Volume 2, Issue 6: January 2009

cdcbaa

Central District Consumer Bankruptcy Attorney Association

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From the President

By: James T. King
king@kingobk.com

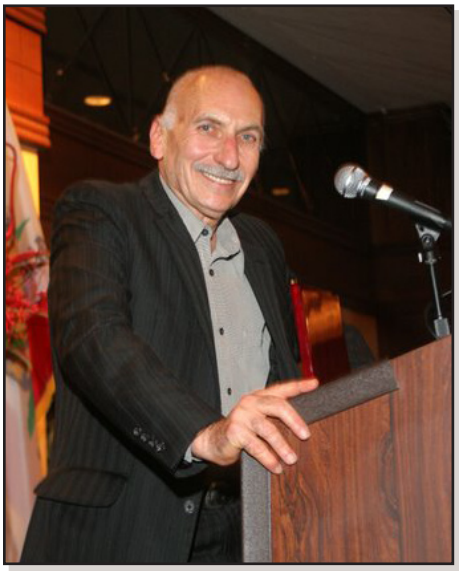
I am proud, excited and energized to be the President for the year of 2009. And on that note I wish you all a belated Happy New Year. 2009 should prove to be a real challenge for the consumer bar given the current economy, home foreclosures at a record high, and the unresolved legislative issues. The BAPCPA legislation of 2005 is still winding its way through the appellate courts without much in the way of resolution or understanding while Congress is about to make one of the most major changes in Chapter 13 that has taken place since the enactment of the Code in 1978. Filings are increasing dramatically. Comparing the filings in the Central District of California for the first 11 months of 2008 to the last significant year of 2004 prior to the anomaly of 2005 we are almost at those levels. Chapter 7 filings for the first 11 months was 43,490 and Chapter 13 filings of 14,023 compared to 2004 Chapter 7 filings of 50,298 and Chapter 13 filings of only 5,075. Even with the major changes and attempted obstacles and restrictions on consumer debtors in the law change of 2005 it has taken a little over 3 years to exceed the consumer filings pre-BAPCPA. And, when the legislation to be introduced by Senator Durbin is passed filings will increase dramatically.

In a nutshell, Senator Dick Durbin from Illinois has promised as his first act when Congress opens its session this month to introduce legislation which has previously failed that would allow bankruptcy judges to modify loans which are secured solely by the debtor's principal residence. Anyone not prepared for this change will be playing catch-up in a very real way. From my personal experience I cannot think of many Chapter 7 cases that I have filed in the past 9 months that involve a personal residence that would not benefit from in some way from this legislation. And, that does not take into consideration those individuals who owe very little or no unsecured debt that have not considered bankruptcy as an option who find themselves in a home that has no equity and they are upside down on their loans. These individuals will also be looking at Chapter 13.

Even without this change in the code consumer filings will be on the rise and we, as consumer lawyers need to be prepared to competently represent our clients. In furtherance of that goal the membership in cdcbaa will go a long way in achieving it. Our web-site is being redesigned and will be so helpful that I hope all of the members will use it as their home page. It will contain all the links to the web-sites we all use everyday; it will contain a calendar of events with links to those events; it will be a marketing tool for each member with not only information about your location and languages spoken but sections on your firm's experience, personal philosophy, fees, types of cases and qualifications; it will contain a streaming video for purchase of all the MCLE throughout the year (free to members); and the ability to pay for dues online. Speaking of MCLE the programs for the coming year will be as good if not better than in the past.

This year will also include an event that I anticipate with great excitement and enthusiasm and that is the Earle Hagen Memorial Golf Tournament jointly sponsored by the cdcbaa and Los Angeles Bankruptcy Forum benefitting the Debtor Assistance Project of Public Counsel. Mark your calendar now for June 22, 2009 for an afternoon and evening of fun, fun, fun and a little competition for those "real" golfers. Golfers who are new to the game, have not played for a number of years, or who have never played before will receive special privileges and not be required to compete with seasoned golfers. Earle had his own way of playing golf and we will take advantage of some of his "personal rules" including the famous "foot wedge" and "do overs" commonly referred to as mulligans. The cost

Peter Anderson, Hon. Victoria Kaufman, Howard Ehrenberg



Paul Winkler

Hon. Samuel Bufford and Lou Esbin

Master of Ceremonies: Peter Lively

will be under $200 and should prove to be a great time for all who come out and support the Debtor Assistance Project.

