



Minnesota Bankruptcy Buzz

KAIN & SCOTT P.A.

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Bankruptcy news Minnesota Lawyers can use FACTS AND FIGURES

Minnesotans filed 753 chapter 7 and chapter 13 bankruptcy cases in November 2016. In November 2015, Minnesotans had filed 888 chapter 7 and chapter 13 bankruptcies. That is a decline of 15.2% in cases filings year over year in November.

There has been a 11.63% decline in case filings thus far in 2016 compared to this time in 2015. It does not appear like we have hit the bottom of the bankruptcy case filings quite yet.

Testimonial: "Life is just that again, my life. It's good to have it back. Thank you, Eric"



More bankruptcy news you can use

The loss of a debtor's discharge is a serious matter, and it usually can only happen when there has been active misconduct of a criminal, or at the very least quasi-criminal nature by the debtor relating to the bankruptcy proceedings, or the debtor's assets.

Since the reason people file bankruptcy cases is to receive a discharge of their debt, Lawyers need to know what kind of behavior leads to revocation of discharge to inform debtors and prevent them from putting their discharge at risk.

Different scenarios in which it is possible to lose a discharge...

1. The debtor is not a person
2. The debtor has transferred, removed or concealed property of the bankruptcy estate And/or the debtor has made a "false oath" either in the bankruptcy petition and schedules or in giving testimony at the meeting with the bankruptcy trustee or in a court hearing.

Other types of behavior that can put a discharge at risk...

1. **The Debtor has concealed, destroyed, falsified, or failed to preserve financial records.**

Much like the prohibition against a debtor destroying or concealing property of the bankruptcy estate, debtors are also prohibited from concealing, destroying, mutilating, falsifying or failing to keep "recorded" financial information. Recorded information includes books, documents, records and papers.

The purpose of this subsection of section 727 of the Bankruptcy Code is to prevent debtors from frustrating the efforts of bankruptcy trustees and creditors in reconstructing the debtor's financial activities.

This requirement pairs with the duty that all bankruptcy debtors have to cooperate with the bankruptcy trustee.

If the trustee, or a creditor, is unable to examine the debtor's financial books and records due to the debtor's intentional actions, the Bankruptcy Code gives the trustee and/or a creditor the right to seek a denial or revocation of a debtor's discharge.

There is an exception to this rule. The Code provides that if the debtor's act, or the debtor's failure to act that resulted in business records being destroyed or lost was justified under all of the circumstances of the case, then the Bankruptcy Court will ...

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I have no
special talent.

I am only
passionately
curious.

~Albert Einstein

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