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Update From Best Practices Committee

The Best Practices Committee was formed by the College's Board of Directors several years ago to promote "best practices" guidelines and standards for bankruptcy professionals. The Committee has, in turn, appointed subcommittees to develop recommendations in specific areas. Two of those, Post-Petition Disclosure of Financial Statements and "Circuit Review" of important filing issues, were the subject of well-received panel presentations at the Washington meetings last March, and we expect written materials in these areas to be available to College members in the coming months.

Best Consumer Practices for Filing Preparation

Bankruptcy Code § 707(b)(4) has generated much debate about the standards a lawyer is expected to meet when gathering the information necessary for a consumer bankruptcy filing. The Consumer Practices Subcommittee has dedicated a great deal of time and thought to this subject, resulting in a commentary that we have now posted on the College website (www.amercol.org). The commentary covers the importance of retainer agreements, standards for the pre-filing investigation, the preparation of schedules and statements and the approach to emergency filings. It also proposes a comprehensive client questionnaire that we commend for your consideration. We thank Henry Sommer and his committee (Harold Barkley, Charlie Doctor, Karen Gross, Hon. Barbara Houser, Bob Kressel, Ed Nazan and Bill Schorling).

New Bankruptcy Tax Project

Nationally recognized bankruptcy tax experts, Carl Jenks and Mickey Sheinfeld, are heading up a Best Practices review of bankruptcy tax matters and are looking for additional members for their subcommittee. Please advise the undersigned if you are interested. They expect to have a work product completed by this summer.

David G. Heiman, Chair

February 8, 2006

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Best Practices for Consumer Bankruptcy Cases (including Commentary)

Retainer Agreement

The attorney should provide the debtor with a plain-English written retainer agreement in every case, setting forth the duties and obligations of the attorney and the client, no later than the time when the initial fee payment is made or, if the petition is filed before payment of a fee, prior to the petition being filed. The agreement should clearly state the attorney's fees and terms of payment, as well as, in general terms, the scope of services that are covered and not covered by the fees stated. Ordinarily, the agreement should provide, at a minimum, that the attorney will prepare the petition, statements and schedules, as well as the plan in a chapter 13 case, that the attorney will provide representation at the section 341(a) meeting, and that the attorney will provide advice and counseling throughout the predictable events in the case. In addition, the agreement may provide for other services that will be necessary in the particular case, and should describe an hourly rate or other method of payment for unanticipated services that may be necessary.

Commentary

Especially in cases of consumer debtors, who are inexperienced in dealing with attorneys and legal matters, it is important to clearly spell out the services the attorney will provide, the fees for the services, and the debtor's responsibilities. An attorney should not attempt to "unbundle" the basic services in a bankruptcy case, for example, by entering into an agreement to prepare the initial papers and do nothing more, because almost all consumer debtors are incapable of adequately representing themselves throughout the remainder of the case. There may be a variety of ways for attorneys to obtain payment of their fees, depending on state law, including for example the debtor's grant of a lien on an anticipated tax refund or other property. Some courts have specified lists of duties that attorneys must agree to perform in order to qualify for a "no look" automatic approval of a specified fee. Unanticipated events, such as motions for stay relief or dischargeability complaints, can occur in any case, so the debtor should be advised if such events are not covered by the stated fee and informed of how fees for additional necessary services will be calculated.

Investigating the Facts

The debtor client is, of necessity, the primary source of information in a consumer bankruptcy case, and the client's statement of the facts, obtained in a thorough and probing interview, should be presumed to be true absent particular circumstances that give rise to a suspicion that it is not. The debtor's attorney should also obtain all documents reasonably available that are necessary to complete the petition, statement and schedules as fully and accurately as is reasonably possible. The debtor should be advised that all information presented to the court must be truthful and complete.

Commentary

As in almost any other kind of legal matter, the client is the primary source of an attorney's information. See 2. JAMES WM. MOORE ET AL., MOORE'S FEDERAL PRACTICE ¶11.11[2] (3d Ed.) ("An attorney may rely on objectively reasonable representations of his or her client.") There is no reason to believe that consumer bankruptcy debtors are any less honest than other clients, although due to lack of education or financial sophistication some may have less understanding of their legal and financial dealings. For example, debtors may have no expertise in valuing property, so that they may, quite innocently, greatly overvalue or undervalue property they own. Generally, information should be elicited from the debtor through use of detailed questions that go beyond simply the information to be included in the schedules and statements, using a written questionnaire¹ that should be reviewed carefully in an interview to ensure that the debtor understands the questions. It is generally good practice to have the debtor sign any completed questionnaire or other document recording the debtor's responses, indicating that the responses are true and complete, in order to avoid any later misunderstanding. In virtually every case there will exist various types of documents, such as bills, collection letters, loan papers, paystubs, tax returns, public records, and the like which can provide more detail. A credit report and a check of electronic court files for prior bankruptcy cases are examples of documents that are easily obtainable at little or no cost and should be obtained in every case. If other evidence, or other statements of the debtor, appear to contradict information given by the debtor, or if the debtor's answers seem implausible, the attorney should ask probing questions to ensure that the debtor understands the information that is being sought. If the debtor's responses still do not comport with other known facts or the attorney's general experience, further investigation is necessary. Ultimately, however, unless the debtor's statements are clearly not supportable in light of other known evidence obtained through reasonable investigation, the debtor is entitled to present his or her version of the facts to the court.

