Amendments to the Higher Education Act, borrowers now have two non-bankruptcy options available to discharge their student loan debt. The CBAP volunteer should investigate these alternatives to relieve the client of student loan debt that is not dischargeable under §523(a)(8) of the Bankruptcy Code or to avoid bankruptcy altogether.

CLOSED SCHOOL DISCHARGE

The "closed school" discharge is available to borrowers with loans that were originated after January 1, 1986 and who were enrolled at a school during the ninety (90) days prior to the school's closure. A list of the closure dates of local schools can be obtained from the CBAP office. An application for a closed school discharge can be obtained from the holder of the student loan. If the holder of the loan does not have an application available, one can be obtained from the CBAP office. A "closed school" application can be completed for the client with a little assistance from the CBAP volunteer. It is critical that the client's memory of their last date of attendance falls within the ninety days preceding the school's actual closure date.

FALSE CERTIFICATION DISCHARGE

The “false certification” discharge is available to borrowers with loan debt that was originated after January 1, 1986 and who did not have a high school diploma or G.E.D. when they enrolled at the school. An application for a “false certification” discharge requires that the client’s school records be requested and reviewed and that a theory of “false certification” in line with the federal regulations be developed. Since this option requires a greater time commitment from CBAP volunteers as well as a familiarity with student loan regulations and issues, CBAP volunteers should refer client’s with potential “false certification” claims to Community Legal Services, Inc.

NON DISCHARGE OPTIONS AVAILABLE FOR DEALING WITH STUDENT LOAN DEBT

There are several options available to borrowers with student loan debt that is not dischargeable under bankruptcy or through the remedies discussed above.

“REASONABLE & AFFORDABLE” PAYMENT PLANS

“Reasonable and affordable” payment plans are available to borrowers with defaulted student loans that wish to return to school. A reasonable and affordable payment arrangement can be made by contacting the holder of the loan in writing and specifically stating “I want to enter into a reasonable and affordable payment plan in order to renew my eligibility for financial aid.” The borrower should also provide the holder of the loan with his/her social security number, monthly income and expenses and family size. For individuals receiving public assistance, the amount of monthly payments under a “reasonable and affordable payment plan” can be as little as \$5.00 per month. Upon the payment of six (6) consecutive monthly payments, the borrower will be certified as eligible for student loans.

FEDERAL LOAN CONSOLIDATION PROGRAMS

For low income borrowers, the federal loan consolidation program offers an option for repayment at is based upon incomes. For individuals with income at or below- the poverty guideline, the monthly repayment amount may be \$0. After twenty-five years under the consolidation program, any remaining loan debt is forgiven. More information on how to apply for the Federal Loan Consolidation Program can be obtained from the CBAP office.

NOTE: FOR MORE INFORMATION ABOUT NON-BANKRUPTCY DISCHARGES AND CLOSED SCHOOL PROCEDURES CONTACT CBAP STAFF OR CLS CONSUMER HOUSING ATTORNEYS (See listing at page 44).

Sources of Student Loan Information

Various student loan agencies have become reluctant to release information to “third parties” regarding student loan information. To overcome this dilemma, CBAP has a Release Form which should be signed by the client at the first meeting. This will enable the volunteer to obtain information quickly. The form should be sent to the proper student loan agency.

It may become necessary to contact a student loan agency. The volunteer should check the Master Creditor List for student loan agency addresses.

The telephone numbers of the most frequently called student loan agencies, and their collection agencies, are listed below:

Pennsylvania Higher Education Assistance Agency

1-800-233-0751 or 1-800-328-0355 or 1-800-233-0557

Mr. Byron Walker, Esquire (for P.H.E.A.A.)

1200 North 7th Street

Harrisburg, PA 17120

Contact his assistant, Kristen Newmeyer (717) 720-3800

United States Department of Education

400 Maryland Avenue, S. W.

Washington, DC 20202

(202) 708-4766

San Francisco office (800) 227-3237

Diversified Collection Services

1-800-766-0190

United Student Aid Fund

Indianapolis, IN (317) 849-6510

Higher Education Assistance Fund

Minneapolis, MN (612) 227-7661

Nebraska Higher Education Loan Program

Lincoln, Nebraska (402) 475-7272

Please note that defaulted loans held by the US DOE must be listed with credit reporting agencies. If your client has many lenders or has lost much of the paperwork about their student loan, obtaining a credit report may be a valuable source of information about which agency or collector handles your client’s loan.

Procedures Concerning the Philadelphia Housing Authority (“PHA”)

For those of you representing PHA clients, this section will cover issues of concern to both you and your clients and allow you to better represent PHA tenants.

Clients Who Are Listing the Philadelphia Housing Authority As A Creditor:

Clients should add any court costs into their PHA rent debt for discharge, i.e., Municipal Court fees and writ charges. Be sure to list your client’s “Right to Public Housing” on Schedule B, number 33 with a value of “nominal.” You should exempt the debtor’s “Right to Public Housing” on Schedule C under §522(d)(10). Exempt value and market value nominal. Indicate the lease with the Philadelphia Housing Authority on Schedule G.

The Bankruptcy Court has ruled that clients are responsible for payment of pro-rata rent due after filing. PHA will pro-rate rent due for the remainder of the month in which the tenant files. Clients filing late in the month will obviously incur the lowest pro-rata rent charges.

PHA Motion For Relief:

PHA’s attorney is likely to file a motion for relief from the automatic stay if your client falls behind in paying post-petition rent. The debtor’s attorney will receive a copy of the motion requiring an answer and notice of hearing. Frequently, PHA’s assertion that a client has failed to pay post-petition rent is incorrect due to PHA’s miscalculation or failure to properly credit amounts already paid by the tenant.

In the event PHA files a motion for relief, you will need to contact your client to go over his/her record of post-petition payments, as well as talk to PHA’s attorney. These matters can often be concluded through pre-hearing negotiations with PHA’s attorney. PHA should agree to withdraw its motion if the allegations about failure to pay rent are shown to be in error.

Clients Who Wish To Be Readmitted To PHA Housing Programs:

Former clients of the Philadelphia Housing Authority who wish to be re-housed in PHA housing programs must discharge debts owed to PHA in order to be eligible for readmission. It is PHA’s current policy to allow clients to apply for readmission only **after** their debt has been discharged through bankruptcy.

Clients may meet several obstacles to readmission which are unrelated to owing PHA money. The client may not be able to apply for admission unless PHA is open to accept applications at that particular point in time. Even if a client can put in an application for admission, he/she will simply be placed on a waiting list. Therefore clients should be advised that filing bankruptcy will not automatically result in an offer of housing.

Clients Living In Shelters:

In some cases a client may by-pass the general waiting list if an emergency exists. Emergency PHA admissions are generally defined as cases where clients are homeless and in a

shelter, clients who are fire victims, displaced by governmental actions, or who are living in dwellings declared unfit by the city. Cases which receive lower priorities are clients who are living in sub-standard housing or paying more than one-half of their income towards housing costs. Even if a client does qualify for a priority admission to PHA, there is often a rather lengthy waiting period.

For clients currently residing in shelter, the city Office of Emergency and Shelter Services (OESS) will directly refer cases to PHA for application for admission. OESS's main office is located at 141 Juniper Street. Clients who go through OESS are assigned an individual case manager. However, even when clients are eligible, or have received a discharge order, it is not unusual for them to experience a lengthy wait before receiving an offer of housing.

Clients should be instructed to contact their OESS case manager promptly upon filing bankruptcy with the projected date of discharge in order to expedite the application process.

Clients With Utility Debts In PHA:

PHA clients may be responsible for payment of utility bills, depending on the type of housing program. Clients can discharge debts owed to the utility companies. Some PHA clients make direct payments to the gas and electric companies and may be required to pay adequate assurance to the utility companies in order to continue to receive service after the bankruptcy. Clients for whom PHA is making direct utility allowance payments to PECO and PGW may not be required to pay adequate assurance to utility companies.

Clients' utility bills may indicate a **credit balance**. In these instances, the utility credit should be listed as an asset on the petition and be exempted under 11 U.S.C. 522(d)(5).

Clients can also benefit from counseling regarding the necessity of keeping up with future payments of utility bills, by conserving energy to reduce bills to more manageable amounts, requesting monthly budget plans from PGW to stretch out payments or requesting high-bill investigations to find out the reasons for high bills. Clients also may be referred to resources such as CRISIS or LIHEAP programs to help pay back bills, the Public Utilities Commission to resolve complaints or their local Community Legal Services office.

In some cases, excess utility consumption may be the result of the poor condition of the dwelling unit and PHA's failure to perform needed maintenance work. If that is the case, clients may want to exercise their right to file an administrative grievance against PHA. However, given the complexities of such an action, it is unlikely that a client can do so unassisted and should probably be referred to the Housing Unit of Community Legal Services.

Notice of bankruptcies where PHA has been listed as a creditor should be in the general form of the following sample and should be sent to PHA's Chief Counsel:

Philadelphia Housing Authority
Attention: Legal Division
2012 Chestnut Street
Philadelphia, PA 19103

You should also enclose a time-stamped copy of the first page of the bankruptcy petition. Also send a copy of the notice letter and a copy of the time-stamped first page of the petition to the client. In the event that the physical eviction actually commences, the client can stop it by showing a copy of the notice letter and the copy of the first page of the petition to the eviction agents.

