

## **BANKRUPTCY GENERALLY**

Bankruptcy can be a very useful tool in rehabilitating a person's financial situation. A Chapter 7 or Chapter 13 Petition may be filed.

### **DO YOU GIVE UP ALL YOUR PROPERTY?**

No! 98% of all people in bankruptcy lose none of their property. Both Federal and State law provide rather generous lists of things you can keep. Under both, you can keep your clothing and your furniture. State law permits an individual to keep up to \$75,000 in equity in his or her home (\$150,000 if a husband and wife file together.) (Equity in your home is what you could sell your home for, minus your mortgage balances.) There are additional exemptions for specific assets. You and your bankruptcy attorney will work together to list and protect your property.

### **WHAT ABOUT LIENS ON PERSONAL PROPERTY?**

In a Chapter 7 Bankruptcy, if you pledged your furniture you already owned as security for a loan, we can wipe out the lien entirely. If you pledged a car or bought the furniture with the loan, the lien remains, but we'll work out a repayment plan for you. In a Chapter 13, the Bankruptcy Court will be paying creditors. The amount required to be paid is based on a number of things.

### **WHAT HAPPENS TO YOUR CREDIT?**

Some people think that if they file bankruptcy, they cannot get a new loan for seven years. This is not true. A creditor can give you a new loan the day after you file your Petition, if the creditor wants to.

Realistically, you should only compare your credit situation after filing bankruptcy with what it is now. For practical purpose, your credit is often considered improved upon filing bankruptcy, as your budget will be able to handle a new loan, and your creditors know that you cannot file a Chapter 7 again for eight years. Of course, each creditor makes up its own mind on whether it will extend credit to you or not.

### **WHAT IS A CHAPTER 7?**

Most people in bankruptcy file a Chapter 7 Petition. This immediately wipes out most of your debts. This includes even loans secured by a car or home if you don't want to keep the collateral. (If you want to keep the collateral, and are current on the payments, you will simply continue to make the contract payments.) Certain debts, like taxes, child support and student loans are not wiped out. You may file a Chapter 7 Petition every eight years.

### **WHAT IS A CHAPTER 13?**

Chapter 13 is quite different, as it is a repayment Plan. A Chapter 13 can be filed by anyone who has a regular source of income, whether from wages, AFDC payments, unemployment compensation, or earnings from their own small business. There must be income in order to make the required payments.

In preparing the Plan, the person's total debts are computed (not including home mortgage payments that are not yet delinquent) and a Plan is proposed to pay the debts over a 3-5 year period. Unsecured debts (creditors having no lien against your property) usually are not paid in full. Under some circumstances, the Bankruptcy Court will allow a Chapter 13 Plan that pays nothing, or a very small percentage of the unsecured claims. Once the Chapter 13 Plan has been completed, and a Discharge is issued by the Bankruptcy Court, the unsecured creditors cannot look to you for any further payment.

If you are behind on your mortgage payments or real estate taxes, a Chapter 13 will allow you to pay the mortgage delinquency over time through the Chapter 13. While you are in the Chapter 13, you must also make your regular monthly mortgage payments and must make them on time.

If you purchased a vehicle within the 910 days of the filing date, you will have to pay the loan in full through the Chapter 13, but the interest rate can usually be substantially reduced. If you bought the vehicle more than 910 days before the filing date, the amount you pay is limited to the current retail value; again the interest can be reduced.

A Chapter 13 Plan is a very useful device in saving a home or car if you have fallen behind in payments. For example, suppose you are 10 months behind on your mortgage payments of \$717 per month, and that the savings and loan has foreclosed on your home and is going to sell it at public auction in two weeks. By filing the Chapter 13, the savings and loan is prohibited from conducting the auction and you now will repay the \$7,170 through the Plan. (Of course, you will also have to start making your regular \$717 per month payments as well.) If you do not desire to keep the house, a Chapter can buy you some time to sell it, pay the mortgage from the sale, and perhaps walk away with a profit. The Chapter 13 Plan could then be dismissed.

### **WHY DO A CHAPTER 13 INSTEAD OF 7?**

Chapter 7 will not help in all situations. A Chapter 13 can be used to pay delinquent income taxes, stop home foreclosures or pay student loans. If you were assigned debts in a divorce, you may have to file a Chapter 13. Chapter 13 is always available, even if you filed a Chapter 7 less than eight years ago. Individuals with higher than the allowed median income (based on the number of people in the household), can be forced to file a Chapter 13 and repay creditors some portion of what is owed. There is a further complicated calculation to determine who is required to file a Chapter 13 rather than a Chapter 7, even if the income is higher than median.