Emergency Bankruptcy Case Filings

When a bankruptcy petition must be filed very quickly to forestall imminent harm to a client, the debtor's attorney should gather as much information as possible before filing the case. The attorney should 1) conduct as much of the normal client interview as possible, 2) make reasonable attempts to contact the attorney for the party that is taking action against the debtor, 3) check the electronic case dockets for prior bankruptcy filings by the debtor, 4) if possible, obtain a credit report on the client, and 5) obtain a prompt prebankruptcy credit counseling briefing for the client or otherwise comply with section 109(h).

Commentary

Emergency bankruptcy filings present special and difficult issues for a debtor's counsel. By definition, the attorney cannot obtain all of the information that would ordinarily be obtained before filing and must act quickly to forestall serious harm to the debtor, such as a foreclosure

¹ An example of such a questionnaire, developed by legal services programs and the National Consumer Law Center, is attached as an example, not intended to be exhaustive. Many of the questions are intended to lead to further inquiry by a practitioner, depending upon the response.

sale of the debtor's home. Nonetheless, the attorney must determine everything that is reasonably possible to assure that the filing is in the client's best interest and that it is not an abuse of the bankruptcy system. Although the client may not have all of the information that would normally be obtained through an interview and necessary follow-up, conducting as much of the ordinary interview as possible is usually the best source of most information. Both because there may be some way to delay impending harmful action and because it may present a different version of the facts of which debtor's counsel should be aware, a telephone call to the attorney for the creditor or other party taking action against the client is also important. However, it may not always be possible to reach that party. Obviously, if there are factual discrepancies, they should be investigated further to the extent possible. In addition, because debtors with emergency bankruptcy filings are somewhat more likely to be abusive than others, the electronic record of prior bankruptcy filings (PACER) by the debtor should be checked to verify the information provided by the client. Prior filings may also limit or eliminate the applicability of the automatic stay and possibly require prompt action in that regard. Finally, because debtors who do not come in until the last minute are more likely to be confused or disorganized, a credit report, which will list not only debts but also court proceedings, should ordinarily be obtained electronically with the cooperation of the client, who must of course authorize it.

Preparing the Schedules and Statements

An attorney preparing the schedules and statements required in a consumer bankruptcy case must set forth the required information in a way that is as clear and accurate as possible given the practical limitations on the information that can be gathered. These limitations arise from a lack of all the relevant contracts and other documents, debtors' inability to give precise information with respect to many facts, the costs of obtaining precise information, and the general uncertainties and instabilities in debtors' financial situations.

With respect to listing liabilities, the amount of a claim may be taken from a bill or collection letter received by the debtor, but with the understanding that it is not likely to be precisely accurate, and therefore can be listed as estimated or disputed or even unknown. The address for the creditor should be ascertained as accurately as possible from the papers presented by a client, or from a credit report. The consideration for credit card debts incurred for a variety of purposes may be listed as "credit card debt", "consumer goods and services" or some similar general phrase. If debts were incurred over a period of time, the dates of the transaction may be listed as "various dates." It is usually advisable, but not required, to list additional contacts such as attorneys or collection agents collecting the debt so that they will have notice of the bankruptcy and cease collection activities. All possible liabilities of the debtor should be listed, but if a debtor does not have actual knowledge of a liability it should be listed as disputed.

Assets should be listed as described by the debtor, but in light of the attorney's experience. Unless there is some basis for suspicion that the debtor is not disclosing significant assets, there is no need to investigate the debtor's assets by obtaining an appraisal or visiting the debtor's residence. However, the values given by the debtor should be questioned by the attorney if they seem too high or too low based on the attorney's experience or information that

is readily available, such as industry valuation guides or readily accessible information about recent property sales in the debtor's neighborhood.

The debtor's listing of current expenditures should include projected expenses going forward, rather than past expenses, and include necessities that may have been neglected before the bankruptcy. Numbers provided by a debtor may have to be questioned in light of the attorney's experience and it is not impermissible for an attorney to suggest that a debtor adjust either actual expenditures going forward or a debtor's unrealistic estimate of expenses. However, the number ultimately listed should be the debtor's best estimate with the advice of counsel. It is also not improper to list expenses that are greater than a debtor's income, since that may be the reality. It is also appropriate to include a modest amount for miscellaneous expenses that are not itemized and a "cushion" for unexpected expenses. A detailed statement of business expenses should be attached if the debtor's primary income is from a business with substantial expenses, but need not be attached for a debtor with minimal self employment income and few, if any, business expenses.