In the event that eviction is imminent, there are several ways to provide quick notice and to stop evictions. The fax number for the PHA Legal Department is 684-4126. Accordingly, a copy of the petition can be faxed. PHA evictions are customarily handled by the office of Robert Messerman. Faxing the notice letter along with a time-stamped copy of the first page to Mr. Messerman's office at 215-523-9900 will be sufficient for Messerman's office to cancel the eviction. Messerman's office is located at 21 South 12th Street, Suite 902, Philadelphia, PA 19107.

PHA has become very aggressive in filing motion for relief from the stay if tenants fail to make their post petition rental payments. In light of this, it is very important that counsel for PHA debtors make it very clear to their clients that they must begin making rent payments, commencing with the first month after the filing of the bankruptcy petition. Counsel your client about this on at least three occasions. Talk to them about it when they sign the bankruptcy petition, at the §341 hearing and at the time of the discharge. Also send them a letter immediately after the bankruptcy is filed, indicating when the rent payments must start and indicating the consequences of failing to make those post petition payments.

Volunteer attorneys who are representing a client with a debt to PHA should be aware that it is extremely important that the bankruptcy is filed before a judgment is entered. The case will become much more complicated if the bankruptcy is filed after a judgment is entered. Furthermore, it will be very difficult to predict the outcome of the client's case once a judgment has been entered. At this point, caselaw is favorable to CBAP clients and we want to avoid any situation which could result in the shifting of caselaw opinions.

It is also important that counsel for PHA debtors talk to the tenants about gas and electric bills. Even if PHA tenants are not currently receiving gas and electric bills, they may have old bills from before they moved into public housing. In addition, many PHA tenants do not understand the vendor system for utility allowance payments. They believe that the Philadelphia Housing Authority pays their gas and electric bills and that they have no obligation. In fact, if the utility allowance does not cover the utility bill, the tenant is responsible for the difference. A utility delinquency may well exist and should be listed on the bankruptcy petition. Moreover, it is also possible that the utility allowance exceeds the utility bill. In that event, there would be a credit on the account which must be listed as an asset and exempted. Always request that your clients bring in their most recent gas and electric bills for you to examine. Clients who need assistance with a grievance against PHA regarding their utility payments/allowance should be directed to contact the Community Legal Services - Public Housing Unit at 215-981-3700. They will be scheduled to meet with an attorney or paralegal who can assist them in the formal grievance process. If you have questions about the Public Housing Authority as it relates to your client's bankruptcy please contact the CLS lawyers who specialize in public housing law:

Michael Donahue (215-981-3769), Rue Landau (215-981-3716), Paul Brooks (215-981-3721) or contact CBAP staff (215-523-9511.)

Your clients' Utility Service and Bankruptcy

Once the Chapter 7 bankruptcy petition has been filed, clients should be advised that they are responsible for paying their current utility bills in order to maintain service. Only pre-petition balances will be discharged by the Chapter 7 bankruptcy. It may take some time for the utility companies to clear the balances to be discharged from the client's bill. Therefore, clients should also be advised not to pay any balances which will eventually be discharged.

Adequate Assurance/Security Deposits

After the filing of the Chapter 7 bankruptcy petition, the debtor should not be required by the gas company (PGW) to pay a security deposits to maintain or reinstate gas service. PGW should be monitored by the CBAP volunteer attorney to insure that PGW does not demand an adequate assurance payment. CBAP clients are either paying their gas bills under PGW's Customer Responsibility Program (CRP) or clients are CRP eligible. Therefore, clients do not need to pay an adequate assurance payment. A CBAP volunteer attorney may need to contact Louis Roman at PGW's Bankruptcy Department at 215-684-6150 or 215-684-6917 if problems arise regarding this payment. The Water Revenue Bureau of the City of Philadelphia generally does not request a security deposit even when the client is having service restored.

PECO Energy will require a deposit that is twice the Customer Assistance Program special rate. Clients may request an investigation of their adequate assurance payment if they believe "they are being charged too much in the adequate assurance amount. PECO Energy's bankruptcy department will handle your questions at 215-841-6047. Debtors may pay their adequate assurance payment over a three month period in amount of 50% the first month, 25% the second month and 25% the third month.

N.B. PECO **does not** require security deposits from debtors participating in their Customer Assistance Project (CAP) or from debtors participating in the Philadelphia Housing Authority's special programs. CBAP clients usually meet the eligibility criteria for these special payment programs and should be advised to apply for these programs at PECO.

If Utilities Are Off

After the bankruptcy petition has been filed, if the debtor's gas service is off, the debtor should be handled as a new client of the Philadelphia Gas Works (PGW). PGW should not require a CBAP client to pay a re-connection charge before gas service is restored. The attorney should contact Mr. Louis Roman at PGW, 215-684-6917 if there are any problems. If a client needs gas service restored, the client needs to contact the Service Department at PGW at 215-235-2050. The electric company, PECO ENERGY also should treat a client that has filed for bankruptcy as a new customer and not require a turn-on fee if their electric service has been discontinued.

Application for Energy Assistance Grants

LIHEAP (Low-Income Home Energy Assistance Program) and CRISIS energy assistance grants are federally funded, state administered programs. Funds are traditionally available from mid-winter to early spring. Clients should be advised and urged to apply for funds as soon as the grants become available. Debtors should be encouraged to apply for these grants if they have not done so prior to the filing of the bankruptcy. (Informational flyers are available from CBAP.)

LIHEAP grants are available for use toward the applicant's primary source of heat but can also be used for the applicant's secondary source of heat. Grant amounts are calculated based upon several factors, including household size, housing type, fuel type and weather region. A LIHEAP grant is applied toward the applicant's future utility usage but cannot be used for payment of security deposits.

CRISIS grants are limited to a maximum of \$300. This grant can be split and applied toward any single utility bill or combination of bills and/or adequate assurance/security deposits.

NOTE: There are many important resources that may be available to your client for help in keeping gas, electric, water and telephone utility payments affordable. These include low-income payment plans with PGW, PECO and PGW and the phone companies. Clients whose households include senior citizen members or members with medical disabilities may be able to participate in special programs. Other resources may include purchase of oil at a reduced rate through the Oil Co-op and access to weatherization services for your client's home or apartment. For more information about these resources you may contact CBAP staff at 215-523-9510 or the City's Energy Coordinating Agency at 215-988-0929 to refer your client to a Neighborhood Energy Center.

RESTORATION OF SUSPENDED DRIVERS' LICENSES

In certain cases, the filing of a bankruptcy petition can enable a client to obtain restoration of a suspended driver's license. In evaluating this possibility, it is first necessary to determine the reasons or reasons why the license has been suspended. As a general rule, a bankruptcy filing is helpful only if the suspension is based upon some type of monetary obligations.

There are three main reasons why-an-individual's driver's license might be suspended:
"Points"

"Points"

This refers to the accumulation of too many "points" assessed after commission of "moving violations." This type of suspension is based upon the state's regulatory powers, not upon a financial default, and is therefore not subject to bankruptcy relief. A related type of suspension is the automatic license suspension that occurs for receiving a ticket for driving with a suspended license.

"Financial Responsibility"

Automobile owners in Pennsylvania are required to maintain a certain minimum level of liability insurance on their vehicles. The Commonwealth enforces this requirement by, among other means, suspending the drivers' licenses of motorists who have unsatisfied judgments against them result from motor vehicle accidents (premised on the assumption that if the motorist has adequate insurance coverage, any judgment entered will be paid and marked satisfied). See 75 Pa C.S. §§1771, 1772. Suspended licenses may be restored when outstanding judgments are satisfied or their enforcement is stayed and the driver provides proof of financial responsibility. 75 Pa C. S. § 1773. Proof of financial responsibility is demonstrated by showing the Pennsylvania Department of Transportation ("PENNDOT") that all vehicles registered in the driver's name are insured or that the driver owns no registered vehicles.

A bankruptcy filing satisfies the first requirement for restoration of driving privileges by staying enforcement of the judgment. 11 U.S.C. §§362, 524, 525. The second requirement (proof of financial responsibility) can be established through proof that registered vehicles are insured or through an affidavit stating that the driver does not own a registered automobile. Included in these materials are several sample affidavits covering different scenarios that bankruptcy counsel may come across. **WARNING: There is a provision of the PA. Vehicle Code That provides for suspension of a license and vehicle registration when an uninsured vehicle is involved in a motor vehicle accident. 75 Pa C. S. §1785. If this provision is invoked by PENNDOT, a bankruptcy filing may not restore the driver's license because the suspension would be based upon regulatory power and not a monetary obligation.**

“Traffic Fines”

A driver’s license may also be suspended for failure to pay a traffic fine assessed for a violation of the Vehicle Code, even if the number of points assessed for the violation would not result in suspension of the license. Such a fine is not dischargeable in a Chapter 7 bankruptcy case, 11 U.S.C. §523(a)(7), and since the 1994 amendments to the Bankruptcy Code, it is unclear whether such fines are dischargeable in Chapter 13 cases, 11 U.S.C. §1328(a)(3).