### **WHAT BASICALLY HAPPENS?**

When your Chapter 7 or Chapter 13 Petition is filed, the Federal Court in Milwaukee will issue an Order (called a Stay) prohibiting all of your creditors from suing you, garnishing your wages or bank accounts, foreclosing on your property, writing you nasty letters, or calling you.

For Chapter 7, only one brief, informal hearing is necessary, with the Trustee asking a few questions to verify that the Petition information is correct. For Chapter 13s, and there is a discussion about the feasibility of the Plan. If the Plan is approved, the Trustee makes payments to your creditors from the money received from you.

Attorney Michelson will represent you at the bankruptcy hearing. Generally, Chapter 7 hearings are held in Kenosha County and the Chapter 13 hearings are held in Racine County.

## **PUTTING TOGETHER YOUR LIST OF CREDITORS**

The basic purpose of bankruptcy is to have a bankruptcy court notify your creditors that you have the protection of the bankruptcy court and that creditors are not to bother you anymore. To properly do this, we have to have a list of your creditors that is as complete as possible.

On pages 3, 6, and 7 of the enclosed Client Information Sheets, we ask you to provide information regarding a special group of creditors. However, as to your general unsecured creditors (medical bills, utility bills, credit cards, etc.) we will usually rely on Credit Bureau Reports.

Many (but not all) companies will report the fact that you owe them money to one or more of the three national credit bureaus (Transunion, Experian, and Equifax - these are private companies that sell that information). We have found that if we don't get credit reports on you, invariably you will leave someone off your list and it can be very complicated and costly to try and add creditors later.

**THEREFORE, UNLESS YOU HAVE 10 CREDITORS OR LESS, OUR OFFICE WILL, IN ALL CASES, OBTAIN A REPORT FROM ALL THREE CREDIT BUREAUS. THIS WILL COST YOU \$40 PER PERSON. WE WILL NOT ACCEPT CREDIT REPORTS YOU BRING IN.**

On some sheets we will give you, it will be **YOUR JOB** to provide us information regarding any creditors, collection agencies, and attorneys you are aware of that should be on your list but are not on the credit reports. Where do you get this additional information?

From any written records you have regarding debts and from your memory.

**THE MICHELSON LAW OFFICE**

## REQUIRED PRE-FILING CREDIT COUNSELING AND POST-FILING EDUCATION PROGRAM

The Bankruptcy Law requires that you take two different educational classes:

- (1) **Credit Counseling**, which must be taken BEFORE you can file; and
- (2) **Financial Management**, which is taken AFTER you file (you will need a case number to sign up for this class) and must be taken in order to complete your bankruptcy. *We ask that you take this course before you go to your bankruptcy hearing.*

There are many different agencies that provide these courses on the internet 24 hours a day, 7 days a week. Some agencies will also provide classes by phone, but these courses can be more expensive.

**We do not recommend any one agency over another.** You may choose any agency that has been approved by the U.S. Trustee's office for use in the Eastern District of Wisconsin (EDWI).

Currently the least expensive courses we have found are:

**Pre and Post-Bankruptcy Filing Credit Counseling/Financial Management, Online & Telephonic** at: [www.AccessBK.org](http://www.AccessBK.org). or (800-210-0522). Available in Spanish. Use Attorney Code: **AM13133**

**Pre and Post-Bankruptcy Filing Credit Counseling/Financial Management, Online Only** at: [www.debtorcc.org](http://www.debtorcc.org). Available in Spanish.

*We recommend that you do a computer search to determine if there is a less expensive option.*

If you need to take the courses in another language other than Spanish, please call our office and we will help you find an agency that will meet your needs.

**PLEASE INSTRUCT THE AGENCY PROVIDING THE CLASS TO FAX (1-262-638-1818) YOUR CERTIFICATE OF PROGRAM COMPLETION TO THIS OFFICE. WE MUST FILE EACH CERTIFICATE WITH THE COURT.**

**REMEMBER YOU MUST HAVE BOTH CERTIFICATES IN ORDER TO COMPLETE YOUR BANKRUPTCY AND RECEIVE A DISCHARGE.**

The Michelson Law Office

(Please complete ahead of time and turn in when you come to see me.)