Motions to Value Undersecured Claims

By: Louis J. Esbin
esbinlaw@sbcglobal.net

A simple, but common fact scenario: Home purchased on January 1, 2003, at a price of $450,000, with a 80/10/10 loan; i.e., a first of $360,000, a second of $45,000, and $45,000 down. On August 31, 2007, a refinance takes place, with an appraised value of $700,000, and the advancing of a first of $500,000, and HELOC of $200,000. Chapter 13 Bankruptcy case is filed on December 31, 2008, with $55,000 in auto leases, and $210,000 in credit card and other unsecured debt, including a corporate guaranty of $50,000.

The issues are as follows: Does the debtor qualify under Chapter 13 if the HELOC is determined be a wholly undersecured claim? Is it a motion to value, a motion to avoid liens, an adversary, or some combination of all three?

There are three steps in the analysis: (1) First, a motion (not an adversary proceeding) is filed under Section 506 so that the bankruptcy obligation to make adequate protection payments is relieved, citing as authority In re Timbers of Inwood, 484 U.S. 365 (1988). Evidence includes a preliminary title report to establish priority of liens and the original amount of the debt secured, filed claims or loan documents, and an appraisal, each supported by admissible attestations; (2) Second, under state law, California Civil Code Section 2909, provides in summary that once the underlying trust purpose is extinguished, the deed of trust is extinguished (See, Alliance Mortgage Co. v. Rothwell, 10 Cal.4th 1226, 1235 (1995); Trowbridge v. Love, 58 Cal. App.2d 746, 751 (1943)); i.e., once the underlying debt has been discharged through a chapter 13 or 11, as a matter of law, the deed of trust must be avoided by the trustee or beneficiary. Until such time as the trust purpose is extinguished the trust (deed of trust) must remain secured by the real property. Therefore, the lien remaining and the interest of the creditor is as either a partially undersecured or wholly undersecured creditor. But, the holder of a lien secured by a deed of trust is at all times secured. The terminology "undersecured" is important because it defines the creditor as having a lien against real property, but whose underlying trust purpose is not secured entirely by equity in the real property. The creditor is not unsecured, because the lien remains enforceable against the real property until the trust purpose is extinguished. Remember that if the Chapter 13 plan is not finished and a discharge entered, the lien is enforceable, confirming the application of state law as to the relationship between the trustor (debtor) and trustee-beneficiary (lender); and (3) Third, and accordingly, contrary to the split of authority in our disrict, there is no need for an adversary proceeding to avoid a lien in a Chapter 13 or Chapter 11 situation until the underlying trust purpose is extinguished, and only if the trustee (of the deed of trust) does not voluntarily remove the ien. And, as a practical note, if the lien is avoided before the trust obligation is discharged (or extinguished), at the time of

the filing, the now adjudged unsecured obligation (because the lien is removed) would be added to the amount of the general unsecured claims at the time of the filing, thereby resulting in the jurisdiction of the court for chapter 13 to be exceeded. Section 109(e) would thereby be violated, not as a matter of law, but because of a misinterpretation and misapplication of the law and procedure.

The case of In re Scovis, 249 F.3d 975 (9th Cir. 2001), is quite disturbing and potentially could render hundreds, if not thousands of Chapter 13 debtors ineligible for filing under Chapter 13, forcing them into more complicated and expensive Chapter 11 cases. Scovis speaks to the issue of good faith determined at the time of the filing, based upon the filed schedules. Citing, Scovis, the BAP in In re Guastella, 341 B.R. 908 (9th BAP 2006) broadened the analysis of a totality of circumstances, allowing the court to look beyond the schedules to determine the debtors good faith intent where the tentative decision of a state court had found liability and the amount of liability. Importantly for our analysis, Scovis was a judicial lien that impaired a statutory homestead exemption. The HELOC is a consensual lien, a deed of trust, that is not subject to the homestead exemption; a critical factual distinction when it comes to the timing of whether or when a lien is deemed undersecured versus unsecured.

