

INFORMATION AND DOCUMENTS NEEDED BY DEBTOR'S ATTORNEY PRIOR TO FILING A CHAPTER 7 BANKRUPTCY CASE

I. General Information (for husband and wife if a joint filing)

- A. Name (including any other names used in the previous 8 years)
- B. Address (including mailing address if different from physical address)
- C. Phone numbers (including home, cell and work)
- D. Email address
- E. Social security number
- F. Birthday
- G. Ever filed a bankruptcy before?

DOCUMENTS NEEDED:

- 1. Copy of Driver's License
- 2. Copy of Social Security Card

II. Assets

- A. **Real Estate** (Information is needed for each property owned)
 - 1. Address
 - 2. Parcel Number
 - 3. Legal Description (must be filed with the petition)
 - 4. Value (county auditor's value or independent appraisal)
 - 5. Information regarding each mortgage (name and address of company, account number, amount owed, date incurred, lien position)
 - 6. Information regarding judgment liens (name and address of company, lien number, amount owed, date attached)
 - 7. Information regarding past due real estate taxes (county owed, address, amount owed, year(s) owed)
 - 8. Ask the client if they intend to keep the property or surrender it back to the mortgage company

DOCUMENTS NEEDED:

- 1. Legal Description
- 2. Appraisal (If necessary)
- 3. Mortgage Statement
- 4. Judgment Lien
- 5. Real estate tax bill
- 6. Proof of homeowner's insurance

B. **Vehicles** (Information is needed for each vehicle owned)

1. Year, make and model
2. Who is the vehicle titled to?
3. Mileage
4. Information regarding liens (name and address of company, account number, amount owed, date incurred, liable party)
5. Any co-signers (name and address)
6. Ask the client if they intend to keep the vehicle or surrender it and if they are current on the monthly payments

DOCUMENTS NEEDED:

1. Title
2. Loan documents
3. Monthly statement
4. Proof of automobile insurance

C. **Bank Accounts** (Information is needed for each account)

1. Name of financial institution (bank or credit union)
2. Checking and/or savings accounts?
3. Account number
4. Joint account? Name and relationship of joint account owner.

DOCUMENTS NEEDED:

1. 90 days worth of bank statements

D. **Household Goods and Furnishings**

1. List of all household items and value of each item
2. Information regarding any liens (name and address of company, account number, amount owed, date incurred, liable party)
3. Ask the client if he intends on keeping secured item or surrendering it and if he is current on monthly payments

DOCUMENTS NEEDED:

1. Loan documents/security agreement
2. Monthly statement

E. **Jewelry**

1. List of all items of jewelry and value of each item (appraisal if necessary)
2. Information regarding any liens (name and address of company, account number, amount owed, date incurred, liable party)
3. Ask the client if he intends on keeping the secured item or surrendering it and if he is current on monthly payments

DOCUMENTS NEEDED:

1. Loan documents/security agreement

2. Monthly statement

F. **Life Insurance**

1. Name of company
2. Whose life is insured?
3. Name of and relationship to beneficiary
4. Is it a term policy or a whole life policy?
5. If a whole life policy, what is the cash surrender value of the policy?

DOCUMENT LIST:

1. Copy of policy
2. If whole life policy, documentation of cash surrender value

G. **Retirement Plans**

1. Which Debtor holds the Plan?
2. What type of Plan (401(k), 403(b), Annuity, IRA)
3. Value of the Plan

DOCUMENT LIST:

1. Documentation showing type of Plan and current value of the Plan

H. **Stocks And/Or Bonds**

1. Name of company
2. Number of shares/bonds
3. Value of each share/bond

DOCUMENT LIST:

1. Copy of each stock certificate or bond
2. Printout of daily value of each share

I. **Tax Refunds**

1. Amount of expected Federal, State and/or Local income tax refund
2. If refunds received prior to the filing of the bankruptcy case, an accounting for how the funds were spent

DOCUMENT LIST:

1. Copy of two most recently filed tax returns and W2s/1099s (Federal & State)
2. Accounting for how the funds were spent (bank statement showing deposit of refund and spend down, receipt, cancelled checks)

J. **Interest in probate estate and/or life insurance proceeds**

1. Name of decedent
2. Amount of anticipated inheritance
3. Name and address of court where probate estate was opened
4. Name, address and phone number for attorney handling the probate estate

DOCUMENTS NEEDED:

1. Probate court papers

K. Other contingent claims

1. Type of claim (auto accident, property damage)
2. Anticipated recovery
3. Name, address and phone number of attorney handling the claim

DOCUMENTS NEEDED:

1. Copy of Complaint

L. Businesses

1. Name and address of business
2. Type of entity (Corporation, LLC, Sole Proprietorship)
3. List of business assets and approximate value of each asset (bank accounts, office equipment, machinery, inventory, accounts receivables)

DOCUMENTS NEEDED:

1. Two most recently filed business tax returns (if applicable)
2. Business appraisal (if necessary)

M. Accounts Receivables

1. Name, address, phone number of entity that owes the Debtor
2. Amount owed to Debtor
3. Court case number (if applicable)

DOCUMENTS NEEDED:

1. Documentation of amount of money owed to Debtor
2. Copy of Judgment received (if applicable)

N. Other Assets

1. List of any books, pictures, art objects, stamp or coin collections, antiques, tools, guns, sporting equipment, hobby equipment, fishing gear, camping equipment, cameras, etc.
2. Value of each asset

DOCUMENTS NEEDED:

1. Appraisal for each asset (if necessary)

III. DEBTS

A. Secured Debts

1. Name, address, account number, amount owed, type of collateral, name and address of any co-debtors

B. Priority Debts

1. Taxes – Name and address of taxing authority owed, amount owed, account number, years owed for, name and address of any co-debtors
2. Domestic Support Obligations – Name and address of recipient of support payments, amount of arrears, name and address of county enforcement agency handling the claim