Procedure for License Restoration

Before PENNDOT will restore operating privileges, it requires a copy of the first page of the debtor’s bankruptcy petition along with a copy of Schedule “F” showing that the holder of the unsatisfied motor vehicle judgment has been listed as a creditor. In most cases, PENNDOT is satisfied if the creditor is listed at his last known address or at his or her attorney’s address. In any event, PENNDOT always knows the court and case number of the judgment, which information can be used to locate the docket and the name and address of the creditor and the creditor’s attorney.

After the debtor’s bankruptcy case is filed all required information together with a \$25 money order for the license restoration fee should be made out to and sent to PENNDOT, in care of George Kabusk, Esquire, at the Office of Chief Counsel as indicated below:

**Commonwealth of Pennsylvania
Bureau of Drivers Licenses
Corrections Unit
ATTN: George Kabusk, Esquire
Riverfront Office Center, 3rd FL
1101 South Front Street
Harrisburg, PA 17104-2516
Tele: (717) 787-2830**

It is recommended that all communication with PENNDOT be through the Chief Counsel’s office. The PENNDOT attorneys are better able to navigate the PENNDOT bureaucracy than the debtor’s counsel. In most cases, the PENNDOT attorneys can inform you exactly why a license has been suspended and the steps that need to be taken to have the license restored. Contact with other parts of PENNDOT’s bureaucracy can be counterproductive.

Summary of Items Usually Needed

1. Copy of first page of debtor’s bankruptcy petition
2. Copy of the schedule listing the motor vehicle judgment holder
3. Proof of financial responsibility (proof of insurance) or affidavit of non-ownership of registered vehicle
4. \$25 money order to cover the license restoration fee payable to Penndot

PROCEDURE FOR FILING ADVERSARY PROCEEDINGS
(e.g. Complaints to Determine Dischargeability)

All Complaints must be filed pursuant to Fed. R. Bankr. P. 7001 et gm.

WHAT TO FILE:

Complaint
Adversary Cover-Sheet-(Local Bankrupt Form 7003-1)
Certificate of Service (after service of Complaint and Summons)

WHERE TO FILE:

All filings should be made electronically unless the requirement of electronic filing has been waived by the court

WHO TO SERVE:

Within a few days, the summons should be mailed to the attorney of record by the bankruptcy clerk. The summons will set forth the due date of the response to the Complaint. Pre-trial conferences are schedule at a later date. The moving party's counsel is required to serve the summons and a copy of the Complaint on all interested persons.

HOW TO SERVE:

See Fed. R. Bankr. P. 7004.

REMEMBER ALWAYS CHECK YOUR LOCAL BANKRUPTCY RULES

PROCEDURE FOR FILING MOTIONS
(e.g. Motions to Avoid Liens or
Motions to Avoid Non purchase Money Security Interests)

Most Motions must be filed pursuant to Local Bankruptcy Rule 9014-3.

WHAT TO FILE:

Under L.B.R. 9014-3, the following documents must be filed:

Notice of Hearing to Consider Motion (Local Bankruptcy Form 9014-3)
Proposed Order
Certificate of Service

WHERE TO FILE:

All filings should be made electronically unless the requirement of electronic filing has been waived by the court

WHO TO SERVE:

L.B.R. 9014-3 requires that the movant serve the following parties or, if represented, their counsel. of record:

- The debtor
- the U.S. Trustee -- • - the trustee or the interim Trustee
- any person whose interest would be directly, materially and adversely affected if the relief requested in the motion were granted and whose interests are not adequately represented by persons on whom service is otherwise required

REMEMBER ALWAYS CHECK YOUR LOCAL BANKRUPTCY RULES

**Community Legal Services, Inc.
and
Philadelphia Legal Assistance**

Consumer Bankruptcy Specialists

CLS Main Office - 1424 Chestnut Street

Utilities Unit

Phil Bertocci 981-3702

Public Housing Unit

Mike Donahue 981-3769

Rue Landau 981-3716

CLS Law Center North Central, 3638 North Broad Street, Philadelphia, PA 19140

Iry Ackelsberg 227 2417

Terry Clattenburg 227-2420

Alan White 227-2414

Philadelphia Legal Assistance - 42 South 15th Street, 5th floor. Philadelphia, PA 19102

Richard Friedman 981-3701

Anita Santos 981-3808

Irwin Trauss 981-3811

Jana Lyn Weisman 981-3828

APPENDICES

Obtaining Information from Credit Reporting Services

Clients may obtain a free credit report through the internet by contacting **www.annualcreditreport.com**. If, for any reason, a client cannot obtain a credit report through the internet, simply follow the directions offered by www.annualcreditreport.com.

The three main credit reporting services are listed below. However, the easiest, quickest and most thorough method is to utilize the services of annualcreditreport.com.

Experian
Information Services Division
NCAC
P.O. Box 9556
Allen, TX 75013
800-493-1058

Trans Union Corporation
P.O. Box 7000
North Olmstead, Ohio 44070
800-916-8800

Equifax Credit Information Services
Box 740256
Atlanta, GA 30374
Tel. 800-685-1111

WORKSHEET OF QUESTIONS FOR INITIAL CLIENT INTERVIEW

What You Need from the Debtor:

1. All bills, notices, and lawsuits showing name, address, and amounts owed creditors as well as their lawyers and collection agents.
2. Income Information: Pay stubs including taxes withheld or any information regarding any of the following sources of income: Public Assistance (incl. Food Stamps), Social Security, SSI, SSDI, Unemployment or Worker's Compensation or Child Support.

Initial Questions to Debtor:

1. What are your unsecured debts: credit cards, store charges, utility bills, and unsecured loans.
2. Are you responsible for any mortgages, home improvement, or auto loans? Are they substantially current or seriously in arrears? (if in arrears, debtor may need to file under Chapter 13.)
3. Are you responsible for any student loans?
4. Do you owe any taxes, tickets, fines, child support, criminal restitution, fraud judgments?
5. How long have you resided in Pennsylvania?

Specific Petition and Schedule Questions:

1. Name, address, phone, Social Security number, and other names used.
2. Prior bankruptcies: Chapter, bankruptcy number, date filed, date dismissed or discharged.
3. Name, address, and years with employer.
4. How often paid, gross take home, and deductions other than taxes such as insurance, pension, credit union, union dues, savings, child support or other wage attachment. Examine pay stub.
5. Other income such as part-time work, SSI, food stamps, contributions from spouse and children. Did they have a business?
6. Gross income for the past 2 years.
7. Dependents and budget. Where income and expenses don't match, ask client to explain.
8. Dates of mortgages and other secured claims.

9. Make and year of automobile. Monthly insurance cost. GMAC and other auto lenders require evidence of full comprehensive and collision coverage naming lender a loss-payee.

Exemptions:

1. Personal residence: 11 U.S.C. 522(d)(1) \$18,450.00 equity.
2. Vehicle: 11 U.S.C. 522(d)(2), \$2,950.00 equity.
3. Household goods and personal effects, no one item worth more than \$475.00 at yard sale, 11 U.S.C. 522(d)(3), \$9,850.00 total.
4. Anything else: 11 U.S.C. 522(d)(5), \$975.00 plus up to \$9,250.00 of unused homestead exemption for a potential maximum total of \$10,225.00.
5. Tools of trade: 11 U.S.C. 522(d)(6), \$1,850.00.
6. Amounts doubled for joint petition. Use Pennsylvania state exemptions for entireties property for an individual with significant home equity.

What to Tell Debtors:

1. You will have no protection from creditors until your petition is filed.
2. Do not pay utility bills until after petition filed, (so long as filing is imminent and client is not in danger of termination or can maintain service with minimal payments).
3. You may have to pay PECO, PGW, City Water Revenue Bureau security deposits/adequate assurance shortly after filing.
4. You will have to pay for any utility service used after the date of filing, post-petition rent, and mortgage payments (which may include arrearage).
5. You must attend Meeting of Creditors, which will be scheduled for a date approximately three to six weeks after the filing of the petition. The meeting will be held at the Curtis Center at 833 Chestnut Street, Suite 501, 5th Floor, Philadelphia, Pennsylvania.
6. Your discharge order will come in the mail approximately three months after the Meeting of Creditors.

In re: _____
Debtor

Case No. _____
(if known)

APPLICATION FOR WAIVER OF THE CHAPTER 7 FILING FEE
FOR INDIVIDUALS WHO CANNOT PAY THE FILING FEE IN FULL OR IN INSTALLMENTS

Part A. Family Size and Income

1. Including yourself, your spouse, and dependents you have listed or will list on Schedule I, how many people are in your family? (Do not include your spouse if you are separated AND are not filing a joint petition).

2. Re-state the following information that you provided, or will provide, on Schedule I (Current Income of Individual Debtor(s)), and then total it.

Total Combined Monthly Income (Line 16 Schedule I): \$0.00
Subtotal of Payroll Deductions for Self (Line 5 of Schedule I): \$0.00
Subtotal of Payroll Deductions for Spouse (Line 5 Schedule I): \$0.00

TOTAL Monthly Gross Income of Debtor and Spouse (sum of the above): \$0.00

3. State the monthly gross income, if any, of dependents included in Question 1 above. Do not include any income already reported in Item 2. If none, enter \$0

\$0.00

4. Add the total monthly gross income of debtor and spouse from Question 2 to your dependents' monthly gross income from Question 3.

\$0.00

5. Do you expect the amount in Question 4 to increase or decrease by more than 10% during the next 6 months?
Yes _____ No
If yes, explain.

