

UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

IN RE:)

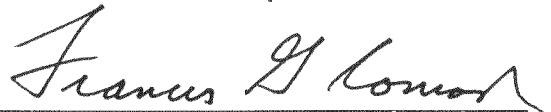
REVISION OF OFFICIAL VERMONT)
LOCAL BANKRUPTCY FORM NO. 13)
DESCRIPTION OF CHAPTERS)
7, 11, 12, AND 13 OF THE)
BANKRUPTCY CODE AND EFFECTS)
OF DISCHARGE)

GENERAL ORDER 93-3

The Court, having revised Official Vermont Local Bankruptcy Form No. 13 to reflect changes to the Bankruptcy Code and Rules made since the Form was last issued in 1988, and to incorporate into the Form the required notice to consumer debtors alerting of the Bankruptcy Code chapters under which a debtor may file a petition,

IT IS ORDERED that effective July 1, 1993, Official Vermont Local Bankruptcy Form No. 13, as revised May 12, 1993, must accompany all petitions where appropriate

DAIED at Rutland, Vermont this 12 day of May, 1993.



Francis G. Conrad
U.S. Bankruptcy Judge

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U.S. BANKRUPTCY COURT
DISTRICT OF VERMONT

UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

OFFICIAL VERMONT LOCAL
BANKRUPTCY FORM NO. 13
REVISED MAY 12, 1993*

DESCRIPTION OF CHAPTERS 7, 11, 12, AND 13
OF THE BANKRUPTCY CODE AND EFFECTS OF DISCHARGE

INSTRUCTIONS

This form must be completed by any debtor who is not a corporation or a partnership, and it must accompany the bankruptcy petition. This form must be signed by the debtor(s) and the debtor's attorney, if any.

Read this document **VERY CAREFULLY**. After reading it, if you have any questions, consult your attorney.

PURPOSE

The purpose of this form is to acquaint you with the four chapters of the federal Bankruptcy Code under which you may file a bankruptcy petition, and to describe to you, the debtor, in non-legal terms, the effect of your discharge in bankruptcy under Chapter 7 of the Bankruptcy Code. The bankruptcy law is complicated and not easily described; therefore, you may wish to seek the advice of an attorney to learn of your rights and responsibilities under the law should you decide to file a petition with the Court. Neither the Judge nor the Court's employees may provide you with legal advice.

CHAPTER 7: LIQUIDATION

1. Chapter 7 is designed for debtors in financial difficulty who do not have the ability to pay their existing debts.
2. Under Chapter 7, a trustee takes possession of all your property. You may claim certain of your property as exempt under governing law. The trustee will liquidate the property and use the proceeds to pay your creditors according to priorities of the Bankruptcy Code.

* Includes manual revisions reflecting
the 1994 Bankruptcy Reform Act

- 3 The purpose of filing a Chapter 7 case is to obtain a discharge of your existing debts. If, however, you are found to have committed certain kinds of improper conduct described in the Bankruptcy Code, your discharge may be denied by the Court, and the purpose for which you filed the bankruptcy petition will be defeated.
4. Even if you receive a discharge, there are some debts that are not discharged under the law. Therefore, you may still be responsible for such debts as certain taxes, student loans, alimony and support payments, debts fraudulently incurred, debts for willful and malicious injury to a person or property, and debts arising from a drunk driving judgment.
- 5 Under certain circumstances you may keep property that you have purchased subject to a valid security interest. Your attorney can explain the options that are available to you.

CHAPTER 13: REPAYMENT OF ALL OR PART OF THE DEBTS OF AN INDIVIDUAL WITH REGULAR INCOME

- 1 Chapter 13 is designed for individuals with regular income who are temporarily unable to pay their debts but would like to pay them in installments over a period of time. You are only eligible for chapter 13 if your debts do not exceed certain dollar amounts set forth in the Bankruptcy Code.
2. Under Chapter 13, you must file a plan with the Court to repay your creditors all or part of the money that you owe them, using your future earnings. Usually the period allowed by the Court to repay your debts is three years. The period cannot exceed five years. Your plan must be approved by the Court before it can take effect.
- 3 Under Chapter 13, unlike Chapter 7, you may keep all your property, both exempt and non-exempt, as long as you continue to make payments under the plan.
4. After completion of payments under your plan, your debts are discharged except alimony and support payments, certain kinds of taxes owed for less than three years, and long term secured obligations.

