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**Re: Financial/Debt Consultation**

Dear Prospective Client:

Thank you for calling us with respect to your bankruptcy options. Upon review of the enclosed materials, please call our office to schedule a meeting. Directions to our office are enclosed, which includes instructions to gain entry to our controlled parking lot.

Before we meet, and before we are able to give you any advice with respect to your options, it is necessary for you to receive a briefing conducted by an approved non-profit budget and credit counseling agency. A list of these agencies is enclosed, including their websites. We have no financial interest, and are not affiliated in any way, with any of these agencies. You must conduct this briefing prior to our appointment and present proof of that when you arrive. You must also sign a duplicate copy of this letter at our meeting to verify that you have read it.

There are some things that are very important for you to understand as you consider your bankruptcy options. First, under the vast majority of situations, bankruptcy is an entirely voluntary proceeding. That means that you choose to start the process. However, once started, you do not have the same level of choice to end the process. In other words, if you elect to start the process, you may find your options limited, and you may not be able to exit the bankruptcy process at your will. This will depend on the specific facts of your case.

In any event, if you elect to commence bankruptcy proceedings, and later change your mind and are successful in exiting, a subsequent bankruptcy process may be necessary. Your rights may not be identical in the second or later bankruptcy cases as they were in the first. You may find there are limitations to the availability of the relief, depending, again, upon your specific situation.

The availability of bankruptcy relief is founded on two important concepts. These are complete honesty and full disclosure of all of your assets, debts, liabilities, and complete and truthful answers to all questions pertaining to your financial history, as well as current income and expenses. Bankruptcy laws were enacted to provide honest people with an opportunity for a fresh start in life. If you have obtained credit dishonestly, or acted in a fashion that the law does not recognize as entitling you to bankruptcy relief, then you may find your options limited, or non-existent under the law. Enclosed is a summary list of the kinds of debts that are not discharged (released) in bankruptcy. Please read this list.

Full disclosure means that you must list, accurately, all of your assets (everything you own), all of your liabilities (everybody you owe), and make truthful disclosures about your recent financial transactions, and your income and expenses.

While bankruptcy is not an exact science, the bankruptcy courts generally apply a zero tolerance policy to material omissions or misstatements in your bankruptcy papers. In addition, you will be signing your bankruptcy papers under oath and under penalty of perjury, and this has the same effect as going into a court and testifying before a judge or jury. It generally has the same consequences as well, so you need to pay particular attention and be especially careful with respect to your disclosures in bankruptcy cases.

Regarding the disclosures of your assets, people often ask us how they should determine value. The law requires you to utilize a concept known as "replacement value". Replacement value is what you would spend to replace an item for a similar item. It is not what you would pay for the item brand new, and it is not what you would pay for the item under the most distressed circumstances, such as a garage sale. Usually, replacement value takes into account wear and tear, visual appeal, and other similar common sense notions.

Before you come to our office, please complete the enclosed questionnaire and forms detailing your assets and liabilities. This will help us in evaluating your situation. In addition, you will need to bring the duplicate copy of this letter with you to your appointment, signed by you.

## **I. Assets**

Our experience indicates the following general information will help you in determining the value of your property:

(1) Real estate/market value: This generally will not be derived from the tax assessment provided to you by the city. You should check with a Realtor, or go online and see what similar houses in your neighborhood or general area are selling for. This is the best indication of market value. We can assist you with this review if necessary.

(2) Automobiles: We have the resources to assist you in determining the value of your automobile. At your appointment, please provide us with the make, model and vehicle identification number (VIN) of the car, including any and all options, any special deferred maintenance, any physical damage, and the current mileage.

(3) Furniture: Furniture retailers tell us that they typically use a three to ten year useful life for various kinds of furniture and appliances. "Soft goods" have a three-year life, "case goods" have a five to seven year life, and "brown goods" an economic useful life of 10 years. What does this mean?

If your furniture is covered with cloth (like a couch or chair) then you may assume it has a three-year useful life. In other words, if you paid \$300.00 for a chair, and it is one year old, then its replacement value is probably around \$200.00. While this will depend on your specific furniture, and you should use common sense, this is a good starting point. With respect to furniture, you will need to know the age and original purchase price of the furniture and communicate that information to us. Please list this information in detail on the questionnaire.

What if the soft goods are more than three years old? In that case, use your best estimate or replacement value based on the age of the item and its condition, and determine what you would pay for it if you had sufficient time to pursue your options. Again, this is not a garage sale value. Always use common sense to estimate what the items are worth.

What if you are talking about something like a mattress and/or box spring? You should assume these items have only nominal value. This is because health regulations generally prohibit resale of these items without an extensive and expensive sanitation process.