Part B. Monthly Expenses

6. EITHER (a) attach a completed copy of Schedule J (Schedule of Monthly Expenses), and state your total monthly expenses reported on Line 18 of that Schedule, OR (b) if you have not yet completed Schedule J, provide an estimate of your total monthly expenses.

\$0.00

Part C. Real Personal Property

EITHER (1) attach completed copies of Schedules A (Real Property) and Schedule B (Personal Property), OR (2) if you have not yet completed those schedules, answer the following questions.

7. State the amount of cash you have on hand: \$0.00

8. State below any money you have in savings, checking or other accounts in a bank or other financial institution.

Bank or Other Financial Institution	Type of Account such as savings, checking, CD:	Amount
-------------------------------------	--	--------

In re: _____
Debtor

Case No. _____
(if known)

9. State below the assets owned by you. Do not list ordinary household furnishings and clothing.

Home	Address: _____	Value: <u>\$0.00</u>	Amount owed on mortgages and liens: <u>\$0.00</u>
Other real estate	Address: _____	Value <u>\$0.00</u>	Amount owed on mortgages and liens: <u>\$0.00</u>
Motor Vehicle	Model/Year: _____	Value: <u>\$0.00</u>	Amount owed: <u>\$0.00</u>
Motor Vehicle	Model/Year: _____	Value: <u>\$0.00</u>	Amount owed: <u>\$0.00</u>
Other	Description: _____	Value: <u>\$0.00</u>	Amount owed: <u>\$0.00</u>

10. State below any person, business, organization, or governmental unit that owes you money and the amount that is owed.

Name of Person, Business, or Organization that Owes You Money	Amount Owed
---	-------------

Part D. Additional Information

11. Have you paid an attorney any money for services in connection with this case, including the completion of this form, the bankruptcy petition, or schedules? Yes _____ No

If yes, how much have you paid? _____

12. Have you promised to pay or do you anticipate paying an attorney in connection with your bankruptcy case? Yes _____ No

If yes, how much have you promised to pay or do you anticipate paying? _____

13. Have you paid anyone other than an attorney (such as a bankruptcy petition preparer, paralegal, typing service, or another person) any money for services in connection with this case, including the completion of this form, the bankruptcy petition, or schedules? Yes _____ No

If yes, how much have you paid? _____

14. Have you promised to pay or do you anticipate paying anyone other than an attorney (such as a bankruptcy petition preparer, paralegal, typing service, or another person) any money for services in connection with this case, including the completion of this form, the bankruptcy petition, or schedules? Yes _____ No

15. Has anyone paid an attorney or other person or service in connection with this case, on your behalf? Yes _____ No

If yes, explain

In re: _____ Case No. _____
Debtor (if known)

16. Have you previously filed for bankruptcy relief during the past eight years? Yes ____ No

Case Number (if known)	Year filed	Location of Filing	Did you obtain a discharge? (if known)
_____	_____	_____	_____

17. Please provide any other information that helps to explain why you are unable to pay the filing fee in installments.

18. I declare under penalty of perjury that I cannot currently afford to pay the filing fee in full or in installments and that the foregoing information is true and correct.

Executed on: _____
Date Signature of Debtor

United States Bankruptcy Court
Eastern District of Pennsylvania
Philadelphia Division

In re: _____ Case No. _____
Debtor (if known)

ORDER ON DEBTOR'S APPLICATION FOR WAIVER OF THE CHAPTER 7 FILING FEE

Upon consideration of the debtor's "Application for Waiver of the Chapter 7 Filing Fee", the court orders that the application be:

GRANTED

This order is subject to being vacated at a later time if developments in the administration of the bankruptcy case demonstrate that the waiver was unwarranted.

DENIED.

IT IS FURTHER ORDERED THAT:

The debtor either (1) pay the chapter 7 filing fee in full within _____ days of the date this Order was entered, or (2) begin making installment payments according to the following terms:

\$ on or before

IF THE DEBTOR FAILS TO TIMELY PAY THE FILING FEE IN FULL OR TO TIMELY MAKE INSTALLMENT PAYMENTS, THE COURT MAY DISMISS THE DEBTOR'S CHAPTER 7 CASE

SCHEDULED FOR HEARING

A hearing to consider the debtor's Application for Waiver of the Chapter 7 Filing Fee" shall be held on _____ at _____ a.m. at

(address of courthouse)

IF THE DEBTOR FAILS TO APPEAR AT THE SCHEDULED HEARING, THE COURT MAY DEEM SUCH FAILURE TO BE THE DEBTOR'S CONSENT OF THE ENTRY OF AN ORDER DENYING THE FEE WAIVER APPLICATION BY DEFAULT.

BY THE COURT:

DATE ORDER ENTERED: _____

United States Bankruptcy Judge

CREDIT COUNSELING AGENCIES APPROVED FOR EASTERN PENNSYLVANIA

Eastern District of Pennsylvania Advantage Credit Counseling Service Inc.

River Park Commons
2403 Sidney Street
Suite 400
Pittsburgh, PA 15023
888-511-2227
In Person, Telephonic

Consumer Credit Counseling Service of Delaware Valley, Inc.

1515 Market Street
Suite 1325
Philadelphia, PA 19102
800-989-2227
In Person and Telephonic

Consumer Credit Counseling Service of Greater Atlanta Inc.

100 Edgewood Avenue
Suite 1800
Atlanta, GA 30303
800-251-2227
www.ccsinc.org

In Person (*not available in all judicial districts*), Telephonic and Internet

Consumer Credit Counseling Service of New Jersey

185 Ridgedale Avenue
Cedar Knolls, NJ 07927-1812
800-728-3260
www.cccsnj.org
In Person, Telephonic, & Internet

Credit Counseling Center

832 Second Street Pike
Richboro, PA 18954
877-900-4222
www.ccc-credit.com

In Person (*not available in all judicial districts*), Telephonic, & Internet

Credit Counseling Centers of America

9330 LBJ Freeway

Suite 900

Dallas, TX

75379-8039

800-493-2222

www.cccameria.org

In Person (*not available in all judicial districts*), Telephonic & Internet

Garden State Consumer Credit Counseling, Inc.

225 Willowbrook Road

Freehold, NJ 07728

877-892-4557

www.novadebt.org

In Person (may not be available in all judicial districts) & Telephonic

GreenPath, Inc.

38505 Country Club Drive, Suite 210

Farmington Hills, MI 48331-3429

800-630-6718

www.greenpathbk.com

In Person (*not available in all judicial districts*), and Telephonic

Hummingbird Credit Counseling and Education, Inc.

3737 Glenwood Avenue

Suite 100-106

Raleigh, NC 27612

800-645-4959

www.hbcce.org

Telephonic & Internet

Institute for Financial Literacy, Inc.

449 Forest Avenue

Suite 12

Portland, ME 04101

866-662-4932

www.financiallit.org

Telephonic & Internet

Money Management International Inc.

9009 West Loop South

7th Floor

Houston, TX 77096-1719

877-918-2227

www.moneymanagement.org

In Person (*not available in all judicial districts*), Telephonic & Internet

Springboard Nonprofit Consumer Credit Management Inc.

4351 Latham Street

Riverside, CA 92501

800-947-3752

www.credit.org

In Person (*not available in all judicial districts*), Telephonic & Internet

D. Name and address of spouse's current employer: _____

E. How long have you been at your current job?: _____ Your spouse? _____

F. List all income received in the last six months by you or your spouse (do not list your spouse's income if you are not filing bankruptcy together and you are legally separated):

(Bring a copy with you to our office of all pay stubs or other records from your employer of all pay received within the past sixty days.)

<i>Income Received</i> (Give gross income)	<i>Source</i> (Names and addresses of employers or specify social security, welfare, unemployment, self-employment, investments, etc.)	<i>By Whom</i> (Self or spouse)
1 month ago:	_____	_____
2 months ago:	_____	_____
3 months ago:	_____	_____
4 months ago:	_____	_____
5 months ago:	_____	_____
6 months ago:	_____	_____

List all income received so far this year and in the last two years by you and your spouse:

<i>Income Received</i> (Give gross income as reported on tax returns)	<i>Source</i> (Names and addresses of employers or specify social security, welfare, unemployment, self-employment, investments, etc.)	<i>By Whom</i> (Self or spouse)
So far this year:	_____	_____
Last year:	_____	_____
Year before last:	_____	_____

G. Have you or your spouse been in business by yourself or with others during the last six years? YES ____ NO _____. If YES, give the dates, name of the business, its address, and the names of others in business with you or your spouse. _____

H. Are there any debts from your former business? YES ____ NO _____. If YES, list them in questions 32 and 33 and give details here: _____

I. (1) If you employed anyone (such as regular employees, cleaning people, gardeners, babysitters), do you still owe them wages? YES ____ NO _____. If YES, give name and address of employee, dates worked, amount owed, and work done. _____

(2) Has anyone ever been on welfare within the past two years? YES ____ NO _____. Has anyone in your immediate family? YES ____ NO _____. If YES, give details: _____

J. Have you ever been on welfare within the past two years? YES ____ NO _____. Has anyone in your immediate family? If YES, give details: _____

- _____
- _____
- _____
- K. Have you ever received or been told you have received more money from the government than you were supposed to (such as social security, welfare, unemployment compensation, food stamps, etc.)? YES _____ NO _____. If YES, give details: _____
- _____
- L. Do you have any vacation time that is due you from your employer? YES _____ NO _____. If YES, how much is due? _____
- M. Do you have an IRA (including Roth or education IRA) or any other pension plan? YES _____ NO _____. If YES, give details: _____
- N. Have you paid or contributed any funds to a tax-exempt tuition program, or purchased any tuition credits or certificates? YES _____ NO _____. If YES, give details: _____
- O. Are you the beneficiary of a trust or future interest? YES _____ NO _____. If YES, give details: _____
- P. Do you expect to receive more than a small amount of money or property at any time in the near future by way of gift or life insurance proceeds? YES _____ NO _____. If YES, give details: _____
- Q. (1) Do you expect to inherit any money or property in the near future? YES _____ NO _____. If YES, give details: _____
- (2) Has anyone died and left you anything (including insurance benefits)? YES _____ NO _____. If YES, give details: _____

5. Taxes: (Bring a copy of your W-2 forms and any tax returns you have filed within the past year with you to our office.)

