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BANKRUPTCY PRIMER FOR THE CLAIMS PROFESSIONAL

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The primary purpose of the Bankruptcy Act is to give “to the honest but unfortunate debtor who surrenders for distribution the property he owns at the time of bankruptcy, a new opportunity in life and a clear field for future effort, unhampered by the pressure and discouragement of pre-existing debt.” Local Loan Co. v. Hunt U.S., 54 S.Ct. 695 (1934)

I. Introduction

Article 1, Section 8, of the United States Constitution authorizes Congress to enact “uniform laws on the subject of bankruptcies.” Under this grant of authority, Congress enacted the “Bankruptcy Code” in 1978. The Bankruptcy Code is codified as Title XI of the United States Code. It is the uniform federal law that governs all bankruptcy cases. It has been amended several times since its enactment.

The procedural aspects of the bankruptcy process are governed by the Federal Rules of Bankruptcy Procedure (Bankruptcy Rules) and the local rules of each Bankruptcy court. There is a bankruptcy court for each judicial district in the country.

II. Types of Bankruptcy Cases

There are several types of bankruptcy cases provided for under the Bankruptcy Code: Chapter 7, Chapter 13, Chapter 11, Chapter 12, Chapter 9, Chapter 15, SCRA, and SIPA. Discussion in this paper is limited to Chapters 7, 13 and 11.

A. Chapter 7- LIQUIDATION

Chapter 7 of the Bankruptcy Code is entitled “Liquidation.” Chapter 7 contemplates an orderly, court-supervised procedure by which a trustee takes over the assets of the debtor’s estate, reduces the assets to cash, and makes distributions to creditors, subject to the rights of secured creditors, and the debtor’s right to retain certain exempt property. To qualify for relief under Chapter 7 of the Bankruptcy Code, the debtor may be an individual, a partnership, a corporation or other business entity.¹

A Chapter 7 case begins with the debtor filing a petition with the bankruptcy court serving the area where the individual lives or where the business debtor is organized or has its principal place of business or principal assets. In addition to the petition, the debtor must also file with the court a schedule of assets and liabilities, a schedule of current income and expenditures, a statement of financial affairs, and a schedule of executory contracts and unexpired leases. Debtors must also provide the trustee with a copy of the tax return or transcripts for the most recent tax year as well as tax returns filed during the case. Individual debtors with primarily consumer debts may have additional filing requirements.

¹ 11 U.S.C. § 109(b).

Among the schedules that an individual debtor will file is a schedule of “exempt” property. The Bankruptcy Code allows an individual debtor to protect some property from the claims of debtors because the property is exempt under federal bankruptcy law or under the laws of the debtor’s home state.² Many states have taken advantage of a provision in the Bankruptcy Code which permits each state to adopt its own exemption law in place of the federal exemptions. In some jurisdictions, the individual debtor has the option of choosing between a federal package of exemptions or the exemptions available under state law. Thus, whether certain property is exempt and may be kept by the debtor is often a question of state law.³

Filing a petition under Chapter 7 “automatically stays” (stops) most collection actions against the debtor or the debtor’s property.⁴ But filing the petition does not stay certain types of actions listed under 11 U.S.C. § 362(b), and the stay may be effective only for a short time in some situations. The stay arises by operation of law and requires no judicial action. As long as the stay is in effect, creditors generally may not initiate or continue lawsuits, wage garnishments, or even make telephone calls demanding payment.

After the petition is filed, the U.S. Trustee⁵ will hold a meeting of creditors - the “341 meeting.” This meeting is called a “341 meeting” because Section 341 of the Bankruptcy Code requires that the debtor attend this meeting so the debtor may be asked questions, under oath about debts and property.⁶ In order to preserve independent judgment, bankruptcy judges are prohibited from attending the meeting of creditors.⁷

Commencement of a bankruptcy cases creates an “estate.” The estate technically becomes the temporary legal owner of all of the debtor’s property. It consists of all legal or equitable interest of the debtor in property as of the commencement of the case, including property owned or held by another person if the debtor has an interest in the property.⁸

The primary role of a Chapter 7 trustee in an asset case is to liquidate the debtor’s non-exempt assets in a manner that maximizes the return to the debtor’s unsecured creditors. The trustee accomplishes this by selling the non-exempt property if it is free and clear of liens, or, if it is worth more than any security interest or lien attached to the property and any exemption that

² 11 U.S.C. §522(b).