In Scovis, the Ninth Circuit discussed the form over substance issue. In Scovis, however, California mortgage and deed of trust law was not considered. But, California law must be considered in determining the reality of the substance of the rights impaired with regards to, in our example, the HELOC. In the above scenario, as in most, the creditor is deemed "wholly undersecured," and therefore, no adequate protection payments are made under Timbers. The term undersecured claim, rather than unsecured claim is an essential distinction, because if the case is converted, the lien "rides through," and the creditor retains all remedies of a secured creditor, rather than losing the right to exercise nonjudicial remedies, as if an unsecured creditor, and as with the creditor in Scovis. Application of 11 U.S.C. § 506(a) results in a bifurcation of previously secured claims, but 11 U.S.C. § 506(d) does not allow the "stripping off" of the wholly undersecured lien in a Chapter 7 case. In re Dewsnup, 908 F.2d 588, 593 (10th Cir. 1990), aff'd, 502 U.S. 410 (1992); see also H.R. Rep. No. 95-595, 95th Cong., 1st Sess. 5, reprinted in 1978 U.S. Code Cong. & Admin.News 5963, 6312.

Under In re Zimmer, 313 F.3d 1220 (9th Cir. 2002), and In re Lam, 211 B.R. 36 (9th Cir.BAP 1997), only through

a Chapter 13 (or Chapter 11) can the lien ultimately be avoided upon entry of discharge, as the purpose is to further the effectuation of a plan in prospect. The 9th Circuit BAP adopted the reasoning in Dewsnup. Therefore, it is essential to apply Bankruptcy and California law together. Not until the discharge is entered will the underlying trust purpose be extinguished or discharged, and therefore, only at that time, will the deed of trust will be subject to avoidance. This is so as a matter of law without the need for an adversary proceeding, unless the trustee of the deed of trust fails to avoid the deed of trust whose trust purpose has been discharged.

Scovis is just wrongly applied in the above fact scenario, both under California law, as well as under Zimmer and Lam. Moreover, the creditor is scheduled at the time of filing in Schedule D as a secured creditor, and not in Schedule F as an unsecured creditor, and therefore, at the time the case is filed the creditor is "undersecured," and not unsecured. As to the issue of good faith in filing as a Chapter 13, rather than a Chapter 11, again, the application of Bankruptcy law in concert with California law will lead to the correct result.

The recent iteration of the proposed Amendments also supports the above analysis, providing in pertinent part that Section 109 of title 11, United States Code, is amended—

> "(1) by adding at the end of subsection (e) the following: ''For purposes of this subsection, the computation of debts shall not include the secured or unsecured portions of—
>
> '(1) debts secured by the debtor's principal residence if the current value of that residence is less than the secured debt limit; or . . . '"

It is evident that Congress intends to deal with the interpretation of Scovis and the application of Zimmer. The proposed Amendment seems to address the wrong application of Scovis and the issue arising therefrom issue where the wholly undersecured creditor's claim would cause the secured portion of the Chapter 13 jurisdiction to be exceeded. Therefore, it seems that the proposed Amendment would provide the treble benefit of: (1) reducing the secured portion only to that amount of the secured claims that are actually secured by the value in the residence; (2) not adding to the unsecured portion that portion of the secured claims that are either partially undersecured, or wholly undersecured (see discussion below on the definition of undersecured); and (3) raising the secured jurisdiction of Chapter 13 to the extent of the value of the residence, regardless of the face amount of the underlying debt secured by the undersecured liens.

As the largest district in the country, we must recognize the use of the terminology wholly undersecured versus wholly unsecured when speaking of deeds of trust to the extent to which their security interest is determined through a "Motion to Value," rather than a "Motion to Avoid Lien," and, further, only requiring an adversary proceeding following entry of a discharge, if necessary. However, such a Motion to Value must be supported by competent and admissible evidence of priority of liens, amount of original and outstanding debt secured by liens, ability to effectively reorganize, and value.