CHAPTER 11: REORGANIZATION

Chapter 11 is designed primarily for the reorganization of a business, but is also available to consumer debtors. Its provisions are quite complicated, and any decision for an individual to file a Chapter 11 petition should be reviewed with an attorney.

CHAPTER 12: FAMILY FARMER

Chapter 12 is designed to permit family farmers to repay their debts over a period of time from future earnings, and is in many ways similar to a Chapter 13. The eligibility requirements are restrictive, limiting its use to those whose income arises primarily from a family owned farm.

DISCRIMINATION PROTECTION

The Bankruptcy Code protects you against discriminatory treatment. This protection is designed to prevent governmental and private employers from frustrating your "fresh start."

You cannot be discriminated against because you filed bankruptcy or because you did not pay a discharged debt. You have a right to retain any licenses, permits, etc. you have already acquired. You may not be refused new licenses and permits because of your bankruptcy, including professional licenses necessary to operate a business, drive a car, cut hair, etc. You cannot be excluded from union membership because your old union dues were discharged.

Your employment by a governmental or private employer cannot be denied or terminated because you filed bankruptcy or because of non payment of a discharged debt. An employer is not prohibited from considering other factors such as future financial responsibility, or ability.

Your discharge does not protect you against discrimination in granting of credit. The Bankruptcy Court does not have power to prohibit credit reporting agencies from releasing a report to creditors and/or other individuals stating that you have filed bankruptcy.

EFFECT OF A CHAPTER 7 BANKRUPTCY DISCHARGE

Your Chapter 7 bankruptcy discharge is an Order by the Bankruptcy Court. It relieves you of personal responsibility for the discharged debts listed in your petition. These debts, once discharged in bankruptcy, are no longer legally enforceable against you.

The Bankruptcy Code clearly forbids any debt collection efforts by your creditors and is intended to ensure that once a debt is discharged you will not be pressured in any way to repay it. After the Court enters an order for Discharge, your creditors are prohibited from beginning or continuing a law suit against you to collect or recover any discharged debt that was a personal liability of yours. Creditors are also prohibited from harassing you in any way, including telephone calls, letters, personal contacts, contacts to employers, and threats of repossession.

NON-DISCHARGEABLE DEBTS

Some debts are not discharged through bankruptcy. They survive bankruptcy and are legally enforceable by creditors. They remain your personal liability.

Only pre-petition debts are considered for discharge. Any debts that arose after the filing of the petition are not dischargeable and you are responsible for their repayment.

Liens that have not been eliminated by either you or the trustee are not discharged and can be enforced by the lienholder after your discharge. You should discuss with your attorney whether any of the liens on your property may be eliminated by action of the Bankruptcy Court.

Third-party obligations are not discharged. The liability of a co-maker, guarantor, or surety on any of your debts does not change. Your discharge in bankruptcy does not extinguish debts, but merely frees you from personal liability and provides you with a personal defense to debt collections. Consequently, liability of a non-bankrupt third party on your debt is unaffected by your discharge. For instance, if a co-worker co signed one of your debts, the debt can still be enforced against your co-worker, but not against you.

Certain taxes are not dischargeable. Generally they are Federal Income Taxes and State Taxes due within two (2) years before your bankruptcy filing. Unpaid withholding and sales tax are also not dischargeable.

Money, property, services, or the extension, renewal, or refinancing of credit obtained by false pretenses, misrepresentation, or actual fraud, or by use of a written statement about your financial condition that is materially false, on which a creditor reasonably relied, and that you made or published with the intent to deceive, will be a non-dischargeable debt ONLY if the Bankruptcy Court makes that determination.

Consumer debts (as opposed to business debts) owed to a single creditor totaling more than ~~\$500.00~~ ^{\$1,000.00} for luxury goods or services st acquired by you within ~~forty (40)~~ ⁶⁰ days before your bankruptcy filing, or cash advances totaling more than \$1,000.00 that are extensions of consumer credit under an open end credit plan (such as cash advances on your Master-Card or Visa Card, st on or within ~~twenty (20)~~ ⁶⁰ days before your bankruptcy filing are also non-dischargeable, ONLY if an objection to their dischargeability is upheld or sustained by the Court.