Commentary

Reconstructing a debtor's financial information is at best an imprecise exercise. Debtors rarely have complete documentation of their debts and assets and often do not have a complete understanding of their finances. Because precision is not required with respect to the issues that usually arise in bankruptcy case, and because the costs of obtaining precise information would make bankruptcy unaffordable for most debtors, attorneys should be as complete and accurate as possible with the information they can readily obtain.

The precise amount owed on particular debts is almost impossible to determine with accuracy. Additional interest and charges may have accrued since the date of any statement the debtor has provided. Consumer credit agreements, even if the debtor has them, may have been amended by bill stuffers the attorney does not have. Calculating the interest and charges on credit cards and mortgages can be extremely complex and, because there have sometimes been errors in creditors' calculations, even those cannot be relied upon. Therefore, attorneys should do their best to be accurate, but recognize and inform those reviewing the schedules that the amounts are estimates, disputed, or unknown. In most cases, the amounts of debts listed on the schedules are immaterial to the bankruptcy. Generally, in chapter 7 they are discharged, or not discharged, regardless of the amount, although the total amount of unsecured debt may occasionally be relevant under section 707(b)(2). In chapter 13, the amounts of claims to be paid is determined by the creditor's proof of claim, and any objection thereto, not by the amount listed in the schedules. Similarly, it is impractical to list every credit card transaction, even if the attorney could obtain the records that would make that possible.

Every conceivable liability should be listed to maximize the effect of the debtor's discharge, including for example debts of a corporation of which the debtor was a principal even if there is no reason to believe the corporate veil can be pierced. Often debtors have received mail stating that a debt has been purchased by another entity. Because debtors have no actual knowledge that confirms that this has occurred, they may dispute the entity's claim to be a creditor.

Listing the debtor's expenses is of necessity an exercise in estimation. Most debtors do not have clear records of what they spend and many have been juggling obligations, not paying expenses regularly, and going without necessities in the months preceding a bankruptcy. Because the primary purpose of the listing is to determine what, if anything, a debtor can afford to pay creditors in the future, it makes the most sense to list a reasonable budget going forward, taking into account the family's needs, even if they have not always been met in the recent past. For example, eye and dental care may have been neglected before bankruptcy due to lack of funds. Similarly, home or car maintenance may have been deferred. Debtors who have not been paying such expenses may not report them as expenses initially, and there is nothing improper in an attorney suggesting they are necessary. Similarly, in light of many debtors' lack of knowledge of their own budgets, an attorney may suggest that amounts stated by a client are unrealistically high or low. Because it is simply impossible to list every minor expense or account for the contingencies that might cause unexpected expenses, an amount should be listed for miscellaneous expenses and a "cushion". The budget should include debt payments a debtor will have to make after bankruptcy, both to secured creditors and creditors holding nondischargeable claims, but should not include unsecured debts that will be discharged. It may be that the total expenses exceed a debtor's income, but if that is the reality, it should be reflected. Bankruptcy does not automatically render debtors able to pay all of their reasonable expenses.

Henry J. Sommer
Chair, Consumer Practices Subcommittee

January 16, 2006

Questionnaire

Complete All Questions. If you and your spouse are not living together, and there is no possibility that your spouse will file bankruptcy along with you, you don't have to answer the questions about your spouse.

1. Name and Residence Information:

- A. Your full name: _____
 Your spouse's full name: _____
- B. Your Social Security Number: _____
 Your spouse's Social Security Number: _____
- C. Your date of birth and age: _____
 Your spouse's date of birth and age: _____
- D. List any other names used by you or your spouse (including maiden name), or other ways you have signed your names to papers and checks during the last eight years:

- E. Current Address: _____
(Street)
- _____
- (City) (County) (Zip Code)

- F. Telephone Number: _____

- G. List all addresses you have had in the last three years, the dates when you lived there, and the name you used while living there. If you and your spouse are filing bankruptcy together, list addresses for each for the last three years (include street, town, and zip code).

<i>Addresses</i>	<i>Date Moved In</i>	<i>Date Moved Out</i>	<i>Name Used</i>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

- 2. Prior Bankruptcy:** Have you ever been involved before in a bankruptcy (chapter 7, 11, 12, or 13)? YES ___ NO ___. If YES, bring *all* papers from the case(s) to our office.

<i>What Chapter?</i>	<i>Date Case Filed</i>	<i>Did You Get a Discharge?</i>	<i>If Yes, List Date of Discharge</i>	<i>If Dismissed, List Date and Reason Why Dismissed</i>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

- 3. Other Bankruptcies:** Have there been any other bankruptcies filed by someone other than you or your spouse to stop a foreclosure on your home? YES ___ NO ___. If YES, give details: _____

4. Occupation and Income:

A. Usual type of work: _____
 B. Name and address of current employer: _____

C. Spouse's usual type of work: _____
 D. Name and address of spouse's current employer: _____

E. How long have you been at your current job?: _____ Your spouse? _____

F. List all income received in the last six months by you and your spouse (do not list your spouse's income if you are not filing bankruptcy together and you are legally separated):
(Bring a copy with you to our office of all pay stubs or other records from your employer of all pay received within the past sixty days.)

