



Grafton Firm
Attorneys at Law

COMING TO TERMS WITH BANKRUPTCY

You are overwhelmed by your debts. Every month you seem to fall farther behind and creditors are calling. Bankruptcy offers a solution, but you can't bring yourself to take the next step. You're an honest person; you want to pay your debts. You feel embarrassed and ashamed that you cannot. To you, bankruptcy is an admission of failure.

Here is some information that may help you release these bad feelings and see bankruptcy in a more positive light. Rather than a badge of failure, try instead to think of bankruptcy as your first step on the path to financial stability.

BANKRUPTCY IS A RESPONSIBLE CHOICE

Regardless of how you got into debt, bankruptcy is a responsible way out. Bankruptcy law recognizes that debts can overtake even the most prudent persons.

Bankruptcy is smart public policy. It has been proven to preserve marriages; free income for the support of children; prevent suicide; and reduce homelessness. Bankruptcy enables debtors to become consumers once again contributing to a healthy economy. When your bankruptcy is over, you will be able to spend your money on food, clothes, rent, and other necessities for your family, rather than interest, late fees, and penalties.

Based on forgiveness rather than punishment, bankruptcy helps people whose finances have been decimated by causes that are frequently out of their control. In the words of the United States Supreme Court from over a century ago, the purpose of the Bankruptcy Code is "to relieve the honest debtor from the weight of oppressive indebtedness, and permit him to start afresh free from the obligations and responsibilities consequent upon business misfortunes."

If adversity strikes, the sensible course is to get into recovery as quickly as possible. You, your family, and your community will benefit when you get out from under a load of debt.

Grafton Firm, LLC / 920 Providence Rd, Ste 400A, Towson, MD 21286
info@graftonfirm.com / (410) 929-0330

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RECOGNIZE FACTORS BEYOND YOUR CONTROL

Most bankruptcies are caused by medical expenses, job loss, divorce, and economic and natural disasters—all factors beyond your control. You are not to blame when life hands you a raw deal.

Medical Expenses. Several studies have indicated that the leading cause of bankruptcy is medical expenses. Debt incurred from medical treatment might be the biggest factor in over 60% of bankruptcy filings. In over 75% of these filings, the filers had some form of health insurance. Rare or serious diseases or injuries can easily result in hundreds of thousands of dollars in medical bills - bills that can quickly wipe out savings and retirement accounts, college education funds, and home equity. Once these have been exhausted, bankruptcy may be the only shelter left, regardless of whether the patient or his or her family had health insurance.

Job Loss. Whether due to layoff, termination, resignation, or other circumstances, the loss of income from a job can be equally devastating. Some are lucky enough to receive severance packages, but many find pink slips on their desks or lockers with little or no prior notice. Not having an emergency fund to draw from only worsens this situation and using credit cards to pay bills can be disastrous. Add in the potential loss of health insurance and the cost of supplemental insurance and an individual’s already limited resources will be gone quickly. Sometimes, bankruptcy can be the only way to get back on track after a period of unemployment.

Divorce/Separation. Divorce or separation, or any change in the family unit, can create tremendous financial strain on both partners in several ways. First come legal fees, which can be astronomical in some cases, followed by a division of marital assets, decree of child support and/or alimony, and finally the ongoing cost of keeping up two separate households after the split. The legal costs alone are enough to force some to file bankruptcy, while wage garnishments to cover back child support or alimony can strip others of the ability to pay the rest of their bills.

Real Estate Crisis. In recent years millions of people were affected by the real estate bust. These facts have been well documented in the media and across most real estate markets in the United States. The real estate bust led to a credit crisis for many homeowners. Ordinary, hard-working people suddenly found themselves underwater on homes and no foreseeable way out. When a bank forecloses on a house, depending on the type of loan and circumstances, the owners may owe the difference between the foreclosed value of the home and what they owed on the loan. This can be tens of thousands of dollars. Banks also have rights to sue on this deficiency. Therefore, in order to protect remaining assets and get out of the black hole of the housing crisis, many have found the only solution to be bankruptcy. In most of these cases, they were victims of the housing crisis and crash of the market and nothing these individuals could have done would have changed the situation.

