DISPELLING THE MYTHS OF BANKRUPTCY

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Myth 1: Only deadbeats file for bankruptcy

Fact: The most common reasons consumers file for bankruptcy is because of medical bills. This is followed closely by job loss and divorce. The majority of people who file for bankruptcy have struggled for months to pay their bills and get back on their feet, but due to circumstances beyond their control they are just unable to catch up.

Myth 2: Medical Bankruptcy is an Option

Fact: There is no such thing as a medical bankruptcy. While medical bills may be the reason you are forced to file for bankruptcy, you must include all of your debts in bankruptcy regardless of whether you file a Chapter 7 or a Chapter 13. This will affect all of your creditors not just medical creditors.

Myth 3: Filing for Bankruptcy will Completely Destroy my Credit

Fact: It is true that a Bankruptcy will stay on your credit report for a period of 10 years. Some creditors may look upon this as a negative, but thing you must remember is the state of your credit when you are looking at filing for bankruptcy. If you have already missed payments or defaulted on loans and have collection actions against you, then the bankruptcy will likely not hurt your credit significantly more than the missed payments have already hurt. A Chapter 13 plan may help improve your credit score because it shows a consistent ability to make payments.

Myth 4: A spouse can proceed with filing for joint bankruptcy without getting the other's permission

Fact: Both spouses must give permission for the filing of a joint bankruptcy. However, just because the debt is discharged to one spouse, does not mean the creditor cannot come after the other spouse for payment of the debt. This is true even if the debt is not in both spouse name. While both people's permission is needed to file a joint petition, someone who is married can file individually to discharge the debt that is solely in their name.

Myth 5: Consumers can file for bankruptcy as many times as they like.

Fact: There are two different chapters of bankruptcy for the average consumer debtor and the time periods vary for each chapter. Debtors who have filed a Chapter 7 Bankruptcy will have to wait eight years before refiling a Chapter 7 Bankruptcy and four years before filing a Chapter 13 Bankruptcy. If a person filed a Chapter 13 Bankruptcy in the past, they will have to wait two years to file for Chapter 13 Bankruptcy again.

Myth 6: I'll lose everything I own

Fact: Every state, including Nebraska, has exemption laws that protect certain kinds of assets, such as your house, car, money in retirement accounts, household goods, and clothing. Most people will pass through a bankruptcy case and keep everything they own.

Myth 7: I can transfer nonexempt property to my family and friends right a few months before the bankruptcy so that I can still keep them

Fact: You have to disclose to the trustee any payments you have made to relatives or business partners within one year before filing the bankruptcy; including all gifts of cash or property to family members in the last year that total more than $200 per person; and all property that was transferred within two years before filing the bankruptcy.

Myth 8: The car, house, and boat can be kept without having to pay off the loan when including in the bankruptcy.

Fact: You can't keep these things without paying off the loan if that item is the collateral on the loan. In a Chapter 7, you can try to reaffirm these loans, meaning you resign the contract to make the payments on these loans. However, you will have to show that it will be an undue burden to continue making the payments. If you are behind on these payments at all and you wish to keep the property, you will need to file a Chapter 13.

Myth 9: I can max out all of my credit cards, file for bankruptcy and never pay for the things I bought.

Fact: This is known as fraud and will not be tolerated by the bankruptcy trustee. If fraud is found an otherwise dischargeable debt becomes nondischargeable. One thing the courts look for are any luxury items that cost more than $500 purchased within 90 days of the bankruptcy filing.

Myth 10: All debts can be discharged in a bankruptcy filing.

Fact: There are a number of common debts that are not dischargeable in bankruptcy including: in all bankruptcies: child support, spousal support, student loans, taxes, intentional torts, court fines (including traffic tickets), and debt incurred as a result of fraud. In Chapter 7 Bankruptcies, debts that became due as a result of a property settlement agreement or divorce decree are not dischargeable, but they may be in Chapter 13.