You must make a full, complete, and honest disclosure of all your assets, liabilities, and business transactions, and creditors are entitled to be informed of your business affairs. If you knowingly and fraudulently fail to make such a disclosure, and inhibit a creditor from exercising any rights he may have under the Bankruptcy Code, you are not entitled to a discharge of this debt obligation.

If you took funds for your own use by embezzlement or misappropriation while acting in a fiduciary capacity (such as a representative of an estate or an officer of a corporation) the debt resulting from that misconduct is not discharged.

Child support and alimony obligations owed directly to a spouse or dependent, or assigned to the federal government or to a state or political subdivision such as a city or town are not discharged. A debt resulting from paternity litigation is not discharged. Property settlements, however, arising from a divorce decree that cannot be construed as maintenance and support, may be discharged.

A debt for willful and malicious injury to another is non-dischargeable. If your actions are committed deliberately or intentionally, and are wrongful and without just cause or excuse, and cause injury to another person or the property of another person, the debt may not be discharged.

Driving while intoxicated is willful and malicious conduct and any debt arising from such conduct is not discharged.

You remain liable for certain fines and penalties, to the extent that they are not compensation for actual financial loss, that is, compensation for monetary injury. Repayment ordered or consented to as part of a fine or penalty is not dischargeable. You must pay fines imposed by criminal prosecution, fines arising from violation of traffic laws, and contempt of court. Certain tax penalties are not dischargeable.

Educational loans made, insured, or guaranteed by a governmental unit or a non profit organization are not discharged unless the loan became due more than seven (7) years before the filing of your bankruptcy petition. If the Court finds, however, that repayment of the loan would result in undue hardship, the debt will be discharged.

Debts that were not discharged in a prior bankruptcy case of yours will not be discharged in a subsequent bankruptcy.

EXCEPTION TO SOME NON-DISCHARGEABLE DEBTS

If you have a debt that is not dischargeable and arises from one of the following: 1) Obtaining money, property, services, etc by fraud of false financial statement; 2) Debt for fraud or defalcation while acting as a fiduciary, embezzlement or larceny; 3) Individual consumer debt or more than ~~\$500.00~~ / 1000.00 within ~~forty (40)~~ days, and cash advances of more than \$1,000.00 within ~~twenty (20)~~ days before the Order for relief; or 4) Debt for willful and malicious injury-- the debt may be discharged IF a creditor has not filed a complaint to determine dischargeability of such debt, and IF a creditor has not filed an objection to your discharge within the time prescribed by the Court.

REAFFIRMATION AGREEMENTS

You may choose to enter into a reaffirmation agreement, prior to the date set for your discharge, with any of your creditors. Reaffirmation means that you agree to pay your debt to that creditor even though it would otherwise be discharged through your bankruptcy. A creditor, however, has no legal right to insist on a reaffirmation of a debt. You are not required to reaffirm any of your debt obligations. Your attorney will explain reaffirmation of a debt if this is what you want to do.

If you and a creditor enter into a reaffirmation agreement, it must comply with specific requirements as directed in the Bankruptcy Code. The reaffirmation agreement must be made, and filed with the Bankruptcy Court, before the date scheduled for your discharge. If you do not have an attorney, your reaffirmation agreement must be approved by the Court at a hearing that you must attend. ~~If you do have an attorney, see Official Vermont Local Bankruptcy Form 23 and General Order 93-2 regarding reaffirmation hearings.~~

Deleted per 1994 Bankruptcy Reform Act.

* * *

Your signature below will indicate that you understand the Court's instructions.

_____ Debtor _____ Date _____

_____ Co-Debtor (if applicable) _____ Date _____

ATTORNEY'S CERTIFICATE

I, debtor's counsel, certify that I discussed this document with the debtor(s) as required by the Vermont Local Bankruptcy Rules on _____ (date)

DATED: _____

_____ Attorney for Debtor(s) _____ Attorney's Federal Bar Number for the District of Vermont