the 341(a) meeting and will approach debtors to urge them to reaffirm their debts. A debtor has no obligation to speak with these agents, and, if the debtor is represented by counsel, their attorney should be present at any such discussions.

Negotiations with reaffirmation agents should not take place in the meeting rooms, in the attorney conference rooms or in the hallways outside the meeting rooms.

Other Bankruptcy Options

Debtors have a choice when deciding what chapter of the Bankruptcy Code will best meet their needs. Even if a debtor has already filed a petition under chapter 7, it may be possible to change the case to another chapter.

As described above, chapter 7 is the liquidation chapter of the Bankruptcy Code. Under chapter 7, a trustee is appointed to collect and sell, if economically feasible, all of the debtor's property that is not exempt from the bankruptcy proceeding.

Chapter 11 is the reorganization chapter, which is most commonly used by businesses but is also available to individuals. Creditors vote on whether to accept or reject a proposed repayment plan, which also must be approved by the court. While the debtor normally remains in control of the assets, the court can order the appointment of a trustee to take possession and control of the debtor's business and property.

Chapter 12 offers bankruptcy relief to those who qualify as family farmers. Family farmers must propose a plan to repay their creditors over a three-to-five year period, which must be approved by the court. Plan payments are made through a chapter 12 trustee, who also monitors the debtor's farming operations during the pendency of the plan.

Finally, chapter 13 generally permits individuals to keep their property by repaying creditors out of their future income. The debtor must pay the chapter 13 trustee the amounts set forth in their plan. Chapter 13 is only available to individuals who earn wages or have some other source of regular income and whose debts do not exceed $1,000,000 ($250,000 in unsecured debts and $750,000 in secured debts).

Again, for further information or explanation, including how the bankruptcy laws relate to a specific case, please consult an attorney.

Risk of Civil and Criminal Penalties

Debtors who obstruct the efforts of the trustee risk civil and criminal penalties, which can include fines of up to $250,000 and prison terms of up to 5 years. Federal bankruptcy crimes include knowingly and fraudulently concealing assets, making false oaths, declarations or accounts, presenting a false claim against the estate, transferring or concealing property, and destroying or concealing books, records and documents.

Role of the United States Trustee

The United States Trustee is responsible for overseeing the administration of all bankruptcy cases. The United States Trustee appoints and supervises the chapter 7 trustees as well as monitors compliance by debtors.

Complaints about a chapter 7 trustee's administration of an estate or misconduct by a debtor should be addressed, in writing, to the United States Trustee at the address listed on the front of this pamphlet.

U.S. Department of Justice

Information and Guidelines for Chapter 7 Cases

The Office of the United States Trustee
21051 Warner Center Lane, Suite 115
Woodland Hills, CA 91367

Chapter 7
Information and Guidelines

Introduction

Pursuant to the Bankruptcy Reform Act of 1994, the Office of the United States Trustee, United States Department of Justice, has prepared this pamphlet to explain some of the possible consequences of filing a bankruptcy petition under chapter 7 of the Bankruptcy Code. Please take particular note of the boxed sections. This information is intended to address

(1) the potential consequences of seeking a discharge in bankruptcy, including the effects on credit history;

(2) the effect of receiving a discharge;

(3) the effect of reaffirming a debt; and

(4) the alternative options available under the Bankruptcy Code for filing a petition.

There are many other provisions of the Bankruptcy Code that may affect a debtor's situation. This pamphlet contains only general principles of law and is not a substitute for legal advice. Debtors who have questions or need further information as to how the bankruptcy laws apply to their specific case, should consult an attorney. ***The chapter 7 trustee is not permitted to give legal advice to debtors or to creditors.***

Chapter 7 Trustee and Estate Administration

In chapter 7 cases, a trustee, who is a private individual appointed by the United States Trustee, has the responsibility to administer the bankruptcy estate, which consists of virtually all of the debtor's property as of the date of filing. However, some assets are exempt from bankruptcy under state law, and may be so designated by the debtor in the petition.

It is the duty of the trustee to identify, collect and "liquidate" (i.e., sell) the debtor's non-exempt assets. ***Debtors are required to fully cooperate with the trustee in that effort.***

341(a) Meeting of Creditors

At the 341(a) meeting of creditors, the trustee will examine the debtor under oath regarding assets and liabilities. Any creditors who appear will also be given an opportunity to ask general questions of the debtor.

The debtor must attend the 341(a) meeting of creditors. If a petition was filed by a husband and wife, both must be present. The debtor's attorney should also attend. If the debtor fails to appear at the 341(a) meeting, the case can be automatically dismissed.

Obtaining a Discharge

The filing of a chapter 7 petition is designed to result in a discharge of most of the debts listed on the bankruptcy schedules. The discharge only applies to debts that arose before the date the debtor filed. A discharge is an order issued by the court that says debts do not have to be repaid, but there are a number of exceptions. Debts that cannot be discharged in a chapter 7 case include, for example, most taxes; child support or alimony; most student loans; court fines and criminal restitution; debts that were incurred through fraud or deception; and personal injury debts caused by driving while drunk or under the influence of drugs. A discharge may be denied entirely if, for example, the debtor destroys or hides property, destroys, hides or falsifies records, makes a false oath, or disobeys a court order. Creditors cannot collect on discharged debts, however, the creditors who hold a security claim can still take the property. A debtor can obtain a chapter 7 discharge once every six years.

Potential Effects of a Discharge

The fact that a bankruptcy has been filed can appear on an individual's credit report for as long as 10 years. Thus, filing a bankruptcy petition may impair the ability to obtain credit in the future. Also, a debtor will not be excused from paying any debts that are not listed on the bankruptcy schedules or any debts that are incurred after the bankruptcy is filed.

Effects of Reaffirming a Debt

After filing the petition, a debtor may want to repay a particular debt or a creditor may ask the debtor to promise to pay the debt. To promise to pay the debt, the debtor must sign and file a reaffirmation agreement with the court which is a legally enforceable document promising to pay all or a portion of the debt that may otherwise have been discharged in the bankruptcy case. ***Reaffirmation agreements are strictly voluntary — they are not required by the Bankruptcy Code or other state or federal law.*** The debtor can voluntarily repay any debt without signing a reaffirmation agreement, but there may be valid reasons for wanting to reaffirm a particular debt.

Reaffirmation agreements must not impose an undue burden on the debtor or the debtor's family and must be in the debtor's best interest. An agreement to reaffirm a debt may be canceled at any time before the court issues a discharge or within sixty days from the date the reaffirmation agreement is filed with the court, whichever gives the debtor the most time. If a debt is reaffirmed and the debtor fails to make the payments required in the reaffirmation agreement, the debtor owes the debt the same as though there was no bankruptcy. The creditor can take action to recover any property that was given as security for the loan.

Reaffirmation agents, who work for individual creditors, are sometimes present at