<i>Income Received</i> (Give gross income)	<i>Source</i> (Names and addresses of employers or specify social security, welfare, unemployment, self-employment, investments, etc.)	<i>By Whom</i> (Self or spouse)
1 month ago: _____	_____	_____
2 months ago: _____	_____	_____
3 months ago: _____	_____	_____
4 months ago: _____	_____	_____
5 months ago: _____	_____	_____
6 months ago: _____	_____	_____

List all income received so far this year and in the last two years by you or your spouse:

<i>Income Received</i> (Give gross income as reported on tax returns)	<i>Source</i> (Names and addresses of employers or specify social security, welfare, unemployment, self-employment, investments, etc.)	<i>By Whom</i> (Self or spouse)
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So far this year: _____

Last year: _____

Year before last: _____

G. Have you or your spouse been in business by yourself or with others during the last six years?
 YES ___ NO ___. If yes, give the dates, name of the business, its address, and the names of others in business with you or your spouse. _____

H. Are there any debts from your former business? YES ___ NO ___. If YES, list them in questions 32 and 33 and give details here: _____

I. (1) If you employed anyone (such as regular employees, cleaning people, gardeners, babysitters), do you still owe them wages? YES ___ NO ___. If YES, give name and address of employee, dates worked, amount owed, and work done. _____

(2) Has anyone given you money to purchase property or services that you were unable to provide?
YES ___ NO ___. If YES, give details: _____

J. Have you ever been on welfare within the past two years? YES ___ NO ___. Has anyone in your immediate family? YES ___ NO ___. If YES to either question, specify the persons, dates, amounts received, and places (if state welfare, name the state, if local welfare, name the city or county).

K. Have you ever received or been told you have received more money from the government than you were supposed to (such as social security, welfare, unemployment compensation, food stamps, etc.)?
YES ___ NO ___. If YES, give details: _____

L. Do you have any vacation time that is due you from your employer? YES ___ NO _____.
If YES, how much is due? _____

M. Do you have an IRA (including Roth or education IRA) or any other pension plan? YES ___ NO _____.
If YES, give details: _____

N. Have you paid or contributed any funds to a tax-exempt tuition program, or purchased any tuition credits or certificates?
YES ___ NO ___. If YES, give details: _____

O. Are you the beneficiary of a trust or future interest? YES ___ NO _____. If YES, give details: _____

P. Do you expect to receive more than a small amount of money or property at any time in the near future by way of gift or life insurance proceeds? YES ___ NO _____. If YES, give details: _____

Q. (1) Do you expect to inherit any money or property in the near future? YES ___ NO _____.
If YES, give details: _____

(2) Has anyone died and left you anything (including insurance benefits)? YES ___ NO _____.
If YES, give details: _____

5. Taxes: (Bring a copy of your W-2 forms and any tax returns you have filed within the past year with you to our office.)

A. Have you received any tax refunds this year? YES ___ NO _____. State \$ _____ Federal \$ _____

B. What income tax refunds do you expect to receive this year? State \$ _____ Federal \$ _____

C. Does this amount include an Earned Income Credit? YES ___ NO _____.

D. Have you already filed for the refund? YES ___ NO _____.

E. When do you expect to receive the tax refund? _____

F. Do you know if anyone intends to take or intercept your tax refund? YES ___ NO ___. If YES, give details.

G. Did you sign an agreement or refund anticipation loan with a tax preparer to get your refund early?
YES ___ NO _____.

H. (1) Is any other person (such as your spouse) entitled to part of your refund? YES ___ NO _____.

(2) Have you filed income tax returns every year for the last seven years? YES ___ NO _____.

(3) Do you have copies of your income tax returns filed in the last four years? YES ___ NO _____. If NO, state the years for which you do not have copies: _____

- (4) Do you owe any taxes to the United States? YES ___ NO ___. If YES, give the name and address of the department or agency to which the tax is owing, the kind of tax that is owing, and the years for which the tax is owing: _____
- (5) Do you owe any taxes to any states? YES ___ NO ___. If YES, give the name of the state and the department or agency therein, the address of the department or agency, the kind of tax that is owing, and the years for which the tax is owing: _____
- (6) Do you owe any taxes to a county, district, or city? YES ___ NO ___. If YES, give the name of the county, district, or city, the kind of tax that is owing, and the years for which the tax is owing: _____
- (7) Besides taxes, do you owe any other money to any branch of the United States Government (e.g., FHA, VA, repossessions or loans, withholding taxes [if you were in business], or money owed Small Business Administration)? YES ___ NO ___. If YES, give the name of the branch, its address, the amount owing, and why it is owed: _____

6. Debts Repaid:

- A. If you have made any payments totaling more than \$600 to a creditor within the last ninety days, give the name of the creditor and the dates and amount of the payments:

<i>Creditor's Name & Address</i>	<i>Is the Creditor a Relative?</i>	<i>Payment Dates</i>	<i>Amount of Payment</i>
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Please make sure to bring any payment books you have with you.