## CREDIT REPORT ORDER FORM AND CONSENT RELEASE

(Please print legibly)

Debtor's Full Name: \_\_\_\_\_ Social Security #: \_\_\_\_\_

Street Address: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

City: \_\_\_\_\_ State: Wisconsin Zip Code: \_\_\_\_\_ Former Address (in last 2 years):

Street: \_\_\_\_\_ City: \_\_\_\_\_ County: \_\_\_\_\_ State: \_\_\_\_\_

In what state was Social Security card issued?: \_\_\_\_\_

Regarding primary care you drive: Year: \_\_\_\_\_ Make/Model: \_\_\_\_\_

Color: \_\_\_\_\_ Plate Number: \_\_\_\_\_ If car has a lien on it, name of

lender: \_\_\_\_\_

Co-debtor's Full Name: \_\_\_\_\_ Social Security #: \_\_\_\_\_

Street Address: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

City: \_\_\_\_\_ State: Wisconsin Zip Code: \_\_\_\_\_ Former Address (in last 2 years):

Street: \_\_\_\_\_ City: \_\_\_\_\_ County: \_\_\_\_\_ State: \_\_\_\_\_

In what state was Social Security card issued?: \_\_\_\_\_

Regarding primary care you drive: Year: \_\_\_\_\_ Make/Model: \_\_\_\_\_

Color: \_\_\_\_\_ Plate Number: \_\_\_\_\_ If car has a lien on it, name of

lender: \_\_\_\_\_

I give authorization for Online Credit Reporting Corporation to access my credit report information including all medical information reported. I understand that OCR will mail my credit report back to the address shown by the credit bureau(s). I also give my authorization to provide the data from Experian and Trans Union to my attorney. By signing this document you are verifying all the information is correct.

X \_\_\_\_\_  
Debtor Signature Date

X \_\_\_\_\_  
Co-Debtor Signature Date

## AUDITS

The office of the United States Trustee will audit one out of every 250 bankruptcy cases filed, to make sure filers have provided correct information and are not cheating their creditors by filing bankruptcy. Those failing the audit can have their bankruptcy discharge revoked and sometimes be criminally prosecuted. Should you receive a notice of audit, **contact our office**. We will work with you so that the audit is successful.

Therefore, we strongly urge you to retain, for one year following the filing of your bankruptcy, the following:

1. Pay stubs (if applicable) for the 6 months prior to filing;
2. Complete copies of you tax returns for the 2 years prior to filing;
3. Account statements for all depository and investment accounts for the 6 months prior to filing, plus the month in which the bankruptcy was filed, along with documentation to explain the source of deposits and the purpose of withdrawals; and
4. A copy of any divorce decree and/or property settlement entered into within the last 3 years and any current child support/alimony obligation involving you.

**THE MICHELSON LAW OFFICE**

**Consumer Request & Agreement for Consumer Liability Report (CLR)**

Name \_\_\_\_\_ SS# \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_  
Spouse's Name (if joint) \_\_\_\_\_ SS# \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_  
Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

This writing constitutes my written instructions to Credit Infonet to obtain my credit files and compile a list of all accounts with a balance owing. The completed results in the form of a creditor liability report is to be delivered on-line or via Fax to the CIN Referral Agent. Data elements from this request may also be utilized for downloading into the Agents automated bankruptcy filing system.

**TERMS OF SALE**

The undersigned (hereinafter referred to as Consumer(s)) contracts with Credit Infonet for the use of its services under the terms, conditions, and agreements outlined below. The Fair Credit Reporting Act "FCRA" (Public Law 91-508) provides in section (Sec. 604) Permissible purposes of reports: that any consumer reporting agency may provide a report (Sec. 604) (2) In accordance with the written instructions of the consumer to whom it relates. The FCRA also provides (Sec. 619) that anyone who knowingly and willfully obtains information under false pretenses shall be fined under Title 18, or imprisoned not more than one year, or both. Having been made aware of these provisions of the law, the Consumer(s) agree to the following. They are the person(s) on whom they are requesting the report be prepared, and they have presented positive identifying information to prove so. They are requesting this report under the right granted them in (Sec. 604) (2) of the FCRA as disclosed above.

The Consumer(s) agree that the sole purpose and obligation of Credit Infonet in this transaction is to provide a means by which they may obtain a report consisting of the data from national credit files at their written instructions. The FCRA places no restrictions on how Consumer(s) may utilize or share a report that is ordered at their written instructions. Consumer(s) acknowledges and agree that after a report is delivered to their possession Credit Infonet and its sources of information can in no way be held responsible or liable for its use.

Credit Infonet agrees that it will provide the Consumer with a report in a Creditor liability summary or schedule format showing all Creditors listed with balances owing. Credit Infonet shall provide, when available the names, address, and direct phone numbers of information furnishers (Credit Grantors or Public Records sources) within the file. No additional information from the files shall be included in this report. Consumer(s) agree to pay in advance the fee for this report to the participating referral agent.