³ Exemptions vary by jurisdiction. Some states exempt all or a portion of a debtor’s equity in a residence, motor vehicle, and household goods; additional exemptions may include earnings, life insurance policies, retirement benefits, and government benefits (i.e., Veterans Administration or Social Security benefits).

⁴ 11 U.S.C. § 362.

⁵ In some states, bankruptcy Administrators perform functions similar to those of a U. S. Trustee

⁶ 11 U.S.C. § 343.

⁷ 11 U.S.C. § 341(c).

⁸ 11 U.S.C. § 541.

the debtor holds in the property. The trustee may also attempt to recover money or property under the trustee's "avoiding powers." The trustee's avoiding powers include the power to: set aside preferential transfers made to creditors within 90 days before the petition; undue security interests and other pre-petition transfers of property that were not properly perfected under non-bankruptcy law at the time of the petition; and pursue non-bankruptcy claims such as fraudulent conveyance and bulk transfer remedies available under state law.⁹ In addition, if the debtor is a business, the bankruptcy court may authorize the trustee to operate the business for a limited period of time if such operation will benefit creditors and enhance the liquidation of the estate.¹⁰

There is often little or no non-exempt property in Chapter 7 cases. Therefore, there may not be an actual liquidation of the debtor's assets - these cases are known as "no-asset cases." A creditor holding an unsecured claim will receive a distribution from the bankruptcy estate only if the case is an asset case.

Section 726 of the Bankruptcy Code governs the distribution of the property of the estate. There are several classes of claims,¹¹ and each class must be paid in full before the next lower class is paid. The debtor is only paid if all other classes of claims have been paid.

The Bankruptcy Code allows the debtor to convert a Chapter 7 case to a case under Chapter 11, 12 or 13, as long as the debtor is eligible to be a debtor under the new chapter.¹²

Not all of an individual's debts are discharged in Chapter 7. Debts not discharged include debts for alimony and child support, certain taxes, debts for certain educational benefits, overpayments or loans made or guaranteed by a governmental unit, debts for willful and malicious injury by the debtor to another entity or to the property of another entity, debts for death or personal injury caused by the debtor's operation of motor vehicle while the debtor was intoxicated from alcohol or other substances, and debts for certain criminal restitutions.¹³

B. Chapter 11 - REORGANIZATION

A case filed under Chapter 11 of the Bankruptcy Code is a reorganization bankruptcy. A Chapter 11 debtor may be a railroad, an individual, a partnership, corporation, or other business entity.¹⁴ Chapter 11 cases begin with the filing of a petition with the bankruptcy court. A Chapter 11 petition may be a voluntary petition, which is filed by the debtor, or it may be an involuntary

⁹ 11 U.S.C. § § 544, 545, 547, 548, 553.

¹⁰ 11 U.S.C. § 721.

¹¹ 11 U.S.C. §.507.

¹² 11 U.S.C. § 706.

¹³ 11 U.S.C. § 523(a).

¹⁴ 11 U.S.C. § 109(d).

petition which is filed by creditors that meet certain requirements.¹⁵ Filing a petition under Chapter 11 also automatically stays most collection actions against the debtor or the debtor's property.¹⁶

Unless the court orders otherwise, the debtor must file with the court schedules of assets and liabilities, a schedule of current income and expenditures, a schedule of executory contracts and expired leases and a statement of financial affairs.¹⁷

After the petition is filed, the U.S. trustee will hold the "341 meeting" described above.

Upon filing a petition for relief under Chapter 11, the debtor automatically assumes an additional identity as the "debtor in possession."¹⁸ The term refers to a debtor that keeps possession and control of its assets while undergoing a reorganization under Chapter 11, without the appointment of a case trustee. A debtor will remain a debtor in possession until the debtor's plan of reorganization is confirmed, the debtor's case is dismissed, or converted to a Chapter 7, or until a Chapter 11 trustee is appointed.

Section 1107 of the Bankruptcy Code places the debtor in possession in the position of a fiduciary, with the rights and powers of a Chapter 11 trustee, and it requires the debtor to perform all but the investigative function and duties of a trustee. Those duties include accounting for property, examining and objecting to claims, and filing informational reports, as required by the court and the U. S. Trustee. The debtor in possession also has many of the other powers and duties of a trustee, including the right, with court approval, to employ attorneys, accountants, appraisers, auctioneers, or other professionals during this bankruptcy. The U. S. Trustee is responsible for monitoring the compliance of the debtor in possession with the reporting requirements.