- B. Have you made any payments within the last year to creditors who are or were insiders (relatives or business partners)? YES ___ NO ___. If YES, give details: _____

- C. (1) Have you ever had a student loan or cosigned for someone else's student loan? YES ___ NO ___.
If YES to either question, please state:

- (2) Who lent you the money? _____
- (3) What school was the loan for? _____
- (4) Did the student finish the course of study at the school? YES ___ NO ___. If NO, why not? _____
- (6) Who is trying to collect the debt? _____
- (7) How much have you paid on the debt (include any tax refund intercepts)? _____
- (8) Has anyone else made payments on the debt? YES ___ NO ___. How much? \$ _____

7. Suits: (Bring in all papers relating to any suits or criminal cases.)

- A. Have you ever been sued by any person, company, or organization? YES ___ NO ___. If YES, state:
- | <i>Case Name</i> | <i>Case No.</i> | <i>Name and Address
of Court</i> | <i>Type of Case</i> | <i>Result of Case</i> |
|------------------|-----------------|--------------------------------------|---------------------|-----------------------|
|------------------|-----------------|--------------------------------------|---------------------|-----------------------|

- B. Have any court suits resulted in a lien being placed on your property? YES ___ NO ___. _____

C. Have you ever sued any person, company, or organization? YES ____ NO ____ . If yes, state:

<i>Case Name</i>	<i>Case No.</i>	<i>Name and Address of Court</i>	<i>Type of Case</i>	<i>Result of Case</i>
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D. Do you have any criminal charges or convictions? YES ____ NO ____ . If yes, state:

<i>Case No.</i>	<i>Name of Court</i>	<i>Charges</i>	<i>Result of Case</i>	<i>Do You Owe Fines, Restitution, or Any Other Money?</i>
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E. Have you been involved in any administrative agency cases (unemployment compensation, worker's compensation, etc.) in the past 12 months? YES ____ NO ____ . If yes, state:

<i>Case Name</i>	<i>Case No.</i>	<i>Agency's Name and Address</i>	<i>Type of Case</i>	<i>Result of Case</i>
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F. Do you have any possible reason for suing someone for damage to your property or for injuries to yourself or other members of your family? YES ____ NO ____ . If YES, who could you sue, how much money is involved, and why could you sue? _____

8. Garnishment, Attachment, and Sheriff's Sale:

A. Have you ever had any property listed for or sold at a foreclosure, tax sale, or sheriff's sale, or levied upon? YES ____ NO ____ . If YES, bring any papers concerning those actions to the office and state:

<i>What Property Was Sold or Listed for Sale</i>	<i>Value of Property</i>	<i>Date</i>	<i>Name and Address of Creditor</i>
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B. Has money from your pay check or bank account been garnished, or taken or frozen by a creditor, including your bank or credit union, because of a debt? YES ____ NO ____ . If YES, give the following:

<i>Name and Address of Creditor Who Received the Money</i>	<i>Amount Taken</i>	<i>Dates</i>
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9. Repossessions and Returns:

A. Have you had any property or merchandise repossessed during the last year? YES ____ NO ____ . If YES, bring all papers including all letters telling you of the repossession or sale.

<i>Description of Property</i>	<i>Month & Year of Repossession</i>	<i>Who Repossessed Item (Name, Address)</i>	<i>Value of Property When Repossessed</i>
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B. Have you voluntarily returned any property or merchandise to the seller in the past year?

YES ____ NO ____ . If YES, state:

<i>Description of Property</i>	<i>Month & Year of Return to Seller</i>	<i>Seller's Name and Address</i>	<i>Value of Property at Time of Return</i>
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10. Property of Yours Held by Someone Else:

A. Does any other person have any of your property? (This includes any check you may have given to a payday lender or check cashing service.) YES ____ NO ____ . If YES, list the following:

<i>Type of Property</i>	<i>Value</i>	<i>Being Held By (Name and Address)</i>	<i>Why Is This Person Holding the Property?</i>
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B. Have you given or made an assignment of any of your property for the benefit of your creditors or any settlements with your creditors within the past two years? YES ____ NO ____ . If YES, give the name and address of the creditor and the terms and conditions under which you gave the property to the creditor or made an agreement with the creditor: _____

C. Is any of your property in the hands of a court-appointed person (a receiver), or in the hands of a person who is holding it for your benefit and use (a trustee)? If YES, give details: _____

D. Is any of your property in the possession of a pawnbroker, storage company or repairman? YES ____ NO ____ . If YES, describe and give its value: _____

11. Gifts and Transfers:

A. Have you made sales of property, mortgages, gifts, or transfers of any substantial property or cash within the last four years? YES ____ NO ____ . If YES, give the following:

<i>Name of Person Who Received Property</i>	<i>Description of Property</i>	<i>Month and Year of Gift or Sale</i>	<i>Was Sale or Gift to a Relative?</i>
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B. Have you used any money from the sale or transfer of any property within the past ten years to purchase or improve your current home, or to pay down the mortgage? YES ____ NO ____ . If YES, give the following:

<i>Description of Property Sold or Transferred</i>	<i>Month and Year of Sale or Transfer</i>	<i>Amount You Got from Sale or Transfer</i>	<i>How Much of This Amount Was Used to Buy or Improve Your Home?</i>
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12. Losses:

A. Did you lose any substantial amount of money as a result of fire, theft, or gambling during the last year?

YES ____ NO ____ . If YES, state the following:

<i>What Caused the Loss?</i>	<i>Value of the Money or Property That Was Lost</i>	<i>Date of the Loss</i>
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B. Did insurance pay for any part of the loss? YES ___ NO ___. If YES, what was date of payment? _____
 How much was paid? \$ _____

13. Payments or Transfers to Attorney or Debt Consultants:

- A. Give the date, name, and address of any attorney or bankruptcy consultant (petition preparer, typing service, document preparation service, independent paralegal) you have consulted during the past year:

- B. Give the reason for which you consulted the attorney or bankruptcy consultant:

- C. How much have you paid the attorney or bankruptcy consultant? \$ _____
- D. Did you promise to pay money to the attorney or bankruptcy consultant? YES ___ NO _____. If YES, give the amount and terms of the agreement: _____
- E. Give the name and address of any credit counseling agency or debt settlement company you have consulted during the past year and the date when you consulted them: _____
- F. Did the agency have you sign up for a plan to repay or settle your debts? YES ___ NO _____. If YES, give the amount and terms of the plan (*and bring a copy of the plan with you to our office*): _____
- G. How much have you paid the agency or company? \$ _____
- H. Have you consulted anyone else about your debts in the past year? YES ___ NO _____. If YES, give name, address, and amount(s) paid for the service: _____
- I. Did any of your debts result from a refinancing or a consolidation loan? YES ___ NO _____. If YES, which ones?

Please be sure to bring all papers for these loans with you.

14. Closed Bank Accounts:

Have you or your spouse had your name on any bank account (such as savings, checking, certificates of deposit) during the past 12 months that is now closed? YES ___ NO _____. If YES, state:

<i>Bank's Name and Address</i>	<i>Acct. No.</i>	<i>Type of Account (Savings/Checking)</i>	<i>Names of Others on Account</i>	<i>Date Closed</i>	<i>Final Balance</i>

15. Safe Deposit Boxes:

Have you or your spouse had a safe deposit box during the last year? YES ___ NO _____.
 If YES, list the name and address of the bank, the name and address of everyone who had access to the box, the contents of the box and, if you no longer have the box, the date it was closed:

16. Property Held for Another Person: Do you have any money, property, furniture, etc. that belongs to another person or that you are holding for the benefit of someone else (in trust)? YES ___ NO _____. If YES, what is the property, who owns it, and what is it worth? Include name and address of the owners:

<i>Type of Property</i>	<i>Value</i>	<i>Owned By</i>	<i>Address</i>	<i>Relative? (Yes or No)</i>

At what address are you keeping this property? _____

17. **Leases:** Have you had an auto lease, rent-to-own, or rental-purchase transaction in the past four years?
YES _____ NO _____. If YES, give details: _____

18. **Cooperatives:** Are you a member of any type of cooperative (housing, food, agricultural, etc.)? If YES, give details:

19. Alimony, Child Support, and Property Settlements:

A. Have you had any previous marriages? YES ___ NO __. If YES, what is the name of your former spouse?

Please be sure that any debts from prior marriages which were never paid are listed with your other debts.

B. Does anybody owe you any money or child support? YES _____ NO _____.
Who? _____ How much? \$ _____

C. Have you ever been ordered to pay child support? YES _____ NO _____.
Alimony? YES _____ NO _____.
Property Settlement? YES _____ NO _____.
If yes to any question, state:

- (1) To whom do you make the payments? _____
- (2) Are you behind in your payments? _____
- (3) Are the persons you are required to support this way on welfare? _____
- (4) Do you have any family court hearings coming up? If YES, explain and give dates:

D. Do you expect to be involved in a property settlement with your spouse or former spouse in the near future?
YES _____ NO _____.

20. Accidents and Driver's License:

- A. Have you been involved in a vehicle accident in the last four years? YES _____ NO _____.
B. Has your vehicle been involved in an accident in the last four years? YES _____ NO _____.
C. Have your children ever injured anyone else or their property? YES _____ NO _____.
D. Have you ever lost your driver's license? YES _____ NO _____. If YES, give details:

21. Cosigners and Debts Incurred for Other People:

A. Were there any cosigners for you on any of the debts you have listed in these forms?
YES _____ NO _____. If YES, give the cosigner's name and address, and which debts were cosigned:

B. Have you ever been the cosigner on someone else's loan or debt which hasn't been paid off?
YES _____ NO _____. If YES, list the following for each debt:

<i>Creditor's Name and Address</i>	<i>Date of Debt</i>	<i>Amount Owing</i>	<i>Name and Address of Person You Cosigned For</i>
------------------------------------	---------------------	---------------------	----------------------------------------------------