C. Unsecured Debts

1. Name, address, account number, amount owed on each debt, when debt incurred, name and address of any co-debtors

DOCUMENTS NEEDED:

1. Credit reports
2. Monthly statements

IV. INCOME (All income into the household must be disclosed)

A. Employment

1. Name and address of current employer, occupation, length of employment, monthly gross income and monthly payroll deductions. (Information is needed for both husband and wife even if one of them is not filing the bankruptcy)

B. Other sources of income

1. Social Security – Monthly amount received
2. Disability - Monthly amount received
3. Pension – Monthly amount received
4. Child Support/Alimony - Monthly amount received
5. Unemployment – Weekly amount received
6. Business Income – Gross monthly receipts less monthly business expenses
7. Food Stamps - Monthly amount received
8. Rental Income – Gross monthly receipts less monthly expenses
9. Family Contributions – Monthly amount received toward household expenses
10. Other - Monthly amounts

DOCUMENTS NEEDED:

1. Paystubs (or ledger from employer showing gross pay, deductions and net pay) (for both husband and wife if applicable) for the 6 months prior to the filing of the bankruptcy
2. Social Security or Disability Award Letter
3. Pension statement
4. Court documents showing child support/alimony award
5. Unemployment statements
6. 6 months of business profit and loss statements
7. Lease agreement showing monthly rental income and list of monthly expenses associated with the rental property

V. EXPENSES (All household expenses must be disclosed)

1. Debtor must provide a list of all household expenses (even the expenses of a non-filing spouse)
2. Debtor must list number of dependents, age of each dependent and relationship of each dependent to the Debtor

DOCUMENTS NEEDED:

1. Completed monthly budget (see attached Schedule J)

VI. OTHER QUESTIONS THAT MUST BE ASKED AND DOCUMENTS THAT MUST BE COLLECTED

- A. Have any payments been made to Creditors that exceed \$600.00 within 90 days of the bankruptcy filing?
 - i. Payment made directly by Debtor – Provide company name and address and the amount paid within the last 90 days
 - ii. Payment received by Creditor through wage garnishment – Provide the name and address of the company garnishing wages, the amount taken within the last year, and request a copy of the judgment received by the creditor
 - iii. Payment received by Creditor by bank attachment – Provide the name and address of the company that took the funds, the date the funds were taken, the amount taken, and request copy of bank statement showing the attachment and a copy of the judgment received by the creditor.
- B. Have you paid any insiders (family members or friends) any money within a year prior to the bankruptcy filing?
 - i. If yes, provide the name and address of the recipient of the funds, his relationship to the Debtor, the date of payment and the amount of payment.
- C. Have you been involved in any lawsuits within a year prior to the bankruptcy filing?
 - i. If yes, provide the caption of the suit and case number, the name and address of the court where the suit was filed, the nature of the suit and the status of the suit.
- D. Any repossessions or foreclosure sales within a year of the bankruptcy filing?
 - i. If yes, provide the name and address of the creditor, the date of the repossession or foreclosure sale, and a description of the property taken and its value.
- E. Have you made any gifts exceeding \$200.00 or charitable contributions exceeding \$100.00 within a year prior to the bankruptcy filing?

- i. If yes, provide the name and address of the recipient, the relationship to the Debtor, the date of the gift or contribution and a description and value of the gift.
- F. Have you lost any property within a year prior to the bankruptcy filing from fire, theft, casualty or gambling?
 - i. If yes, provide the description and value of the property lost, the date of loss and a description of the circumstances surrounding the loss
- G. Have you sold any property or given any property away within four years prior to the bankruptcy filing?
 - i. If yes, provide the name, address and relationship to the Debtor of the recipient of the property, the date of the transfer, description of the property transferred and the value received for the transfer.
- H. Have you closed or transferred any bank accounts or financial accounts within a year prior to filing the bankruptcy?
 - i. If yes, provide the name and address where of the institution, the type of account that was closed or transferred, the last four digits of the account number, the amount of the account upon closing, and the date of the closing or transfer.
- I. Do you have a safe deposit box?
 - i. If yes, disclose the name and address of the depository where located, the name and address of those with access to the box, a description of the contents of the box, and the date of transfer or surrender (if applicable).

A NOTE ON DUE DILIGENCE

The “Reasonable Inquiry” Standard Under 11 U.S.C. § 526(a)(2)

Section 526(a)(2) of the Bankruptcy Code provides:

A debt relief agency shall not . . . make any statement, or counsel or advise any assisted person or prospective assisted person to make a statement in a document filed in a case or proceeding under this title, that is untrue or misleading, or that upon the exercise of reasonable care, should have been known by such agency to be untrue or misleading.

This requirement is often referred to as the “reasonable inquiry” standard. If the attorney fails to perform this reasonable inquiry, the attorney may be subject to a disgorgement of fees, civil penalties, and costs to the state or the U.S. Trustee.

The “Reasonable Investigation” Standard Under 11 U.S.C. § 707

Under § 707(b)(4)(D), the attorney certifies that he or she has no knowledge that the information contained in the client’s petition is incorrect after performing an inquiry. Violations of § 707 may result in dismissal of the debtor’s case. If the attorney is found to be in violation of this provision, he or she can be subject to civil penalties as well.

In sum, the attorney has a defined duty to ask questions that produce truthful responses, conduct an investigation to resolve inconsistencies, and verify data provided by clients through the request and procurement of relevant documents. This will prevent the consequences of violating the aforesaid provisions and assist in the successful administration the bankruptcy proceeding.