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Unexpected Expenses due to an Unforeseen Event. Sometimes terrible things, most often all unforeseen, happen to good people. The loss of property due to theft or some other casualty, such as earthquakes, floods, or tornadoes for which the owner is not insured can force some into bankruptcy. Many homeowners are unaware that they must take out separate coverage for certain events such as floods and earthquakes. Those who do not have coverage for this type of peril can face the loss of not only their homes but most or all of their possessions as well. Not only must they then pay to replace these items, but they must also find immediate food and shelter in the meantime. Bankruptcy might be the only way to find solid footing again.

IF TOO MUCH CREDIT CAUSED YOUR PROBLEM

Give yourself a break. You are not alone. Many thousands of folks every year fall victim to the temptation or need to live beyond their means. The consumer culture relentlessly bombards us with pleas to spend money on a dizzying array of products and services. Success and popularity are measured by whether you're "on trend" with the latest luxuries from cars to electronics to fashions.

Credit card companies offer easy credit and high limits. Outrageous interest rates and high late fees and penalties cause debt to soar wildly beyond expectations. Soon the best you can do is the minimum payment and eventually, not even that.

Don't waste much time feeling guilty or sorry for a credit card industry that was only too happy to trap you in a circle of never-ending debt.

You may have some debts that you feel very bad about not repaying in full, for example loans from friends and family or a bill with a local merchant with whom you've done business for years. These debts will probably be discharged in your bankruptcy because you are required to list all your debts in your paperwork. Once your bankruptcy is over, nothing prevents you from repaying a debt voluntarily. However, don't pay the debt off before you file. Such a payment would likely be considered a preference and the trustee can recover it from the recipient.

WHO WILL KNOW YOU FILED BANKRUPTCY?

You may fear your bankruptcy will become public knowledge. Actually, very few people will know, unless you tell them. Technically, your bankruptcy is a public record, so it is conceivable that other people could discover your filing. However, most people do not take the trouble to rifle through bankruptcy records or even know where to look.

All your creditors will receive a notice that you have filed for bankruptcy. So if you borrowed money from your brother-in-law and haven't repaid it, he will find out. Similarly, if your mother co-signed a loan with you, she will be notified. And if you owe spousal or child support, the person who receives it will be notified of the filing. Otherwise, the bankruptcy court does not notify family or friends about your bankruptcy.

In addition, your landlord will get notice from the bankruptcy court if you owe back rent or if you have a lease. If your pay is being garnished your employer will also be notified, but your employer cannot retaliate against you because you filed.

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TURN TO A BANKRUPTCY ATTORNEY

Debt is a secret shame borne by many Americans. People do not want their friends, family, and business contacts to know about their financial problems. You have probably been exerting a lot of effort to hide the truth about your finances. Isolating yourself to keep your secret has caused your stress and anxiety to mount. Talking to an attorney who specializes in debt relief can bring you great consolation.

Bankruptcy attorneys offer empathy and encouragement to their clients in a safe environment where the conversations are confidential. Bankruptcy can be frightening and confusing. A consultation with a bankruptcy attorney will eliminate your fear of the unknown.

A good bankruptcy attorney will always treat you with respect and never judge you. Instead of criticism, he or she will offer support and solutions.

COPING WITH NEGATIVE FEELINGS

It is natural to be emotional about bankruptcy. Having debt you cannot pay is an enormous stressor. Financial distress can lead to insomnia, depression, anxiety, shame, and even crumbling relationships. Society has trained us to tie self-worth to net-worth. Money is a key metric of success. As a result, financial problems can deal a devastating blow to self-esteem.

Examine the choices you made, or those you avoided making, or other factors that were beyond your control that might have led to your present situation. Then, try to make your peace with them.

It may comfort you to know that many respected and successful people have gone bankrupt and then recovered, including Abraham Lincoln, Ulysses Grant, Henry Ford, Milton Hershey, Mark Twain, Donald Trump, and Walt Disney. So don't get bogged down in the emotional trap of shame and despair. Stand-up, dust yourself off, commit to doing things differently, and start over.

Once your bankruptcy is concluded, you can begin moving forward instead of sliding backwards financially and emotionally under a crushing debt load.