C. Have you borrowed any money for someone else's benefit? YES _____ NO _____. If YES, list the following unless you are sure that loan or debt has been paid:

<i>Creditor's Name and Address</i>	<i>Collection Agent or Attorneys</i>	<i>Date of Debt and Which Spouse Owes</i>	<i>For What</i>	<i>Current Amount of Claim</i>
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D. If you put up any of your property as collateral on a debt you cosigned, list the following:

<i>Creditor</i>	<i>Type of Property</i>	<i>How Much the Property Is Worth Now</i>
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22. Credit Card and Finance Company Debts:

A. Have you obtained cash advances of more than \$750 in the last seventy days or used any credit card to purchase more than \$500 worth of goods or services in the last ninety days? YES _____ NO _____. If YES, give details: _____

B. Have you ever gone over your credit limit on any credit cards? YES _____ NO _____. If YES, give details: _____

C. If any of your debts listed on this form are owed to finance companies, did you sign an agreement that listed some of your property (such as a second television or VCR) and stated that the property would be security or collateral for the loan? YES _____ NO _____. If YES, which ones? _____

D. Do you owe money on a payday loan, auto title loan, or for a check cashing service? YES _____ NO _____. If YES, give details: _____

23. Evictions:

A. Has your current landlord sued you or brought an eviction suit against you? YES _____ NO _____. If YES, state:

<i>Case Name</i>	<i>Case No.</i>	<i>Name and Address of Court</i>	<i>Reason for Suit or Eviction</i>	<i>Result of Case (Eviction Judgment?) or Date of Hearing</i>
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B. Does your current landlord have an eviction judgment or order against you? YES ____ NO ____ . If YES, and the eviction is based on your nonpayment of rent, list the following:

<i>Regular Rent Payment</i>	<i>When Are Rent Payments Due?</i>	<i>Back Rent You Owe</i>
<i>(Specify Monthly, Weekly, Other)</i>		
<hr/>		
<hr/>		

C. Is your landlord planning to bring an eviction suit against you? YES ____ NO ____ . If YES, give details and state if your landlord is claiming that you have damaged the property or used illegal drugs on the property:

26. Asset Listing:

(If you are married and living with your spouse, designate any items listed below that are not jointly owned.)

A. REAL PROPERTY (Home):

(1) Do you own real estate that you use as your home? YES ____ NO ____ . Describe and give the location of this property (house, mobile home, condominium, cooperative, land, etc.) in which you hold an interest:

(2) Co-owners: _____

(3) Purchase price: _____ Date purchased: _____

(4) Original mortgage amount: _____ Downpayment amount: _____

(5) Have you used any funds that you did not borrow to purchase or improve your home? YES __ NO __ .
If YES, list the amounts and give details: _____

(6) If not purchased, state when and how you became the owner (inheritance, gift, etc.): _____

(7) Present value of your house: _____
Recent sales of similar properties in area and other evidence of value: _____

(8) Outstanding mortgage balance: _____

(9) Are there any other mortgages? YES ____ NO ____ . If YES, give the name and address of each company:

(10) Is any mortgage insured by the FHA, VA, or a private mortgage insurance company?
YES ____ NO ____ . If YES, give details: _____

B. REAL PROPERTY (Other Real Estate):

(1) Do you own other real estate? YES ____ NO ____ . Describe and give the location of all real property (lot, house, condominium, cooperative, land, burial plot, etc.) in which you hold an interest:

(2) Co-owners: _____

(3) Outstanding mortgage balance: _____

(4) Name of mortgage company: _____

(5) Purchase price: _____ Year purchased: _____

(6) Present value of your property: _____
Recent sales of similar properties in area and other evidence of value: _____

(7) Are there any other mortgages? YES __ NO __ . If YES, give the name and address of each company:

(8) Is any mortgage insured by the FHA, VA, or a private mortgage insurance company?
YES ____ NO ____ . If YES, give details: _____

C. PERSONAL PROPERTY:

(1) Cash on hand: \$ _____

(2) Do you have any deposits of money in banks, savings and loan associations, or credit unions? If YES, list the name and address of the bank, savings and loan association, or credit union, and the amount:

Do you own any machinery, tools, or fixtures used in your business or work? YES ____ NO ____.
 If YES, list and state what you could sell it for: _____

Do you have any animals or pets? YES ____ NO ____ . If YES, describe and give value (what you could sell them for): _____

Do you have any right to receive commissions or other payments from any previous job you have held? YES ____ NO ____ . Does anyone owe you any money? YES ____ NO ____ . If YES to either, state names, addresses and amounts owed: _____

Do you have any books, prints or pictures, stamps or coins, or sports equipment of substantial value? YES ____ NO ____ . If YES, describe and estimate their value: _____

Do you have any stock in trade (inventory)? YES ____ NO ____ . If YES, describe and estimate the value: _____

Do you own anything else not mentioned above? YES ____ NO ____ . If YES, describe and state its value (what you could sell it for): _____