How to Obtain a Hardship Discharge in Chapter 13

By: Peter M. Lively
petermlively@aol.com
And: Hillary C. Coleman

The loss of so many jobs in the current recession will negatively impact many debtors who are making plan payments pursuant to their confirmed Chapter 13 plans but have not yet reached plan completion.

Post-confirmation Chapter 13 debtors who experience a decrease in disposable income may become eligible for either conversion to Chapter 7 or a Chapter 13 hardship discharge. In circumstances where debtors have not incurred post-petition debt that may be discharged in a case converted to Chapter 7, it might be more advantageous for them to proceed with a request for hardship discharge.

Obtaining a hardship discharge under 11 U.S.C. section 1328(b) helps debtors to become eligible for a subsequent Chapter 7 or 13 discharge two (2) years earlier than

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An afternoon and evening of fun, fun, fun and a little competition for those "real" golfers. Golfers who are new to the game, have not played for a number of years, or who have never played before will receive special privileges and not be required to compete with seasoned golfers.

June 22, 2009

Admission is not decided yet, but will be under $200.

Enjoy a fun afternoon of golf complete with Earl Hagen personal rules like the "foot wedge" and "do overs."

they would be if they converted their case and received a Chapter 7 discharge. See **Discharge Analysis** article in last issue of CDCBAA's Newsletter.

A motion brought under 11 U.S.C. section 1328(b) is made on grounds that (1) the debtors are not able to complete the payments under their Plan due to circumstances for which they should not be held accountable, (2) creditors have received more than would have been paid under a hypothetical liquidation of debtors' estate, and (3) modification of the Plan is not practicable. Such a motion should set forth facts supporting lack of accountability on the debtors' part for the hardship circumstances and a discharge analysis, evidenced, of course, by declarations,

then quote and cite the statute, and finally, explain why debtors' particular facts and circumstances meet each of the elements of the statute.

For example, where one spouse in a joint case ("Husband") has lost his job, has been unable to secure replacement income and is receiving unemployment benefits that do not provide sufficient disposable income to pay the existing or a modified plan payment, an example of a format for such motion is:

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION/STATEMENT OF FACTS.

Debtors WARREN WAGE EARNER ("HUSBAND") and SALLY SALARIED ("WIFE") (collectively "Debtors") filed their joint petition as husband and wife under Chapter 13. Debtors' Chapter 13 Plan was confirmed on [date], 2008. Debtors remained current with their plan payments of $1,500.00 through [date], 2008. See Declaration of HUSBAND, attached hereto and incorporated herein by reference ("HUSBAND Dec.").

Unfortunately, Debtors have suffered some unexpected consequences since the filing of their case. Specifically, HUSBAND, a widget installer, was laid off from his job in late [date], 2008. He received just two weeks' severance pay, and now receives only $1,250.00 per month in unemployment benefits. While he has been seeking, and continues to seek, gainful employment, the negative impact of the current economic crisis on the job market is evident. As of even date, HUSBAND has been unable, despite his diligent efforts, to secure new employment. HUSBAND Dec.

HUSBAND was the primary wage earner for the household, earning base pay of $3,000.00 per month. WIFE earns a gross salary of only $2,500.00 per month. Debtors' household expenses far exceed WIFE's salary, and there is certainly no excess available with which to make plan

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The So. Cal Bankruptcy Inns of Court announces our First Meeting to Ring in 2009:

What you need to know about the New 2009 Local Bankruptcy Rules

January 27, 2009

6:30 for reception and 7:00 for dinner

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Serving a variety of entrees: Pancheta, Tri-tip, Top Sirloin, Chicken Drums, Pork Loins, Pork Ribs, Leg of Lamb, Variety of Sausages for all to enjoy

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3/10/09, 4/21/09, 6/16/09

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Cynthia Meza, (818) 242-1100

Please make checks payable to:

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attn: Byron Moldo, Esq.

Moldo Davidson Fraioli Seror & Sestanovich

2029 Century Park Ease, 21st Floor

Los Angeles, CA 10067

payments of $1,500.00. Debtors' plan was premised on contributions by both spouses. Without the income from HUSBAND's employment, Debtors cannot possibly meet their obligations under their confirmed Chapter 13 Plan. HUSBAND Dec.