- A. Have you received any tax returns this year? YES _____ NO _____. State \$ _____ Federal \$ _____
- B. What income tax refunds do you expect to receive this year? State \$ _____ Federal \$ _____
- C. Does this amount include an Earned Income Credit? YES _____ NO _____.
- D. Have you already filed for the refund? YES _____ NO _____.
- E. When do you expect to receive the tax refund? _____
- F. Do you know if anyone intends to take or intercept your tax refund? YES _____ NO _____. If YES, give details: _____
- G. Did you sign an agreement or refund anticipation loan with a tax preparer to get your refund early? YES _____ NO _____.
- H. (1) Is any other person (such as your spouse) entitled to part of your refund? YES _____ NO _____.
 (2) Have you filed income tax returns every year for the last seven years? YES _____ NO _____.
 (3) Do you have copies of your income tax returns filed in the last four years? YES _____ NO _____. If NO, State the years for which you do not have copies: _____
 (4) Do you owe any taxes to the United States: YES _____ NO _____. If YES, give the name and address of the department or agency to which the tax is owing, the kind of tax that is owing, and the years for which the tax is owing: _____
- _____
- (5) Do you owe any taxes to any states? YES _____ NO _____. If YES, give the name of the state and the department or agency therein, the address of the department or agency, the kind of tax that is owing, and the years for which the tax is owing: _____
- (6) Do you owe any taxes to a county, district, or city? YES _____ NO _____. If YES, give the name of the county, district, or city, the kind of tax that is owing, and the years for which the tax is owing: _____

(7) Besides taxes, do you owe any other money to any branch of the United States Government (e.g., FHA, VA, repossessions or loans, withholding taxes [if you were in business], or money owed Small Business Administration)? YES _____ NO _____. If YES, give the name of the branch, its address, the amount owing, and why it is owed: _____

6. Debt Repaid:

A. If you have made any payments totaling more than \$600 to a credit within the last ninety days, give the name of the creditor and the dates and amount of the payments:

<i>Creditor's Name & Address</i>	<i>Is the Creditor a Relative?</i>	<i>Payment Dates</i>	<i>Amount of Payment</i>
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Please make sure to bring any payment books you have with you.

B. Have you made any payments within the last year to creditors who are or were insiders (relatives or business partners)? YES _____ NO _____. If YES, give details:

C. (1) Have you ever had a student loan or cosigned for someone else's student loan? YES _____ NO _____. If YES to either question, please state:

(2) Who lent you the money? _____

(3) What school was the loan for? _____

(4) Did the student finish the course of study at the school? YES _____ NO _____. If NO, why not? _____

(6) Who is trying to collect the debt? _____

(7) How much have you paid on the debt (include any tax refund intercepts)? _____

(8) Has anyone else made payments on the debt? YES _____ NO _____. How much? \$ _____

7. Suits: (Bring in all papers relating to any suits or criminal cases).

A. Have you ever been sued by any person, company, or organization? YES _____ NO _____. If YES, state:

<i>Case Name</i>	<i>Case No.</i>	<i>Name and Address of Court</i>	<i>Type of Case</i>	<i>Result of Case</i>
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B. Have any court suits resulted in a lien being placed on your property? YES _____ NO _____. If YES, state:

C. Have you ever sued any person, company, or organization? YES _____ NO _____. If yes, state:

<i>Case Name</i>	<i>Case No.</i>	<i>Name and Address of Court</i>	<i>Type of Case</i>	<i>Result of Case</i>
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D. Do you have any criminal charges or convictions? YES _____ NO _____. If yes, state:

<i>Case No.</i>	<i>Name of Court</i>	<i>Charges</i>	<i>Result of Case</i>	<i>Do You Owe Fines, Restitution, or Any Other Money?</i>
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E. Have you been involved in any administrative agency cases (unemployment compensation, worker's compensation, etc.) in the past 12 months? YES_____ NO_____. If yes, state:

<i>Case Name</i>	<i>Case No.</i>	<i>Agency's Name and Address</i>	<i>Type of Case</i>	<i>Result of Case</i>
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F. Do you have any possible reason for suing someone for damage to your property or for injuries to yourself or other members of your family? YES_____ NO_____. If YES, who could you sue, how much money is involved, and why could you sue? _____

8. Garnishment, Attachment, and Sheriff's Sale:

A. Have you ever had any property listed or sold at a foreclosure, tax sale, or sheriff's sale, or levied upon? YES_____ NO_____. If YES, bring any papers concerning those actions to the office and state:

<i>What Property Was Sold or Listed for Sale</i>	<i>Value of Property</i>	<i>Date</i>	<i>Name and Address of Creditor</i>
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B. Has money from your pay check or bank account been garnished, or taken or frozen by a creditor, including your bank or credit union, because of a debt? YES_____ NO_____. If YES, give the following:

<i>Name and Address of Creditor Who Received the Money</i>	<i>Amount Taken</i>	<i>Dates</i>
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9. Repossessions and Returns:

A. Have you had any property or merchandise repossessed during the last year? YES_____ NO_____. If YES, bring all papers including all letters telling you of the repossession or sale.

<i>Description of Property</i>	<i>Month & Year of Repossession</i>	<i>Who Repossessed Item (Name, Address)</i>	<i>Value of Property When Repossessed</i>
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B. Have you voluntarily returned any property or merchandise to the seller in the past year? YES_____ NO_____. If YES, state:

<i>Description of Property</i>	<i>Month & Year of Return to Seller</i>	<i>Seller's Name and Address</i>	<i>Value of Property When Repossessed</i>
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10. Property of Yours Held By Someone Else:

A. Does any other person have any of your property? (This includes any check you may have given to a payday lender or check cashing service.) YES_____ NO_____. If YES, list the following:

<i>Type of Property</i>	<i>Value</i>	<i>Being Held By (Name and Address)</i>	<i>Why Is This Person Holding the Property?</i>
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B. Have you given or made an assignment of any of your property for the benefit of your creditors or any settlements with your creditors within the past two years? YES_____ NO_____. If YES, give the name and

address of the creditor and the terms and conditions under which you gave the property to the creditor or made an agreement with the creditor: _____

C. Is any of your property in the hands of a court-appointed person (a receiver), or in the hands of a person who is holding it for your benefit and use (a trustee)? If YES, give details:

D. Is any of your property in the possession of a pawnbroker, storage company or repairman?
YES _____ NO _____. If YES, describe and give its value: _____

11. Gifts and Transfers:

A. Have you made sales of property, mortgages, gifts, or transfers of any substantial property or cash within the last four years? YES _____ NO _____. If YES, give the following:

<i>Name of Person Who Received Property</i>	<i>Description of Property</i>	<i>Month and Year of Gift or Sale</i>	<i>Was Sale or Gift to a Relative?</i>
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B. Have you used any money from the sale or transfer of any property within the past ten years to purchase or improve your current home, or to pay down the mortgage? YES _____ NO _____. If YES, give the following:

<i>Description of Property Sold or Transferred</i>	<i>Month and Year of Sale or Transfer</i>	<i>Amount You Got from Sale or Transfer</i>	<i>How Much of This Amount Was Used to Buy or Improve Your Home?</i>
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12. Losses:

A. Did you lose any substantial amount of money as a result of fire, theft, or gambling during the last year? YES _____ NO _____. If YES, state the following:

<i>What Caused the Loss?</i>	<i>Value of the Money or Property That Was Lost</i>	<i>Date of the Loss</i>
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B. Did insurance pay for any part of the loss? YES _____ NO _____. If YES, what was date of payment? _____
_____ How much was paid? \$ _____

13. Payments or Transfers to Attorney or Debt Consultants:

A. Give the date, name, and address of any attorney or bankruptcy consultant (petition preparer, typing service, document preparation service, independent paralegal) you have consulted during the past year:

B. Give the reason for which you consulted the attorney or bankruptcy consultant:

C. How much have you paid the attorney or bankruptcy consultant? \$ _____

D. Did you promise to pay money to the attorney or bankruptcy consultant? YES _____ NO _____. If YES, give the amount of the terms of the agreement: _____

- E. Give the name and address of any credit counseling agency or debt settlement company you have consulted during the past year and the date when you consulted them: _____
- F. Did the agency have you sign up for a plan to repay or settle your debts? YES _____ NO _____. If YES, give the amount and terms of the plan (*and bring a copy of the plan with you to our office*): _____
- G. How much have you paid the agency or company? \$ _____
- H. Have you consulted anyone else about your debts in the past year? YES _____ NO _____. If YES, give name, address, and amount(s) paid for the service: _____
- I. Did any of your debts result from a refinancing or a consolidation loan? YES _____ NO _____. If YES, which ones? _____

Please be sure to bring all papers for these loans with you.

