

We Help, We Listen, We Care

Sterling Bankruptcy Center

www.sterlingbankruptcy.com

PROBLEMS TO AVOID

Wait Until After Your Bankruptcy is Over to Pay Your Friends and Family: If you owe debts to family, relatives or friends, wait until after your bankruptcy is over to pay them. The Court is concerned that you will favor these "insiders" over creditors that you do not have a personal relationship with. Accordingly the trustee may be able to recover payments you made within one year to an insider (sometimes up to 6 years). The law in this area is complicated and there are some exceptions.

Don't Pay-off Credit Card Debt With a Consolidation Loan Secured by Your Home: Many people take out a home equity loan and use the proceeds to pay-off credit card debt. Later they find that they have trouble making both the mortgage and home equity loan payments and start thinking about bankruptcy. Unfortunately, in order to wipe-out a home equity loan you generally have to surrender your home. In contrast, credit card debt is generally easily wiped out in bankruptcy without surrendering your home.

Don't Incur Significant Credit Card Debt Just Before Filing Bankruptcy: Once you decide to file bankruptcy, stop using all your credit cards. Large recent charges, cash advances or balance transfers can cause you trouble. When you file bankruptcy the banks that issued you credit cards will typically review your account for questionable activity. So if you charge a \$3,000 Caribbean cruise on your credit card and then file bankruptcy as soon as you get back expect problems in your bankruptcy. The bank will likely file an objection arguing fraud (e.g., you had no intention of paying this debt when you incurred it). On the other hand, if you charged that trip a year ago when you had a good job and could afford to make the credit card payments, but recently lost your job and now cannot, you probably don't have anything to worry about.

Forgetting to List a Creditor: Debts to a creditor not listed in your bankruptcy may not be discharged. We will obtain a tri-merge credit report as part of our due diligence, but you will still need to try and get information for creditors that may not have reported your debt to a credit reporting agency.

Reaffirming Payments You Cannot Afford: You may love your Ford Explorer but can you really afford the \$500/month payment? If you reaffirm or assume the debt and later start missing payments the creditor can sue you, repossess the vehicle and garnish your wages for any deficiency (i.e., the balance on your loan after subtracting the sales price of the repossessed vehicle at auction). If you surrender the vehicle in your bankruptcy the debt is wiped out, even if you owe more than the vehicle is worth.

Failing to Appear at Your Meeting of Creditors: If you fail to appear at your meeting of creditors your case will be dismissed unless you have a very good reason (for example you were hospitalized or incarcerated at the time of your hearing). Having to work or take care of your kids are not acceptable excuses for failing to appear.

Payments to Insiders: If you made payments totaling \$600 or more over the last year on debts owed to a family member, relative or friend, the Court may require that family member, relative or friend to give the money back. The Court is concerned that you might favor these people or your other creditors.

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