When a Chapter 11 debtor needs operating capital, it may be able to obtain it from a lender by giving a lender a court approved "super priority" over other unsecured creditors or a lien on property of the estate.¹⁹

During the course of a Chapter 11 bankruptcy proceeding, there may be several motions filed, including those seeking relief from the automatic stay, motions regarding the use of cash collateral and litigation over executory contracts and unexpired leases, and the assumption or rejection of those contracts and leases²⁰ by the debtor in possession.

¹⁵ 11 U.S.C. §§ 301, 303.

¹⁶ 11 U.S.C. § 362.

¹⁷ Federal Rule of Bankruptcy Procedure 1007(b).

¹⁸ 11 U.S.C. § 1101.

¹⁹ 11 U.S.C. § 364.

²⁰ 11 U.S.C. § 365.

A debtor in a Chapter 11 bankruptcy may convert the Chapter 11 case to a case under a Chapter 7 unless 1) the debtor is not a debtor in possession; 2) the case originally was commenced as an involuntary case under a Chapter 11; or, 3) the case was converted to a case under Chapter 11 other than at the debtor's request.²¹ A party in interest may file a motion to dismiss or convert a Chapter 11 case to a Chapter 7 case.²²

Generally, a written disclosure statement and plan of reorganization must be filed with the court.²³ The disclosure statement is a document which must contain information concerning the assets, liabilities and business affairs of the debtor sufficient to enable a creditor to make an informed judgment about the debtor's plan of reorganization. The contents of the plan must also include a classification of claims and must specify how each class of claims will be treated under the plan.²⁴ The holder of a claim which is allowed under Section 502 of the Bankruptcy Code may accept or reject a plan. Unimpaired classes are conclusively presumed to have accepted the plan. Any class that does not receive or retain any property under the plan is deemed to have rejected the plan.²⁵ After the disclosure statement is approved by the court and the ballots are collected and tallied, the court will conduct a confirmation hearing to determine whether to confirm the plan.²⁶ Any party in interest may file an objection to confirmation of a plan.²⁷ In order to confirm a plan, the court must find that the plan is feasible, that it is proposed in good faith, and that it is in compliance with the Bankruptcy Code.

Confirmation of a plan discharges a debtor from any non-exempt debt that arose before the date of confirmation.²⁸ After a plan is confirmed, the debtor is required to make plan payments and is bound by the provisions of the plan of reorganization. The confirmed plan creates new contractual rights, replacing or superceding pre-bankruptcy contractual rights.

Notwithstanding the entry of the confirmation order, the court has the authority to issue any other order necessary to administer the estate.²⁹ This authority includes post confirmation determination of objections to claims or adversary proceedings, which must be resolved before a plan may be fully consummated. Sections 1106(a)(7) and § 1107(a) of the Bankruptcy Code require a debtor in possession or a trustee to report on the progress made in implementing a plan

²¹ 11 U.S.C. § 1112(a).

²² 11 U.S.C. § 1112(b).

²³ 11 U.S.C. §§ 1121, 1125.

²⁴ 11 U.S.C. § 1123.

²⁵ 11 U.S.C. § 1126.

²⁶ 11 U.S.C. §§ 1128, 1129.

²⁷ Federal Rule of Bankruptcy Procedure 3020(b)(2).

²⁸ 11 U.S.C. § 1141(d)(1).

²⁹ Federal Rule of Bankruptcy Procedure 3020(d).

after confirmation.

A final decree closing the case must be entered after the estate has been “fully administered.”³⁰ Local bankruptcy court policies generally determine when the final decree is entered and the case is closed.

Although the following topics may not be limited to Chapter 11 cases, these issues or events often arise during a reorganization, or Chapter 11 Bankruptcy:

- **Creditors’ Committees**

Creditors’ Committees often play a major role in Chapter 11 cases. The Creditors’ Committee is appointed by the U. S. Trustee and ordinarily consists of unsecured creditors who hold the 7 largest unsecured claims against the debtor.³¹ The committee consults with the debtor in possession on administration of the case, investigates the debtor’s conduct and operation of the business, and participates in formulating a plan.³² A creditors’ committee may, with the court’s approval, hire an attorney or other professional to assist it in the performance of the committee’s duties.

- **Cash Collateral**

The debtor in possession may use, sell, or lease property of the estate in the ordinary course of its business, without prior approval, unless the court orders otherwise.³³ A debtor in possession may not, however use, sell, or lease “cash collateral” without the consent of the secured party or authorization by the court, which must first examine whether the interest of the secured party is adequately protected.³⁴ “Cash collateral” is defined as cash, negotiable instruments, documents of title, securities, deposit accounts, or other cash equivalents, whenever acquired, in which the estate and an entity other than the estate have an interest.