A liquidation analysis of the case shows that Debtors have already paid more to their unsecured creditors under their Chapter 13 Plan than such creditors would receive if the case proceeds as a Chapter 7. See Declaration of ATTORNEY FOR DEBTORS, attached hereto and incorporated herein by reference. Under these circumstances, a hardship discharge is warranted.

> II. A HARDSHIP DISCHARGE IS WARRANTED HERE BECAUSE THE DEBTORS ARE NOT ABLE TO COMPLETE THE PAYMENTS UNDER THE PLAN, CREDITORS HAVE RECEIVED MORE THAN WOULD HAVE BEEN PAID UNDER A HYPOTHETICAL LIQUIDATION OF DEBTORS' ESTATE, AND MODIFICATION OF THE PLAN IS NOT PRACTICABLE.

Under certain limited circumstances, the Bankruptcy Code provides for entry of a discharge order despite failure to pay all of the plan payments. Specifically, 11 U.S.C. section 1328(b) provides:

Subject to subsection (d)[2], at any time after the confirmation of the plan and after notice and a hearing, the court may grant a discharge to a Debtor that has not completed payments under the plan only if–

> (1) the Debtor's failure to complete such payments is due to circumstances for which the Debtor should not justly be held accountable;
>
> (2) the value, as of the effective date of the plan, or property actually distributed under the plan on account of each allowed unsecured claim is not less than the amount that would have been paid on such claim if the estate of the Debtor had been liquidated under chapter 7 of this title on such date; and
>
> (3) modification of the plan under section 1329 of this title is not practicable.

Debtors' circumstances here fall squarely within the statute. First, HUSBAND was laid off by his employer. This has eliminated HUSBAND's ability to contribute to household expenses, including the plan payments. HUSBAND has attempted to secure new employment, but his efforts have been unsuccessful. This is certainly a situation that is beyond HUSBAND's control, and accordingly, Debtors' resulting inability to make their plan payments is a circumstance for which Debtors should not justly be held

accountable. Thus, one condition for a hardship discharge, as set forth in 11 U.S.C. section 1328(b)(1), is met.

Second, a hypothetical Chapter 7 liquidation would yield nothing for general unsecured creditors. Thus, another condition for a hardship discharge, as required by 11 U.S.C. section 1328(b)(2), is met here.

Finally, a modification of Debtors' plan is pointless here as their current household income falls so far below their household expenses that there is clearly no means by which to modify the Chapter 13 Plan feasibly. Thus, all conditions for hardship discharge, including impracticability of modification of the Plan, required under 11 U.S.C. section 1328(b)(3) are met here.

Under these circumstances, 11 U.S.C. section 1328(b) permits this honorable Court to enter a discharge order.

Conclusion

When, as here, the value paid into the plan is no less than a hypothetical Chapter 7 liquidation payment to general unsecured creditors, and Debtors' reduced income resulting from unexpected and uncontrollable separation from employment make further plan payments and plan modification infeasible, the Bankruptcy Code permits this honorable Court to enter a discharge order. Accordingly debtors respectfully request that the Court grant them a discharge.

Respectfully submitted,

COUNSEL FOR DEBTOR

Text of Senate Bill 61

Helping Families Save Their Homes in Bankruptcy Act of 2009

Introduced in Senate January 6, 2009

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Helping Families Save Their Homes in Bankruptcy Act of 2009'.

SEC. 2. ELIGIBILITY FOR RELIEF.