Does any of the property that you own or possess pose a threat of harm to public health or safety? YES ____ NO ____ .
 Is the threat imminent? YES ____ NO ____ .
 Has anyone ever alleged that any of the property that you own or possess poses a threat of imminent harm to public health or safety? YES ____ NO ____ .
 Was the threat alleged to be imminent? YES ____ NO ____ .
 Give details regarding any threat or alleged threat to public health or safety, including identification of property and nature of potential harm or alleged harm. _____

27. Budget Information:

A. Do you currently receive your pay or other income (check one):

	YOU	YOUR SPOUSE
WEEKLY	_____	_____
EVERY 2 WEEKS	_____	_____
MONTHLY	_____	_____
OTHER	_____	_____

B. What is the gross amount received in wages or other income (before taxes or other deductions)?

	YOU	YOUR SPOUSE
	_____	_____

C. What deductions, if any, are taken out?

	YOU	YOUR SPOUSE
Taxes	_____	_____
Insurance	_____	_____
Union dues	_____	_____
Other (identify: _____)	_____	_____

D. What is the usual amount of your check (take-home pay)?
YOU _____ YOUR SPOUSE _____

E. Is your job subject to seasonal or other changes?
YOU YES _____ NO _____
YOUR SPOUSE YES _____ NO _____

F. What was your gross income (reported on W-2 form and tax return) for last year?
YOU _____ YOUR SPOUSE _____

G. If you receive alimony, maintenance, or support, what is the amount you get on a regular basis?
YOU _____ YOUR SPOUSE _____

H. List all dependents of you and your spouse.
NAME AGE RELATIONSHIP
YOU _____
YOUR SPOUSE _____

I. List all members of your household.
NAME AGE RELATIONSHIP

J. Do you expect your income to increase or decrease more than 10% in the next year? YES _____ NO _____.
K. Do you expect to have any increase or decrease in expenses (like medical bills) in the near future?
YES _____ NO _____. If YES, describe: _____

L. Do you, your spouse, or your dependents receive income from any source other than jobs, alimony, maintenance, or support listed above (such as public assistance, unemployment compensation, social security, SSI, pension, etc.)?
YES _____ NO _____. If YES, list:

<i>Source of Income</i>	<i>To Whom Payable</i>	<i>Amount per Month</i>
_____	_____	_____
_____	_____	_____

M. Do you, your spouse, or your dependents receive any regular contributions to your household expenses from any source not listed above? YES _____ NO _____. If YES, list:

<i>Source of Contribution</i>	<i>To Whom Payable</i>	<i>Amount per Month</i>
_____	_____	_____
_____	_____	_____

N. Is your family eligible for food stamps? YES _____ NO _____.
If YES, how much in food stamps do you receive per month? \$ _____

O. Monthly Expenses. (Give realistic estimates. If your expenses add up to more than the income you have listed, or less than your income, be prepared to explain why.)

What are your average monthly expenses for (if you and your spouse are not filing bankruptcy together, list separately any regular monthly contribution your spouse makes to the following household expenses):

	Average Monthly Expenses	Spouse's Contribution
Rent or mortgage	_____	_____
Are real estate taxes included? ____		
Is property tax included? ____		
Condo or homeowners association fees	_____	_____
Trash pickup	_____	_____
Electricity	_____	_____
Heat	_____	_____
Water	_____	_____
Telephone		
Basic	_____	_____
Optional	_____	_____
Other utilities (internet, cable T.V., etc.)	_____	_____
Home maintenance (repairs and upkeep)	_____	_____
Food (cash you spend on food)	_____	_____
Amount of food stamps you spend	_____	_____
Clothing	_____	_____
Laundry and cleaning	_____	_____
Medications	_____	_____
Other medical and dental expenses	_____	_____
Public transportation	_____	_____
Automobile upkeep	_____	_____
Gasoline and oil	_____	_____
Newspapers, magazines, school books	_____	_____
Recreation	_____	_____
Charitable contributions	_____	_____
Club and union dues		
(not deducted from wages)	_____	_____
Insurance (not deducted from wages)		
Homeowner's or renter's	_____	_____
Life	_____	_____
Health	_____	_____
Auto	_____	_____
Other _____	_____	_____
Taxes (not deducted from wages or included in mortgage payment)	_____	_____
Installment payments		
Vehicle	_____	_____
Other _____	_____	_____
Other _____	_____	_____
Alimony, maintenance or support payments	_____	_____
Other payments for support of dependents	_____	_____
Expenses for operating your business	_____	_____

Other expenses (list types of expenses) (e.g.,
home maintenance, security system, school)

Identify: _____

P. Do you have any monthly expenses not listed above that you pay for the care and support of an elderly, chronically ill, or disabled member of your household or your immediate family? YES ____ NO ____.
If YES, describe: _____

Q. Do you have any monthly expenses not listed above that you pay to keep your family safe from domestic violence? YES ____ NO ____ . If YES, describe: _____

R. Do you pay any expenses for your dependent children under the age of eighteen to attend a private or public elementary or secondary school? YES ____ NO ____ . If YES, describe: _____
