

Plan B: Bankruptcy

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General

- How it works - basic signature removal
 - Name off of Note
 - No more personal recourse
 - Debt still exists
 - Secured vs. Unsecured Creditors
 - Liens
 - Debts
 - Trustee takes assets
 - \$ for unsecured creditors
 - Liquidation
 - Abandonment
 - Homestead
- Types of debts
 - Secured
 - Unsecured
 - Listing Contracts
 - Buyer Agency Contracts
- Need for counseling
 - “Means” test/State specific
 - Consumer
 - Business debt (50%) rule
 - Real estate broker
 - Builder
- Timing
 - Pre-filing (90 days credit cards)
 - The process
- Pre-filing conduct
 - House payments
 - Other expenses
 - Cars
 - Food

General

- “Executory” contracts
- Concept of “Bankruptcy Trustee”
 - Protects **unsecured** creditors
 - Liquidate assets
- Automatic stay
 - Value property
 - Decide on contracts
 - Take “stock” of the assets
 - Relief

Chapter 7 - “Straight”

- Who can do it?
 - People
 - Businesses
- Role of Trustee
 - Proof of Claim
- Real Estate Contracts
 - Listing/Buyer Agency Contracts
 - Buy/Sell Contracts
 - REALTOR® position - unsecured creditor - No “automatic lien” for commission
- Solutions
 - Abandonment
 - Bankruptcy Trustee on Motion from Creditor
 - No equity
 - Homestead
 - Real Estate listing with Trustee
 - Existing broker
 - New broker

Chapter 13 - “Wage Earner”

- Who can do it?
 - People
 - “Wage earners”
 - Businesses
 - Secured debt less than \$1,081,400.00
 - Unsecured debt less than \$360,475.00
 - Proof of claim
 - Motion for relief from stay - 30 days motion for hearing
- Role of Trustee
 - Plan in general
 - Duration _____ months
 - Approval of plan
 - Default of plan
- Real estate contracts
 - Listing
 - Sale

Chapter 11 - Big Re-organization

- Who can do it?
 - Businesses
 - Brokers
 - Builders
 - Regular people
 - Owners
 - Sellers
 - Sole proprietors
 - Reason to do one - ongoing business
- Role of Trustee
 - Who is it?
 - Debtor in possession
 - Concept of lien removal
 - What they do
 - Ongoing business examples
 - Need to maintain a “show” house to keep going - necessary to the continued operation of the business
 - Proof of claim
- Creditors committees
 - Largest creditors
 - Ability to confirm or hold up the plan
 - Done by a vote to accept the plan

How to deal with Bankruptcy

- Home builders
 - Your listing
 - Your sale
 - You are the builder
 - You are the buyer
- Real estate companies
 - Existing listings
 - New listings
 - Co-op companies and commissions due
 - Company
 - Broker personal obligation
- Title companies
- Mortgage companies
- Brokerage solutions
 - Who is client now?
 - Confirming contracts
 - Over valued assets
 - Under valued assets
- Legal representation

Bankruptcy Chapter Analysis

- **(Debt Check) Business Debt vs. Personal Debt:**
 - Greater than >50% Business -----Chapter 7
 - **(Income Check) Less than <50% Business**
 - Less than < Gross Income Family
 - \$47,085 (1 Person)
 - \$64,754 (2 people)
 - \$69,728 (3 people)
 - \$81,354 (4 People) ----- Chapter 7
 - **(Means Test) Greater than > Above (47,085-81,354)**
 - NET Monthly Income LESS than < Expenses ----- Chapter 7
 - **(Total Debt Check) Income GREATER than > Expenses**
 - Total Debt less than >
 - Secured debt total \$1,081,400 and
 - Un-secured \$360,475 ----- Chapter 13
 - Total Debt over (1,081,400 - 360,475) ----- Chapter 11