Section 109 of title 11, United States Code, is amended--

(1) by adding at the end of subsection (e) the following: `For purposes of this subsection, the computation of debts shall not include the secured or unsecured portions of--

`(1) debts secured by the debtor's principal residence if the current value of that residence is less than the secured debt limit; or

`(2) debts secured or formerly secured by real property that was the debtor's principal residence that was sold in foreclosure or that the debtor surrendered to the creditor if the current value of such real property is less than the secured debt limit.'; and

(2) by adding at the end of subsection (h) the

cdcbaa Upcoming Calendar

January 24 2009
Local Rules
Hon. Judge Donovan & David Tilem
at Southwestern Law School

February 21, 2009
Annual Case Review
Hon. Judge Jury & Jon Hayes
at Southwestern Law School

March 21, 2009

March
Judges' Educational Retreat

April 18, 2009

April 25, 2009
Peter Lively's BBQ Party

June 13, 2009

June 22, 2009
Earle Hagen Golf Tournament

July 18, 2009

August
Picnic

September 12, 2009

September 20, 2009
Beach Day

October 17, 2009

November 4, 2009
Calvin Ashland Awards Dinner
"Attorney of the Year"

following:

`(5) The requirements of paragraph (1) shall not apply in a case under chapter 13 with respect to a debtor who submits to the court a certification that the debtor has received notice that the holder of a claim secured by the debtor's principal residence may commence a foreclosure on the debtor's principal residence.'.

SEC. 3. PROHIBITING CLAIMS ARISING FROM VIOLATIONS OF CONSUMER PROTECTION LAWS.

Section 502(b) of title 11, United States Code, is amended--

(1) in paragraph (8) by striking `or' at the end,

(2) in paragraph (9) by striking the period at the end and inserting `; or', and

(3) by adding at the end the following:

`(10) the claim is subject to any remedy for damages or rescission due to failure to comply with any applicable requirement under the Truth in Lending Act, or any other provision of applicable State or Federal consumer protection law that was in force when the noncompliance took place, notwithstanding the prior entry of a foreclosure judgment.'.

SEC. 4. AUTHORITY TO MODIFY CERTAIN MORTGAGES.

Section 1322(b) of title 11, United States Code, is amended--

(1) by redesignating paragraph (11) as paragraph (12),

(2) in paragraph (10) by striking `and' at the end, and

(3) by inserting after paragraph (10) the following:

`(11) notwithstanding paragraph (2) and otherwise applicable nonbankruptcy law, with respect to a claim for a loan secured by a security interest in the debtor's principal residence that is the subject of a notice that a foreclosure may be commenced, modify the rights of the holder of such claim--

`(A) by providing for payment of the amount of the allowed secured claim as determined under section 506(a)(1);

`(B) if any applicable rate of interest is adjustable under the terms of such security interest by prohibiting, reducing, or delaying adjustments to such rate of interest applicable on and after the date of filing of the plan;

`(C) by modifying the terms and conditions of such loan--

`(i) to extend the repayment period for a period that is no longer than the longer of 40 years (reduced by the period for which such loan has been outstanding) or the remaining term of such loan, beginning on the date of the order for relief under this chapter; and

`(ii) to provide for the payment of interest accruing after the date of the order for relief under this chapter at an annual percentage rate calculated at a fixed annual percentage rate, in an amount equal to the then most recently published annual yield on conventional mortgages published by the Board of Governors of the Federal Reserve System, as of the applicable time set forth in the rules of the Board, plus a reasonable premium for risk; and

`(D) by providing for payments of such modified loan directly to the holder of the claim; and'.

SEC. 5. COMBATING EXCESSIVE FEES.

Section 1322(c) of title 11, the United States Code, is amended--

(1) in paragraph (1) by striking `and' at the end,

(2) in paragraph (2) by striking the period at the

end and inserting a semicolon, and

(3) by adding at the end the following:

`(3) the debtor, the debtor's property, and property of the estate are not liable for a fee, cost, or charge that is incurred while the case is pending and arises from a debt that is secured by the debtor's principal residence except to the extent that--

`(A) the holder of the claim for such debt files with the court (annually or, in order to permit filing consistent with clause (ii), at such more frequent periodicity as the court determines necessary) notice of such fee, cost, or charge before the earlier of--

`(i) 1 year after such fee, cost, or charge is incurred; or

`(ii) 60 days before the closing of the case; and

`(B) such fee, cost, or charge--

`(i) is lawful under applicable nonbankruptcy law, reasonable, and provided for in the applicable security agreement; and

`(ii) is secured by property the value of which is greater than the amount of such claim, including such fee, cost, or charge;

`(4) the failure of a party to give notice described in paragraph (3) shall be deemed a waiver of any claim for fees, costs, or charges described in paragraph (3) for all purposes, and any attempt to collect such fees, costs, or charges shall constitute a violation of section 524(a)(2) or, if the violation occurs before the date of discharge, of section 362(a); and

`(5) a plan may provide for the waiver of any prepayment penalty on a claim secured by the debtor's principal residence.'.