When cash collateral is used, secured creditors are entitled to receive additional protection under Section 363 of the Bankruptcy Code. The debtor in possession must obtain the consent of the secured creditor, or file a motion requesting an order from the court authorizing the use of the cash collateral. Until authorization is received for the debtor to use cash collateral, the debtor in possession must segregate and account for all cash collateral in its possession.³⁵ A party with an interest in property being used by the debtor may request that the court prohibit or condition

³⁰ Federal Rule of Bankruptcy Procedure 3022.

³¹ 11 U.S.C. § 1102.

³² 11 U.S.C. § 1103.

³³ 11 U.S.C. § 363(c).

³⁴ 11 U.S.C. § 363(c)(2).

³⁵ 11 U.S.C. § 363(c)(4).

its use to the extent necessary to provide adequate protection to the creditor.³⁶

- **Avoiding Powers**

As in a Chapter 7 case, the debtor in possession has “avoiding powers.” These powers may be used to undo a transfer of money or property made during a certain period of time before the filing a bankruptcy petition. By avoiding a particular transfer of property, the debtor in possession may cancel a transaction and force the return or “disgorgement” of the payments or property which then are available to pay all creditors. Generally, the power to avoid transfers is effective against transfers made by the debtor within 90 days before filing the petition. Transfers to insiders (relatives, general partners and directors and officers of the debtor) made up to a year before filing may be avoided.³⁷ Additionally, the trustee is authorized to avoid transfers under applicable state law, which may provide for a longer time period.³⁸ Avoiding powers prevent unfair pre-petition payments to one creditor at the expense of all other creditors.

- **Adversary Proceedings**

An adversary proceeding is a lawsuit arising in or related to a bankruptcy case that begins by filing a Complaint with the Bankruptcy Court. It is a “trial” that takes place within the context of a bankruptcy. It may be initiated by a debtor in possession, a creditor or the creditors’ committee.

C. Chapter 13

Chapter 13 of the Bankruptcy Code is entitled “Adjustment of Debts of an Individual With Regular Income.” A Chapter 13 Bankruptcy is also known as a wage earner’s plan. It enables individuals with a regular income to develop a plan to repay all or part of their debts. Under this Chapter, debtors propose a repayment plan to make installments to creditors over a three to five year period.

An individual, even if self-employed or operating in an unincorporated business, is eligible for Chapter 13 relief as long as the individual’s unsecured debts are less than \$307,675 and secured debts are less than \$922,975.³⁹ These amounts are adjusted periodically to reflect changes in the consumer price index. A corporation or a partnership may not be a Chapter 13 debtor. As with the Chapter 7 filing, filing the petition under Chapter 13 automatically stays most collection actions against the debtor or the debtor’s property.⁴⁰

³⁶ 11 U.S.C. § 363(e).

³⁷ 11 U.S.C. §§ 101(31), 101(54), 547 and 548.

³⁸ 11 U.S.C. § 544(b).

³⁹ 11 U.S.C. §109(e).

⁴⁰ 11 U.S.C. § 362.

III. Claims

The Bankruptcy Code defines a claim as a right to payment or a right to an equitable remedy for a failure of performance, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured.⁴¹ Any creditor whose claim is not scheduled (identified by the debtor on the debtor's schedules), or is scheduled as disputed, contingent, or unliquidated, must file a proof of claim in order to be treated as a creditor for purposes of the plan and distribution under the plan.⁴²

Priority claims are those granted special status by the bankruptcy law, such as most taxes and the cost of bankruptcy proceedings. Secured claims are those for which the creditor has a right to take back certain property if the debtor does not pay the underlying debt. Unsecured claims are generally those for which the creditor has no special rights to collect against particular property owned by the debtor.

In a Chapter 11 case, the debtor's schedules are deemed to constitute evidence of the validity and amount of those claims identified.⁴³ It is the responsibility of the creditor to determine whether the claim is accurately identified on the debtor's schedules. A properly filed proof of claim supercedes any scheduling of a claim.⁴⁴

IV. Bankruptcy Terminology

341 Meeting – A meeting of creditors at which the debtor is questioned under oath by creditors, a trustee, an examiner, or the U. S. Trustee about his, her, or its financial affairs.

Adversary proceeding –A lawsuit arising in or related to a bankruptcy case that begins by filing a complaint with the court, that is, a "trial" that takes place within the context of a bankruptcy case.