14. Closed Bank Accounts:

Have you or your spouse had your name on any bank account (such as savings, checking, certificates of deposit) during the past 12 months that is now closed? YES _____ NO _____. If YES, state:

<i>Bank's Name and Address</i>	<i>Acct. No.</i>	<i>Type of Account (Savings/Checking)</i>	<i>Names of Others on Account</i>	<i>Date Closed</i>	<i>Final Balance</i>
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15. Safe Deposit Boxes:

Have you or your spouse had a safe deposit box during the last year? YES _____ NO _____. If YES, list the name and address of the bank, the name and address of everyone who had access to the box, the contents of the box and, if you no longer have the box, the date it was closed:

16. Property Held for Another Person: Do you have any money, property, furniture, etc. that belongs to another person or that you are holding for the benefit of someone else (in trust)? YES _____ NO _____. If YES, what is the property, who owns it, and what is it worth? Include name and address of the owners:

<i>Type of Property</i>	<i>Value</i>	<i>Owned By</i>	<i>Address</i>	<i>Relative? (Yes or No)</i>
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At what address are you keeping this property? _____

17. Leases: Have you had an auto lease, rent-to-own, or rental-purchase transaction in the past four years? YES _____ NO _____. If YES, give details: _____

18. Cooperatives: Are you a member of any type of cooperative (housing, food, agricultural, etc.)? If YES, give details: _____

19. Alimony, Child Support, and Property Settlement:

- A. Have you had any previous marriages? YES _____ NO _____. If YES, what is the name of your former spouse? _____
Please be sure that any debts from prior marriage which were never paid are listed with your other debts.
- B. Does anybody owe you any money or child support? YES _____ NO _____.
Who? _____ How much? \$ _____
- C. Have you ever been ordered to pay child support? YES _____ NO _____.
Alimony? YES _____ NO _____.
Property Settlement? YES _____ NO _____.
If yes to any question, state:
(1) To whom do you make the payments? _____
(2) Are you behind in your payments? _____
(3) Are the persons you are required to support this way on welfare? _____
(4) Do you have any family court hearings coming up? If YES, explain and give dates:

- D. Do you expect to be involved in a property settlement with your spouse or former spouse in the near future?
YES _____ NO _____.

20. Accidents and Driver's License:

- A. Have you been involved in a vehicle accident in the last four years? YES _____ NO _____.
B. Has your vehicle been involved in an accident in the last four years? YES _____ NO _____.
C. Have your children ever injured anyone else or their property? YES _____ NO _____.
D. Have you ever lost your driver's license? YES _____ NO _____. If YES, give details:

21. Cosigners and Debts Incurred for Other People:

- A. Were there any cosigners for you on any of the debts you have listed in these forms?
YES _____ NO _____. If YES, give the cosigner's name and address, and which debts were cosigned:

- B. Have you ever been the cosigner on someone else's loan or debt which hasn't been paid off?
YES _____ NO _____. If YES, list the following for each debt:
- | <i>Creditor's Name
and Address</i> | <i>Date of Debt</i> | <i>Amount Owing</i> | <i>Name and Address of Person
You Cosigned For</i> |
|--|---------------------|---------------------|--|
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
- C. Have you borrowed any money for someone else's benefit? YES _____ NO _____. If YES, list the following unless you are sure that loan or debt has been paid:
- | <i>Creditor's Name
and Address</i> | <i>Collection Agent
or Attorneys</i> | <i>Date of Debt
and Which
Spouse Owes</i> | <i>For What</i> | <i>Current
Amount of
Claim</i> |
|--|--|---|-----------------|--|
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |
- D. If you put up any of your property as collateral on a debt you cosigned, list the following:
- | <i>Creditor</i> | <i>Type of Property</i> | <i>How Much the Property Is Worth Now</i> |
|-----------------|-------------------------|---|
| _____ | _____ | _____ |
| _____ | _____ | _____ |

22. Credit Card and Finance Company Debts:

- A. Have you obtained cash advances of more than \$750 in the last seventy days or used any credit card to purchase more than \$500 worth of goods or services in the last ninety days? YES____ NO____. If YES, give details: _____

- B. Have you ever gone over your credit limit on any credit cards? YES____ NO____. If YES, give details: _____

- C. If any of your debts listed on this form are owed to finance companies, did you sign an agreement that listed some of your property (such as a second television or VCR) and stated that the property would be security or collateral for the loan? YES____ NO____. If YES, which ones? _____

- D. Do you owe money on a payday loan, auto title loan, or for a check cashing service? YES____ NO____. If YES, give details: _____

23. Evictions:

- A. Has your current landlord sued you or brought an eviction suit against you? YES____ NO____. If YES, state:
- | <i>Case Name</i> | <i>Case No.</i> | <i>Name and Address of Court</i> | <i>Reason for Suit or Eviction</i> | <i>Result of Case (Eviction Judgment?) or Date of Hearing</i> |
|------------------|-----------------|----------------------------------|------------------------------------|---|
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |
- B. Does your current landlord have an eviction judgment or order against you? YES____ NO____. If YES, and the eviction is based on your nonpayment of rent, list the following:
- | <i>Regular Rent Payment</i>
<i>(Specify Monthly, Weekly, Other)</i> | <i>When Are Rent Payments Due?</i> | <i>Back Rent You Owe</i> |
|--|------------------------------------|--------------------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
- C. Is your landlord planning to bring an eviction suit against you? YES____ NO____. If YES, give details and state if your landlord is claiming that you have damaged the property or used illegal drugs on the property: _____

26. Asset Listing:

(If you are married and living with your spouse, designate any items listed below that are not jointly owned.)

A. REAL PROPERTY (Home):

(1) Do you own real estate that you use as your home? YES____ NO____. Describe and give the location of this property (house, mobile home, condominium, cooperative, land, etc.) in which you hold an interest:

(2) Co-owners: _____

(3) Purchase price: _____ Date purchased: _____

(4) Original mortgage amount: _____ Downpayment amount: _____

(5) Have you used any funds that you did not borrow to purchase or improve your home? YES____ NO____, If YES, list the amounts and give details: _____

(6) If not purchased, state when and how you became the owner (inheritance, gift, etc.): _____

(7) Present value of your house: _____

(8) Outstanding mortgage balance: _____

(9) Are there any other mortgages? YES____ NO____. If YES, give the name and address of each company:

(10) Is any mortgage insured by the FHA, VA, or a private mortgage insurance company? YES____ NO____. If YES, give details: _____

B. REAL PROPERTY (Other Real Estate):

(1) Do you own other real estate? YES____ NO____. Describe and give the location of all real property lot, house, condominium, cooperative, land, burial plot, etc.) in which you hold an interest:

(2) Co-owners: _____

(3) Outstanding mortgage balance: _____

(4) Name of mortgage company: _____

(5) Purchase price: _____ Year purchased: _____

(6) Present value of your house: _____

(7) Are there any other mortgages? YES____ NO____. If YES, give the name and address of each company:

(8) Is any mortgage insured by the FHA, VA, or a private mortgage insurance company? YES____ NO____. If YES, give details: _____

C. PERSONAL PROPERTY:

(1) Cash on hand: \$ _____

(2) Do you have any deposits of money in banks, savings and loan associations, or credit unions? If YES, list the name and address of the bank, savings and loan association, or credit union, and the amount:

(3) Have you given a security deposit to any landlord, utility, or anyone else? YES____ NO____. If YES, list the name and address of the person or company and the amount:

(4) List your major property items such as stove, refrigerator, TV, sewing machine, furniture, guns, etc., giving approximate age and value (what you could get for it if you sold it). (These goods usually can be protected, but you just list them to protect them).

<i>Item</i>	<i>Approximate Age</i>	<i>Value (What you Could Get for It If You Sold It)</i>

If any of the above items are being financed through a company, list the item and the name and address of the company below: _____

(5) Give an estimate of the value (what you could get for it if you sold it) of the following:
 All your furniture not already listed: \$_____. All your clothing: \$_____. All minor appliances not already listed: \$_____. All your household goods not already listed (dishes, utensils, good, etc.): \$_____.

(6) List each item of jewelry that you own, and an estimate of its value (what you could get for it if you sold it): _____

D. CARS, MOBILE HOMES, TRAILERS AND BOATS:

Do you have any cars, trucks, mobile homes, boats, trailers, or motorcycles? YES____ NO____. If YES, give the year, make, model, value, who is financing it, and amount owed:

E. OTHER PROPERTY:

Do you own any life insurance policies? YES____ NO____

If YES, list insurance company's name and address: _____

How long have you had each policy? _____

Cash surrender value: _____

Do you have any other insurance, including credit insurance? YES____ NO____. If YES, give details:

Do you own any stocks? YES____ NO____. Value: \$_____

Do you own any bonds (including U.S. Savings Bonds)? YES____ NO____. Value: \$_____

Do you own any machinery, tools, or fixtures used in your business or work? YES____ NO____. If YES, list and state what you could sell it for: _____

Do you have any animals or pets? YES____ NO____. If YES, describe and give value (what you could sell them for): _____

Do you have any right to receive commissions or other payment from any previous job you have held?

