

# THE SEVEN STEP BANKRUPTCY PROCESS

Due to the confusion and fear of the bankruptcy experience I have set forth my seven step process to explain the bankruptcy journey and where it leads. The first four steps deal with what happens before you file and the remaining three steps deal with what happens after you file.

Your financial matters have gotten so distressing that you know you must do something. You are confused and baffled by the enormity and detail of the information available. You must at this point start to help yourself and consult with a bankruptcy professional. Calling our office is the beginning of reorganizing your affairs so that you can have peace of mind and regain control of your life. (The steps below outline a normal chapter 7 bankruptcy case.)

**I. STEP ONE.** At the initial meeting with one of our attorneys you will be fully informed of the bankruptcy process, what you must do and what you can expect from your attorney. There is no charge for the initial meeting. The meeting will last approximately 45 minutes. At this meeting:

**A. DOCUMENTATION.** You will receive several documents explaining the process and giving you valuable information that is required by the bankruptcy laws. These include:

1. **IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER**
2. **STATEMENT OF INFORMATION REQUIRED BY 11 U.S.C. SECTION 341.** This is put out by the United States Trustee's Office.
3. **INFORMATION NOTICE** required by 527(a)(2)(A-D)
4. **RETAINER AGREEMENT** and complete cost, expense and fee information about the process and the length of time it may take.

**B. THE PROCESS.** You will discuss the bankruptcy process, the various types of bankruptcy that can be filed, and what decisions you must make, what the results of those decisions might be, the information you must provide, and what happens next.

**II. STEP TWO:** Once the decision to take the next step has been made we must get to work and decide what type of bankruptcy is best for you. Most likely you will be considering either a Chapter 7 or a Chapter 13 bankruptcy. To make this decision we must fulfill a requirement of the

bankruptcy laws known as the MEANS TEST. This is a new requirement of the bankruptcy code and required you provide me with complete information about your income and complete data about your expenses. You may have to do some digging. Once I get this information I will be able to do the calculations necessary for the means test and we may be able to decide which chapter is right for you. Once to receive the information from you and have done the Means Test calculations we will get together and go over the situation. To get started and complete Step Two you will have to have available \$900.00 for legal fees.

**III. STEP THREE.** Now we should know with some certainty:

**A. WHERE WE ARE.**

1. Whether or not you are going to avail yourself of the protection of the bankruptcy law.
2. What chapter in bankruptcy you will decide on, a Chapter 7 or a Chapter 13.
3. What additional information we will need to take the next step.

**B. INFORMATION GATHERING.** “Step Three” starts off with more information gathering. We will have to have a current credit check done and may have to get outside opinions concerning the value of your house, car or other items that will be involved in filling out the schedules of the Petition for Bankruptcy. Next we must fill out the Bankruptcy Petition. This includes the Schedule of Assets, and Income and Expense; the statement of financial affairs; declaring your intentions of what assets you would like to keep; the exemptions you are claiming; and what your agreement is concerning attorney’s fees.

**C. PREPETITION COUNSELING.** You will also have to complete the requirement of pre petition credit counseling. This can be done on your own either over the internet or by phone. The law requires that you have further information about the process you are involved in from an independent party; that you are advised of the availability of financial counseling; and that you discuss with a counselor your financial situation. We have provided a link to the various approved credit counselors which have been approved by the United States Trustee’s office. The course should last about one hour and can be taken in one secession. The credit counseling agency you use charges for the certificate of completion. You

and will have met with you and prepared you for the "341" the meeting should not have any surprises. We will have to get together for approximately a half an hour sometime before the meeting and go over what will happen. We will then attend the meeting with you. Typically the Trustee's meeting is short. The Trustee is not a Judge and while the meeting can be informal in nature it is very important and is not to be taken lightly. Once the meeting is over, depending on the particulars of your case the process is pretty much over. You will receive in the mail a "discharge" from the bankruptcy court. At this point the Trustee no longer has control over the assets you have retained.

**VI. STEP SIX.** Under the new bankruptcy act, there is now an additional requirement for post petition financial counseling. You can take this course from the same credit counseling agency you used to take the first course or use a different agency. The course is a great deal similar to the first course and takes about the same length of time. We insist that this course is taken and we receive the certificate of completion so we can file the certificate with the court prior to the 341 Creditor's meeting. Hence this course must be taken within 21 days after filing the case.

**VII. STEP SEVEN.** The official process is now over. What has happened and what do you do now? Essentially your financial life has been restructured. You should be able to pay your bills and start rehabilitating your credit. We have several helpful tips and handouts to help you with this process. While Bankruptcy and the Bankruptcy process is sometimes hard and debilitating, it can and should be the new "fresh start" for you and your families financiers. Our office is with you the entire way, advising you, answering your questions, and handling your relationship with the bankruptcy court and the bankruptcy process.

(We would note that the "Seven Steps" outlined above are generalized and do not fit every case. Each Bankruptcy case has its own facts and circumstances. Hence since no two cases are alike, the Seven Step Process will necessarily differ for each case. If you have decided to file a Chapter 13, there are two additional steps; the legal fees are higher; and the process takes more time. The Chapter 13, in most cases, presumes that you will retain your assets and make payments to the Chapter 13 Trustee.)