Assets– Property of all kinds, including real and personal, tangible and intangible.

Assume–An agreement to continue performing duties under a contract or lease.

Automatic stay–An injunction that automatically stops lawsuits, foreclosure, garnishments, and most collection activity against the debtor the moment a bankruptcy petition is filed.

Bankruptcy administrator–an officer of the Judiciary in certain jurisdictions, who, like the United States Trustee, is responsible for supervising the administration of bankruptcy cases, estates, and trustees; monitoring plans and disclosure statements; monitoring creditors' committees; monitoring fee applications; and performing other statutory duties.

⁴¹ 11 U.S.C. § 101(5).

⁴² Federal Rule of Bankruptcy Procedure 3003(c)(2).

⁴³ 11 U.S.C. § 1111.

⁴⁴ Federal Rule of bankruptcy Procedure 3003(c)(4).

Bankruptcy Code—The informal name for title 11 of the United States Code (11 U.S.C. §§ 101-1330), the federal bankruptcy law.

Bankruptcy estate—All interests of the debtor in property at the time of the bankruptcy filing. The estate technically becomes the temporary legal owner of all of the debtor's property.

Bankruptcy trustee—A private individual or corporation appointed in all Chapter 7 and Chapter 13 cases to represent the interests of the bankruptcy estate and the debtor's creditors.

Chapter 7—The Chapter of the Bankruptcy Code providing for "liquidation," that is, the sale of a debtor's nonexempt property and the distribution of the proceeds to creditors. In order to be eligible for Chapter 7, the debtor must satisfy a "means test." The court will evaluate the debtor's income and expenses to determine if the debtor may proceed under Chapter 7.

Chapter 7 trustee—A person appointed in a Chapter 7 case to represent the interests of the bankruptcy estate and the creditors. The trustee's responsibilities include reviewing the debtor's petition and schedules, liquidating the property of the estate, and making distributions to creditors. The trustee may also bring actions against creditors or the debtor to recover property of the bankruptcy estate.

Chapter 11—A reorganization bankruptcy, usually involving a corporation or partnership. A Chapter 11 debtor usually proposes a plan of reorganization to keep its business alive and pay creditors over time. People in business or individuals can also seek relief in Chapter 11.

Chapter 13—the chapter of the Bankruptcy Code providing for adjustment of debts of an individual with regular income, often referred to as a "wage-earner" plan. Chapter 13 allows a debtor to keep property and use his or her disposable income to pay debts over time, usually three to five years.

Chapter 13 trustee—A person appointed to administer a Chapter 13 case. A Chapter 13 trustee's responsibilities are similar to those of a Chapter 7 trustee; however, a Chapter 13 trustee has the additional responsibilities of overseeing the debtor's plan, receiving payments from debtors, and disbursing plan payments to creditors.

Claim—A creditor's assertion of a right to payment from a debtor or the debtor's property.

Collateral—Property that is promised as security for the satisfaction a debt.

Confirmation—Approval of a plan of reorganization by a bankruptcy judge.

Consumer debts— Debts incurred for personal, as opposed to business, needs.

Contingent Claim—A claim that may be owed by the debtor under certain circumstances, e.g., where the debtor is a cosigner on another person's loan and that person fails to pay.

Creditor—One to whom the debtor owes money or who claims to be owed money by the debtor.

Debtor—A person who has filed a petition for relief under the Bankruptcy Code.

Debtor's plan—a debtor's detailed description of how the debtor proposes to pay creditors' claims over a fixed period of time.

Discharge—A release of a debtor from personal liability for certain dischargeable debts. Notable exceptions to dischargeability are taxes and student loans. A discharge releases a debtor from personal liability for certain debts known as dischargeable debts and prevents the creditors owed those debts from taking any action against the debtor or the debtor's property to collect the debts. The discharge also prohibits creditors from communicating with the debtor regarding the debt, including through telephone calls, letters, and personal contact.

Dischargeable Debt—A debt for which the Bankruptcy Code allows the debtor's personal liability to be eliminated.

Disclosure statement—A written document prepared by a Chapter 11 debt or other plan proponent designed to provide "adequate information" to creditors to enable them to evaluate the Chapter 11 plan of reorganization.

Disposable income—Income not reasonably necessary for the maintenance or support of the debtor or dependents. If the debtor operates a business, disposable income is defined as those amounts over and above what is necessary for the payment of ordinary operating expenses.

Executory contracts—Contracts or leases under which both parties to the agreement have duties remaining to be performed. If a contract or lease is executory, a debtor may assume it (keep the contract) or reject it (terminate the contract).