YES____ NO____. Does anyone owe you any money? YES____ NO____. If YES to either, state

Do you have any books, prints or pictures, stamps or coins, or sports equipment of substantial value?

YES____ NO____. If YES, describe and estimate their value: _____

Do you have any stock in trade (inventory)? YES_____ NO_____. If YES, describe and estimate the value:

Do you own anything else not mentioned above? YES_____ NO_____. If YES, describe and state its value (what you could sell it for): _____

Does any of the property that you own or possess pose a threat of harm to public health or safety? YES_____ NO_____.

Is the threat imminent? YES_____ NO_____.

Has anyone ever alleged that any of the property that you own or possess poses a threat of imminent harm to public health or safety? YES_____ NO_____.

Was the threat alleged to be imminent? YES_____ NO_____.

Give details regarding any threat or alleged threat to public health or safety, including identification of property and nature of potential harm or alleged harm. _____

27. Budget Information:

A. Do you currently receive your pay or other income (check one):

	YOU	YOUR SPOUSE
WEEKLY	_____	_____
EVERY 2 WEEKS	_____	_____
MONTHLY	_____	_____
OTHER	_____	_____

B. What is the gross amount received in wages or other income (before taxes or other deductions)?

YOU	YOUR SPOUSE
_____	_____
_____	_____

C. What deductions, if any, are taken out?

	YOU	YOUR SPOUSE
Taxes	_____	_____
Insurance	_____	_____
Union dues	_____	_____
Other (identify: _____)	_____	_____

D. What is the usual amount of your check (take-home pay)?

YOU	YOUR SPOUSE
_____	_____
_____	_____

E. Is your job subject to seasonal or other changes?

YOU	YES _____	NO _____
YOUR SPOUSE	YES _____	NO _____

F. What was your gross income (reported on W-2 form and tax return) for last year?

YOU	YOUR SPOUSE
_____	_____
_____	_____

G. If you receive alimony, maintenance, or support, what is the amount you get on a regular basis?

YOU	YOUR SPOUSE
_____	_____
_____	_____

H. List all dependents of you and your spouse.

	NAME	AGE	RELATIONSHIP
YOU	_____	_____	_____
YOUR SPOUSE	_____	_____	_____
	_____	_____	_____

I. List all members of your household:

NAME	AGE	RELATIONSHIP
_____	_____	_____
_____	_____	_____
_____	_____	_____

J. Do you expect your income to increase or decrease more than 10% in the next year? YES____ NO_____.

K. Do you expect to have any increase or decrease in expenses (like medical bills) in the near future?
YES____ NO_____. If YES, describe: _____

L. Do you, your spouse, or your dependents receive income from any source other than jobs, alimony, maintenance, or support listed above (such as public assistance, unemployment compensation, social security, SSI, pension, etc.)? YES____ NO_____. If YES, list:

<i>Source of Income</i>	<i>To Whom Payable</i>	<i>Amount Per Month</i>
_____	_____	_____
_____	_____	_____
_____	_____	_____

M. Do you, your spouse, or your dependents receive any regular contributions to your household expenses from any source not listed above? YES____ NO_____. If YES, list:

<i>Source of Contribution</i>	<i>To Whom Payable</i>	<i>Amount Per Month</i>
_____	_____	_____
_____	_____	_____
_____	_____	_____

N. Is your family eligible for food stamps? YES____ NO_____.
If YES, how much in food stamps do you receive per month? \$_____.

- O. Monthly Expenses. (Give realistic estimated. If your expenses add up to more than the income you have listed, or less than your income, be prepared to explain why).

What are your average monthly expenses for (if you and your spouse are not filing bankruptcy together, list separately any regular monthly contribution your spouse makes to the following household expenses):

	Average Monthly Expenses	Spouse's Contribution
Rent or mortgage	_____	_____
Are real estate taxes included? ____		
Is property tax included? _____		
Condo or homeowners association fees	_____	_____
Trash pickup	_____	_____
Electricity	_____	_____
Heat	_____	_____
Water	_____	_____
Telephone		
Basic	_____	_____
Optional	_____	_____
Other Utilities (internet, cable T.V., etc.)	_____	_____
Home maintenance (repairs and upkeep)	_____	_____
Food (cash you spend on food)	_____	_____
Amount of food stamps you spend	_____	_____
Clothing	_____	_____
Laundry and cleaning	_____	_____
Medications	_____	_____
Other medical and dental expenses	_____	_____
Public transportation	_____	_____
Automobile upkeep	_____	_____
Gasoline and oil	_____	_____
Newspapers, magazines, school books	_____	_____
Recreation	_____	_____
Charitable contributions	_____	_____
Club and union dues (not deducted from wages)	_____	_____
Insurance (not deducted from wages)		
Homeowner's or renter's	_____	_____
Life	_____	_____
Health	_____	_____
Auto	_____	_____
Other _____	_____	_____
Taxes (not deducted from wages or included in mortgage payment)	_____	_____
Installment payments		
Vehicle	_____	_____
Other _____	_____	_____
Other _____	_____	_____
Alimony, maintenance or support payments	_____	_____
Other payments for support of dependents	_____	_____
Expenses for operating your business	_____	_____
Other expenses (list types of expenses) (e.g., home maintenance, security system, school)	_____	_____
Identify: _____	_____	_____

P. Do you have any monthly expenses not listed above that you pay for the care and support of an elderly, chronically ill, or disabled member of your household or your immediate family? YES____ NO____. If YES, describe: _____

Q. Do you have any monthly expenses not listed above that you pay to keep your family safe from domestic violence? YES____ NO____. If YES, describe: _____

R. Do you pay any expenses for your dependent children under the age of eighteen to attend a private or public elementary or secondary school? YES____ NO____. If YES, describe: _____

CONSUMER BANKRUPTCY ASSISTANCE PROJECT

**Fresh Start Clinic
1424 Chestnut Street
Philadelphia, PA 19102
(215) 523-9511
FAX: (215) 981-3866**

TELECOPY TRANSMITTAL

Date: [DATE]

No. of Pages: (including cover page):

To: Mr. Louis Roman, Bankruptcy Department 3rd Floor

Firm: Philadelphia Gas Works

Fax No. (215) 684-6150

From: [NAME]

Direct Dial: [PHONE NUMBER]

MESSAGE:

Please see attached letter and accompanying documents. Thank you.

Please call the direct dial number above if there are any problems with this transmission. The information contained in this fax transmittal is legally privileged and confidential and intended only for the use of the individual or firm named above. If you receive this message but are not the intended recipient, please destroy the fax transmittal and notify us by telephone at the above dial phone number. Thank you for your cooperation.

[DATE]

Philadelphia Gas Works
Attn: Bankruptcy Department
Mr. Louis Roman
800 W. Montgomery Ave., 3rd Floor
Philadelphia, PA 19122

Dear Mr. Roman:

Please be advised that our client, [CLIENT NAME], filed for chapter 7 bankruptcy on [DATE] (Case No. XX-XXXXX). Attached for your reference please find the Notice of Bankruptcy that I recently filed with the Municipal Court of Philadelphia. In accordance with the automatic stay, please halt any and all attempts to collect this debt. Should you fail to do so, we will be forced to seek sanctions for willful violation of the automatic stay.

[IF GAS SERVICE HAS BEEN SHUT OFF]

Furthermore, please resume gas service immediately to [CLIENT NAME] who resides at [ADDRESS], Philadelphia, PA 191XX. Her/His gas service has been shut off.

Should you have any questions or concerns, please do not hesitate to contact me at the number below. Thank you for your anticipated cooperation in this matter.

Sincerely,

[NAME]

[PHONE NUMBER]

WHEREFORE, Debtor(s) request(s) that this Court grant an extension of time in which to file the Schedules and Statement of Affairs.

(Attorney's Name)
Attorney for the Debtor
(Address)
(City, State ZIP)
(Phone)

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF PENNSYLVANIA

In re: [NAME]
Debtor

Case No. XX-XXXXX

Chapter 7

ORDER

AND NOW, this day of , 2005, upon consideration of debtors' application to waive the \$26.00 administrative fee for the filing of their amended bankruptcy schedules, it is hereby **ORDERED** that the fee is waived and the debtors are permitted to proceed with their bankruptcy without payment of the \$26.00 fee.

BY THE COURT:

Honorable [JUDGE NAME]

cc: [ATTORNEY]
 [FIRM]
 [ADDRESS]

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF PENNSYLVANIA

In re: [NAME]
Debtor

Case No. XX-XXXXX

Chapter 7

**APPLICATION OF DEBTOR REQUESTING WAIVER OF
\$26.00 FEE FOR AMENDED SCHEDULES**

1. The debtors, [NAME], are filing a voluntary petition for relief pursuant to Chapter 7 of Title 11 of the United States Code.
2. The debtors believe they are entitled to relief under Chapter 7.
3. The debtors are indigent and are unable to pay the \$26.00 fee. The debtors have received permission from [JUDGE NAME] to proceed with the Chapter 7 bankruptcy case without paying the \$54.00 miscellaneous administrative filing fee.
4. The debtors' rights under Title 11 will be prejudiced if the amended schedules are not accepted for filing or if their bankruptcy is dismissed for failure to pay this fee.
5. Debtors have attached a signed Verification averring the truth of the statements contained herein.
6. The debtors' monthly income is \$[X] per month in wages and \$[X] per month in benefits [SPECIFY].
7. The debtors' basic monthly expenses exceed their income.
8. The debtors do not have any stocks, bonds, bank accounts, or other liquid assets from which they can pay the miscellaneous administrative fee.
9. The debtors do not own any single household item worth more than \$300.00.
10. There are no family or friends who could provide more funds to the debtors for payment of the miscellaneous administrative fee.