SEC. 6. CONFIRMATION OF PLAN.

Section 1325(a) of title 11, the United States Code, is amended--

(1) in paragraph (8) by striking `and' at the end,

(2) in paragraph (9) by striking the period at the end and inserting a semicolon, and

(3) by inserting after paragraph (9) the following:

`(10) notwithstanding subclause (I) of paragraph (5)(B)(i), the plan provides that the holder of a claim whose rights are modified pursuant to section 1322(b)(11) retain the lien until the later of--

`(A) the payment of such holder's allowed secured claim; or

`(B) discharge under section 1328; and

`(11) the plan modifies a claim in accordance with section 1322(b)(11), and the court finds that such modification is in good faith.'.

SEC. 7. DISCHARGE.

Section 1328 of title 11, the United States Code, is amended--

(1) in subsection (a)--

(A) by inserting `(other than payments to holders of claims whose rights are modified under section 1322(b)(11)' after `paid' the 1st place it appears, and

(B) in paragraph (1) by inserting `or, to the extent of the unpaid portion of an allowed secured claim, provided for in section 1322(b)(11)' after `1322(b)(5)', and

(2) in subsection (c)(1) by inserting `or, to the extent of the unpaid portion of an allowed secured claim, provided for in section 1322(b)(11)' after `1322(b)(5)'.

SEC. 8. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) Effective Date- Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) Application of Amendments- The amendments made by this Act shall apply with respect to cases commenced under title 11 of the United States Code before, on, or after the date of the enactment of this Act.

Notes from Paul Winkler

I could go on and on obviously but these are the concerns I see over and over:

1. Providing the wrong year tax return. It is the last filed.
2. Providing more tax returns than required. Giving trustee unnecessary opportunities.
3. If you don't have tax returns, you need a declaration re: not filing within 5 years - reason etc. and make sure it is filed at least 7 days prior to hearing.
4. Showing up without the ID or ID that is not current. Government issued must be unexpired with a picture
5. Showing up without SS card - copies don't work.
6. Alternatives to SS; verification of SS obtained from the SS office; recent 1099 or W2. Local offices for SS are at www.ssa.gov.
7. Remember also, no children are allowed at the counsel table and it is up to the trustee whether children can even be in the meeting room at all.

cdcbaa

Central District Consumer Bankruptcy Attorneys Association

Advancing the interests of Consumer Bankruptcy Practice in the Central District of California

I hereby apply for membership in the *cdcbaa*, Central District Consumer Bankruptcy Attorneys Association, a nonprofit association, for the **calendar year 2009**. I understand the basic goals of the organization are to: address the issues and concerns which affect consumer bankruptcy attorneys and their clients in the Central District of California; and to provide educational and networking opportunities for attorneys who primarily represent consumer bankruptcy debtors. As a condition of membership I declare as follows:

1. I am a duly-licensed attorney presently authorized to practice law in the Central District of California;
2. I am interested in consumer debtor practice; and
3. I support the basic goals of the *cdcbaa* as outlined above.

I understand the *cdcbaa* is incorporated as a 501(c)(6) nonprofit organization and that a portion of my dues will not be deductible as a business expense because cdcbaa advocates within California for legislation on behalf of the consumer debtors.

Name: _____ Bar Number: _____

Firm: _____

Address: _____

Telephone: _____ Fax: _____

Email: _____ Web Address: _____

Signature: _____

One year membership fee: $150.00; Make Check payable to: *cdcbaa*

Mail application and payment to:

cdcbaa
c/o Paul Winkler
315 W. Arden Avenue. Suite 28
Glendale, CA 91203

cdcbaa
Central District of California Bankruptcy Attorneys' Association

Newsletter Volume 2, Issue 6, January 2009

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