Exempt assets— Property that a debtor is allowed to retain, free from the claims of creditors who do not have liens on the property.

Fraudulent transfer—A transfer of a debtor's property made with intent to defraud or for which the debtor receives less than the transferred property's value.

Lien—A charge on specific property that is designed to secure payment of a debt or performance of an obligation. A debtor may still be responsible for a lien after a discharge.

Liquidation—A sale of a debtor's property with the proceeds to be used for the benefit of creditors.

Liquidated Claim—A creditor's claim for a fixed amount of money.

Motion to lift the automatic stay—A request by a creditor to allow the creditor to take action against the debtor or the debtor's property that would otherwise be prohibited by the automatic stay.

No-asset case—A Chapter 7 case in which there are no assets available to satisfy any portion of the creditors' unsecured claims.

Nondischargeable debt—A debt that cannot be eliminated in bankruptcy.

Nonexempt assets—Property of a debtor that can be liquidated to satisfy claims of creditors.

Objection to discharge—A trustee's or creditor's opposition to releasing a debtor from personal liability for certain dischargeable debts.

Petition—the document that initiates the filing of a bankruptcy proceeding, setting forth basic information regarding the debtor, including name, address, chapter under which the case is filed, and an estimated amount of assets and liabilities.

Plan—A debtor's detailed description of how the debtor proposes to pay creditors' claims over a fixed period of time.

Preference or preferential debt payment—A debt payment made to a creditor in the 90-day period before a debtor files bankruptcy (or within one year if the creditor was an insider) that gives the creditor more than the creditor would receive in the debtor's Chapter 7 case.

Priority—The Bankruptcy Code's statutory ranking of unsecured claims that determines the order in which unsecured claims will be paid if there is not enough money to pay all unsecured claims in full. For example, under the Bankruptcy Code's priority scheme, money owed to the case trustee or for pre-petition alimony and/or child support must be paid in full before any general unsecured debt (*i.e.* trade debt or credit card debt) is paid.

Priority claim—An unsecured claim that is entitled to be paid ahead of other unsecured claims that are not entitled to priority status. Priority refers to the order in which these unsecured claims are to be paid.

Proof of claim—A written statement describing the reason a debtor owes a creditor money, which typically sets forth the amount of money owed. (There is an official form for this purpose.)

Property of the estate—All legal or equitable interests of the debtor in property as of the commencement of the case.

Reaffirmation agreement—An agreement by a debtor to continue paying a dischargeable debt after the bankruptcy, usually for the purpose of keeping collateral or mortgaged property that would otherwise be subject to repossession.

Redemption—A procedure in a Chapter 7 case whereby a debtor removes a secured creditor's lien on collateral by paying the creditor the value of the property. The debtor may then retain the property.

Schedules—Lists submitted by the debtor along with the petition (or shortly thereafter) showing the debtor's assets, liabilities, and other financial information. (There are official forms a debtor must use.)

Secured creditor—A secured creditor is an individual or business that holds a claim against the debtor that is secured by a lien on property of the estate. The property subject to the lien is the secured creditor's collateral.

Secured debt—A debt backed by a mortgage, pledge of collateral, or other lien.

Subordination—The act or process by which a person's rights or claims are ranked below those of others.

Transfer—Any mode or means by which a debtor disposes of or parts with the debtor's property.

Trustee—the representative of the bankruptcy estate who exercises statutory powers, principally for the benefit of the unsecured creditors, under the general supervision of the court and the direct supervision of the U. S. Trustee or bankruptcy administrator.

Undersecured claim—A debt secured by property that is worth less than the full amount of the debt.

Unliquidated claim—A claim for which a specific value has not been determined.

Undue hardship—The most widely used test for evaluating undue hardship in the dischargeability of a student loan includes three conditions: (1) the debtor cannot maintain—based on current income and expenses—a minimal standard of living if forced to repay the loans; (2) there are indications that the state of affairs is likely to persist for a significant portion of the repayment period; and (3) the debtor made good faith efforts to repay the loans.

U. S. Trustee—An officer of the U. S. Department of Justice responsible for supervising the administration of bankruptcy cases, estates, and trustees; monitoring plans and disclosure statements; monitoring creditors' committees; monitoring fee applications; and performing other statutory duties.

Unsecured claim—A claim or debt for which a creditor holds no special assurance of payment, such as a mortgage or lien. It is a debt for which credit was extended based solely on the creditor's assessment of the debtor's future ability to pay.