Case goods are made of wood, and do not have cloth. The useful life of case goods is dependent upon the material utilized in their construction. For case goods that are made of fiberboard, or particleboard or have a laminated surface, then you should use a five-year useful life. For example, if you have a bookshelf made from fiberboard, and it is four years old and you originally paid \$1,000.00 for it, then the replacement value is likely to be approximately \$200.00. However, more wood products are being manufactured overseas and imported. If your case goods were made in China, for example, then it is more likely that they are made of solid wood, not particleboard, fiberboard, or veneer. For solid wood case goods, the useful economic life is 7 years.

The third category of goods is called "brown goods". Brown goods are heavy household appliances such as refrigerators, dishwashers, stoves, washers, dryers, and microwave ovens. Brown goods have a useful economic life of 10 years. Therefore, by way of example, if you purchased a washer for \$1,000.00 and it is 8 years old, then its replacement value is likely to be in the range of \$200. Again, as noted throughout this letter, please make sure to use common sense in assessing the replacement value of your goods.

Remember, the disclosures that you make must be truthful and honest in every respect.

(4) Clothing and Jewelry: What about your clothing and jewelry? How do you value your clothing? The same standard applies. Its value is not what you originally paid for it, and not what you would pay for brand new items, but what its actual value is in its current condition. Typically, and in most instances and except for designer labels, furs, or other items of inherent value, clothing has a relatively nominal value. The same, however, does not apply to jewelry, other than costume jewelry. If you have fine jewelry, including your wedding or engagement rings, then you must separately list them, and determine their fair market value. Jewelry and precious metals are typically considered fair trade items, and that means they do not decline in value. If you have a question about what your jewelry is worth (except for costume jewelry), then you should take the jewelry to a jeweler, or other certified appraiser, and get an appraisal for the jewelry. You may ask specific questions regarding these kinds of items at your appointment.

(5) Electronic equipment, stereo equipment and computers: Relative to TVs, stereos, VCRs, etc., those items usually have a seven-year useful economic life. However, determining the replacement value may be difficult. In the absence of information, a seven-year projection should be utilized. However, if you see an item identical to or substantially similar to your items on sale at a box retailer such as Best Buy, Circuit City, Target or Wal-Mart, then you should use the retail price for the items and divide it in half to determine a current replacement value of your used electronics and TV goods.

With respect to replacement value of computers, our experience is that a computer declines 50% per year for the first three years and in fourth year thereafter the computer has essentially no replacement value. If you paid \$1,000.00 for a computer and it is 1 year old, the replacement value is probably \$500.00. If that same computer is 2 years old, the replacement value is roughly \$250.00, and in year 3, the replacement value is probably \$125.00.

The same is not true for monitors and keyboards. Those generally have a five-year useful life, and should be valued using a straight-line method. For example, if you have a \$500.00 monitor that is two years old, its replacement value is probably along the lines of \$300.00.

We believe it safe to assume that your mouse has little if any replacement value once it is utilized.

As to CDs, they are typically valued at very low rates. However, if your CDs are in good condition, then you should go on the Web and determine what it would cost to legally download the music, and utilize that as the value for your CDs. If your CDs are scratched, skip or otherwise need replacing, then they have no useful replacement value.

(6) Other assets: Usually, the value of other assets is easy to determine. For stocks, bonds, life insurance, retirement accounts, and other bank accounts, you will receive periodic statements or you can go online to get current valuations. Please bring the most recent statements to your appointment.

## **II. Liabilities**

You must disclose all of your liabilities. This means everybody you owe, including but not limited to debts to friends, family, government (such as taxes or fines), medical, student loans, etc. It is important for you to understand that there are no exceptions to this rule. Even debts that cannot be discharged in bankruptcy must be disclosed. You do not have the option of picking and choosing the liabilities that you are going to disclose in your bankruptcy case. Please remember, your bankruptcy papers are signed under oath and under penalty of perjury. That responsibility can have serious consequences. Failure to accurately state your liabilities can result in various problems for you, including a loss of the relief that you are seeking in the bankruptcy case (called a denial of discharge) and, possibly, criminal sanctions. You should obviously avoid this, and since the information is entirely within your control, the expectation is that you will completely, fully and accurately disclose all of your liabilities.

We assume that you have received various letters from your creditors. You should bring all those letters to us, so that we can help in determining whether or not a creditor has supplied you two written communications, which would include your current account number and directing you to send notices to a specific address. If you have received these notifications, that information must be included in your bankruptcy paperwork in order for the creditor to be affected by your bankruptcy case. Failure to give notice to the creditors at the address specified by them may result in a significant limitation of the bankruptcy relief that would otherwise be available to you.

Please make sure to give us complete information with respect to every debt you owe, including the date when the account was opened, the account number, the identity of any person who may be jointly liable with you on the account, and other pertinent information such as the current outstanding balance,

whether you are over any established credit limit, and whether you have taken recent cash advances on your credit card. All of this will help us to assist you in determining what bankruptcy option is best available to you, and will provide us with the necessary information to protect your rights consistent with the law.