Signature \_\_\_\_\_ Spouse's (if Joint) \_\_\_\_\_

Date \_\_\_\_\_ Product Requested: CLR (2) Repository \_\_\_\_\_ Individual \_\_\_\_\_ Joint  
CLR (3) Repository \_\_\_\_\_ Individual \_\_\_\_\_ Joint

Referral Agent Code \_\_\_\_\_ Name \_\_\_\_\_  
Phone (\_\_\_\_) \_\_\_\_\_ Fax (\_\_\_\_) \_\_\_\_\_ E-mail \_\_\_\_\_

**Prior to accessing the CLR Report this Consumer request and a photocopy of proper picture identification must be faxed to: 800-803-3307. Alternatively it may be scanned and up-loaded to the CIN On-Line transaction.**

Picture ID may be copied on lower portion of this order or as a separate attachment. May also be printed on legal for additional space.

"A lawyer's time and advice  
are his stock-in-trade."

Abraham Lincoln

Read, date, sign and give to Mr/s. Michelson

## INITIAL CONSULTATION - NO CHARGE

Lawyers have nothing to sell but our time and advice. We are well-educated professionals with over 25 years of combined legal experience. Our time is quite valuable. We are willing to give you 45-60 minutes of our time **FREE**. But that is all! So use your time with us wisely!

If you receive this in the mail, take time to carefully fill out the information forms enclosed. That way we will be able to assess your situation more quickly and have more time to advise you and be able to advise you more wisely. **PLEASE KEEP YOUR APPOINTMENT EVEN IF YOU DON'T HAVE ALL THE INFORMATION.** If you are married, it is best to bring your spouse to the meeting. (Please, no children)

If you just recently made your appointment and we can't mail your client information forms, we have asked you to arrive an hour early to fill out such forms.

## ADDITIONAL CONSULTATIONS – NOT FREE

We do not charge for the initial appointment. If you retain us, the fee for the appointment is included in the bankruptcy. **If you do not retain us, there is not charge.** However, if you are not sure you want to proceed with the bankruptcy and come back for another consultation just to discuss it some more, we will usually charge you for the second and subsequent consultations. Our fee would be \$285 per hour, with a half-hour minimum. You will have to bring at least \$142.50 (cash or money order only) to cover that half hour and payable on arrival.

I have read the above.

Dated: \_\_\_\_\_ 20\_\_

\_\_\_\_\_  
\_\_\_\_\_

*Our Racine office is the westernmost (red brick) building in the 600 block of 6<sup>th</sup> Street, where 6<sup>th</sup> and 7<sup>th</sup> Streets come together, ½ block directly east of City Hall. The door is glass, with a green striped awning over head, and in the middle of the brick wall that stretches from 6<sup>th</sup> to 7<sup>th</sup> St. In front of our office is a small park with a 4-sided clock on a 10 ft. high pedestal.*

*Our Kenosha office is in a single level office building at the corner of 30<sup>th</sup> Ave. and 35<sup>th</sup> St. right across from Gateway Technical. I share space within the law offices of Rizzo & Diersen but our name does not appear on the outside of the building. Landmark Title is also in the same building and you will also notice their sign.*

**ATTENTION:**

**YOU MAY HAVE THE RIGHT TO RECOVER MONEY  
FROM COLLECTION AGENCIES OR LAWYERS WHO  
HAVE CONTACTED YOU CONCERNING YOUR  
DEBTS.**

Some debt collectors routinely violate the provisions of the Fair Debt Collection Practices Act. This is a Federal Law which gives you certain rights and certain methods of attempting to collect debts.

If the Act has been violated, you may have the right to recover money damages.

We would be happy to evaluate whether you have a case against a collection agency. For your convenience, we have attached a collection communications log to this form. Please use the log to document any communication that you may receive from debt collections. Please bring any and all **LETTERS OR COMMUNICATIONS** that you have received from collection agencies or lawyers so that we may review and make copies of them to keep in your file.

# COLLECTION COMMUNICATIONS LOG - EXAMPLE

**INSTRUCTIONS:**

1. **DOCUMENT** immediately after every communication you have with any debt collector, whether by letter, by phone or by message. Make detailed notes of any conversations you have with a debt collector during the conversation. Keep this log next to your phone.
2. **SAVE** every single voice mail, answering machine, collection letter, and paper message. Don't throw anything away, including the envelope that the collection letter come in or anything included with the collection letter.

Date of Call? (MM/DD/YY)	Time of Call? (00:00 AM)	How Many Minutes Did Call Last? (Approx.)	Phone Call, Voice Mail, Letter, Paper Message?	Collector's Name?	Collection Agency Name and Telephone Number?	What Did Collector Say? Amount Demanded? Payment Terms? Threats? Profanity? Harassment? Legal Action? Calls to Friends or Neighbors? Abuse? (Use as many lines or pages as needed)
1 1/1/2012	11pm	2	Voice Mail/Auto Dialer	None Given	ABC COLLECTIONS (888) 123-4567	Stated name, and that it was urgent we contact them to discuss an important issue.
2						
3						
4						
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10						