11. The debtors are receiving free legal representation through Consumer Bankruptcy Assistance Project.

Wherefore, the debtor requests that this Court waive the payment of the \$26.00 fee and permit her bankruptcy to proceed without payment of the fee.

Respectfully Submitted,

[DEBTOR NAME]

[JOINT DEBTOR IF APPLICABLE]

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF PENNSYLVANIA

In re: [NAME]
Debtor

Case No. XX-XXXXX

Chapter 7

VERIFICATION

I, [NAME], declare under penalty of perjury that I have read the foregoing and that it is true and correct to the best of my knowledge, information and belief. I understand that the penalty for making a false statement may be a fine of up to \$500,000 or imprisonment for up to 5 years, or both, pursuant to 18 U.S. C. §§ 152 and 3571.

Date _____

Signature: _____
[NAME]
Debtor

[NAME IF APPLICABLE]
Joint Debtor

Re:
Bky. No.

Dear (name):

Please be advised that I represent (client).

On (date), (client) (“the Debtor(s)”) filed a voluntary petition in bankruptcy under Chapter 7 in the U.S. Bankruptcy Court for the Eastern District of Pennsylvania, at Bky. No.. Enclosed please find a copy of the notice of commencement of case, meeting of creditors and fixing of dates.

Since you were inadvertently omitted from the list of creditors originally filed with the court, the Debtor(s) recently filed an Amended Schedule F, a copy of which is also enclosed with this letter.

Pursuant to the automatic stay provision of the Bankruptcy Code, 11 U.S.C. § 362, the filing of a petition operates as a stay of any action to collect or recover a claim against the Debtor(s) that arose before the filing of the petition. Accordingly, you are obliged to cease all collection efforts with respect to this amount.

If you have any questions concerning your legal obligations set forth above, please contact me. Thank you for your attention to the foregoing.

Very truly yours,

enclosure

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: (Debtor's Name),	:	CHAPTER 7
Debtor	:	
	:	
	:	NO. (Court Filing Number and
	:	Judge's Initials)
	:	
(Debtor's Name),	:	
Plaintiff	:	
	:	
v.	:	Adversary No. (Filing Number
	:	for Student Loan Case)
	:	
Pennsylvania Higher Education	:	
Assistance Agency and Richard	:	
Riley, Secretary, United	:	
States Department of Education,	:	
Defendants	:	

**DEBTOR'S COMPLAINT TO DETERMINE
DISCHARGEABILITY OF STUDENT LOAN**

Preliminary Statement

1. This is an adversary proceeding brought under the Bankruptcy Code, 11 U.S.C. § 523(a)(8) to determine the dischargeability of an educational loan made, insured or guaranteed by governmental unit.

Jurisdiction

2. Jurisdiction of the bankruptcy court in this matter is provided by 28 U.S.C. §§ 1334 and 15__ and the Order of the United States District Court for this district dated July 25, 1984.
3. This is a core proceeding.

Parties

4. Plaintiff is an adult individual who resides at (debtor's address). (S/he) is the debtor in the above-captioned bankruptcy case.

5. Defendant Pennsylvania Higher Education Assistance Agency ("PHEAA") is an instrumentality of the Commonwealth of Pennsylvania, doing business at Towne House, 660 Boas Street, Harrisburg, PA 17102.

6. Defendant Richard Riley is the Secretary of the Department of Education ("ED") and as such is the chief executive official of an agency of the United States.

Factual Allegations

7. Plaintiff attended (name of school) as a student in the (course of study) program. (S/he) financed the cost of (her/his) education with a Guaranteed Student Loan. The loan is currently held by defendant PHEAA and reinsured by the United States Department of Education.

8. Plaintiff's present indebtedness on (her/his) student loan is approximately \$(amount).

9. The debtor's income consists of \$(income) per month that (s/he) received from (source of income).

10. The debtor has (number of) child(ren) dependent on (him/her) for support.

11. The debtor's basic monthly expenses meet or exceed (his/her) income.

12. The debtor's income is below the national poverty level as established by the United States Department of Labor.

CLAIMS

13. Plaintiff's current and expected future income is and will be barely adequate for her to afford the basic necessities of life. (S/he) lacks the resources to repay the student loans and any payments (s/he) would make would create a great hardship. Excepting the loans from discharge would impose an undue hardship on (her/him).

14. The above-described student loan debt is dischargeable under 11 U.S.C. § 523(a)(8)(B).

WHEREFORE, plaintiff-debtor requested this court declare the subject student loan dischargeable under 11 U.S.C. § 523(a)(8).

(Attorney's Name)
(Attorney for Debtor/Plaintiff
(Address)
(City, State, ZIP)
(Phone)

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: (Debtor's Name), : CHAPTER 7
Debtor :
 : NO. (Court Filing Number and
 : Judge's Initials)

DEBTOR'S MOTION TO AVOID A JUDICIAL LIEN

1. Debtor, (debtor's name), commenced this action on (date of filing), by filing a voluntary petition for relief under Chapter 7 of Title 11 of the United States Code.
2. Jurisdiction of the Bankruptcy Court to hear this motion is provided by 28 U.S.C. § 1334.
3. This motion is filed by the Debtor under 11 U.S.C. §522(f)(1)(A) to avoid and cancel a judicial lien held by (creditor) on Debtor's property (name of property).
4. Debtor became indebted to (creditor) as a result of (description of transaction that resulted in the debt). (Creditor) sued and obtained a default judgment which effected a judicial lien on debtor's property, entered of record at (Court, Court Term and Number).
5. The existence of (creditor's) security interest in Debtor's property impairs exemptions to which the Debtor would be entitled under 11 U.S.C. §522(b).

WHEREFORE, Debtor moves this Court for an Order which would cancel and avoid the security interest held by (creditor) in Debtor's property and for such additional or alternative relief as may be just and proper.

(Attorney's Name)
Attorney for Debtor
(Address)
(City, State, ZIP)

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: (Debtor's Name), : CHAPTER 7
Debtor :
 :
 : NO. (Court Filing Number and
 : Judge's Initials)

ORDER

AND NOW this _____ day of _____, 2005, it is hereby
ORDERED that the Debtor's Motion to Avoid the Judicial Lien held by (credit) at (Court, Court
Term and Number) is hereby granted and the judicial lien is hereby avoided. (Creditor) is
ordered to take all steps necessary to release the judicial lien on Debtor's property and remove it
from the judgment index.

BY THE COURT:

J.

Copy to:

(Attorney Name)
(Address)
(City, State, Zip)

The Assistant United States Trustee
The Curtis Center
Suite 950 West
Seventh and Samson Streets
Philadelphia, PA 19106

(Case Trustee Name)
(Address)
(City, State, Zip)

(Creditor Name)
(Address)
(City, State, Zip)

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: (Debtor's Name), : CHAPTER 7
Debtor :
 : NO. (Court Filing Number and
 : Judge's Initials)

CERTIFICATE OF SERVICE

(Attorney's , Esquire, counsel for the debtor in the above matter, hereby certifies that the foregoing Debtor's Motion to Avoid a Judicial Lien was served upon the following parties, by first class mail, postage prepaid, on the date below:

, Ass't U.S. Trustee
Office of the U.S. Trustee
833 Chestnut Street - Suite 500
Philadelphia, PA 19107

(Trustee name), Trustee
(Address)
(City, State, Zip)

(Creditor Name)
(Address)
(City, State, Zip)

(Client Name)
(Address)
(City, State, Zip)

(Attorney's Name)
Attorney for Debtor
(Address)
(City, State, ZIP)
(Phone)

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: (Debtor's Name), : CHAPTER 7
Debtor :
 :
 : NO. (Court Filing Number and
 : Judge's Initials)

**DEBTOR'S MOTION TO AVOID NON-PURCHASE
MONEY SECURITY INTEREST**

1. Debtor, (client name), commenced this action on (date of filing), by filing a voluntary petition for relief under Chapter 7 of Title 11 of the United States Code.
2. Jurisdiction of the Bankruptcy Court to hear this motion is provided by 28 U.S.C. § 1334.
3. This motion is filed by the Debtor under 11 U.S.C. § 522(f)(2) to avoid and cancel a non-purchase money security interest held by (creditor name) on debtor's (list of items secured).
4. (In this paragraph provide averments describing the transaction that gave rise to the non-purchase money security interest being avoided).
5. The existence of (creditor name) security interest in Debtor's real property impairs exemptions to which the Debtor would be entitled under 11 U.S.C. § 522(b).

WHEREFORE, debtor moved this Court for an Order which would cancel and avoid the security interest held by (creditor name) in debtor's property and for such additional or alternative relief as may be just and proper.

(Attorney's Name)
Attorney for Debtor
(Address)
(City, State, ZIP)
(Phone)