Some of your debts may be owed to secured creditors. A secured creditor is a creditor you owe money to that holds a lien or encumbrance on a specific item of your property. Examples of secured creditors include your mortgage company, your auto-finance company, and furniture retailers that took a purchase money security interest in the goods you purchased. Once you file bankruptcy, the law requires that you inform secured creditors whether you are going to surrender the property back to them (that is, return it to them voluntarily), reaffirm the existing debt (sign a new promise to pay on terms and conditions agreed to by the creditor) or redeem personal property by paying cash for it. You must elect one of these three options, and that must be done within forty-five (45) days of your first meeting of creditors. If you fail to do this, the creditor, in all likelihood, will be entitled to exercise its rights to repossess the property. It is, and will remain, our strong recommendation that you assist us in providing the necessary notices to avoid any confusion on this point.

There are other important disclosures. You must disclose all of your income and all expenses. In connection with this, you must provide us with your pay stubs for the last six months. You must also provide us with the most recent federal and state income tax returns. Failure to file tax returns on time may cause you to lose the benefit of the bankruptcy filing because you would not be qualified for the relief. The law requires that all debtors must have filed all tax returns for the prior four years. Please remember these disclosures are subject to the same standards as the disclosures of your assets and liabilities. They must be truthful. If they are not, severe sanctions or penalties can be imposed.

The attached forms must be completed. They are designed to show how your monthly net income is calculated, on an itemized basis. Please pay particular attention to completing these forms, and make sure you have receipts that justify each and every line entry. If you do not have receipts, we will expect and must obtain a reasonable explanation as to why the expenditure is appropriate on a going forward basis.

If you expect a change in your job circumstances, especially if you expect a raise, promotion or other good news, you must let us know. This is a mandatory disclosure in bankruptcy cases, and will affect the options available to you. Please note this disclosure does not have any effect on your entitlement to bankruptcy relief in general, but it may affect the kind of relief that is available to you. You will receive an explanation from us detailing the different types of bankruptcies, and you should read that in its entirety to understand this component of our letter more completely.

You must also evaluate your expenses. The initial disclosure of expenses is what you normally spend on things like food, clothing, electricity, gas, cable television, entertainment, and the like. Please refer to the attached form for a list of all line items for your expenses. If you have an extraordinary expense, such as a recurring medical expense, please note it even if there is no line item for it.

Once we review your actual expenses, we will need to compare to certain statistics prepared by the Department of Labor and the Internal Revenue Service. This will assist us in evaluating the various

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bankruptcy options available to you. In order to give you good information on this, the raw data you supply must be accurate, and must be readily subject to verification.

Under the law, the services this law firm provides to you constitute services rendered by a debt relief agency. As such, we must perform the services we agree to perform on your behalf, and we are not allowed to make any misrepresentations as to the scope of those services or your responsibility for payment of those services. Similarly, we must, again, advise you that it is important that all of your statements in your bankruptcy case be scrupulously truthful and accurate. During the course of our representation, we will provide you with specific advice and recommendations as to your legal options, and we are not allowed to say we will do something, if we do not in fact do it. Also, we must fully advise you with respect to the benefits and risks attendant to the bankruptcy process. This letter is one in a series of communications you will receive in order to better understand and appreciate those risks.

We are not allowed to advise you to incur debt in connection with an anticipated bankruptcy filing. Please do not ask us for permissions to buy a new car, to buy new furniture, or to incur any other indebtedness. We will not give you that permission. However, it is our job as lawyers to answer your questions truthfully and honestly, and we will do that. We will tell you the consequences of your actions and allow you to make the final decision as to whether to move forward or not. That is your right, and our responsibility. We are here to help you.

The following notice is required by law, so please read it carefully.

**WE ARE A DEBT RELIEF AGENCY  
WE HELP PEOPLE FILE FOR BANKRUPTCY RELIEF UNDER THE BANKRUPTCY CODE.**

Very truly yours,

John W. Bevis, Esq.

JWB/ejd

- Enclosure(s):**
1. Directions to our office (Including instructions to enter our controlled parking lot)
  2. List of approved non-profit budget and credit counseling agencies
  3. Summary list of the kinds of debts that are not discharged in bankruptcy
  4. Notice to Individual Consumer Debtors
  5. Bankruptcy Questionnaire to list all assets and liabilities

**Items to bring with you to initial consultation:**

- Completed forms contained in this packet, including signed copy of this letter
- Credit briefing certificate
- Pay stubs or income information for last six (6) months
- All paperwork received from any creditor in past two (2) months – including bills, collection notices, and lawsuits, if any
- Federal and State tax returns – last two years
- Bank Statements or statements referring to all financial account(s) you may have
- Make, model and financing/leasing information regarding all automobile(s) in which you have an interest

**I have read this letter in its entirety.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date