



Ask SCORE for Business Advice

"Ask SCORE" Column Green Bay Press Gazette Thur., Jan. 21, 2010

Filing for Bankruptcy by Tina Dettman-Bielefeldt

The decision to file for bankruptcy protection usually starts with a visit to an attorney's office. Last week's column looked at the warning signs for a struggling business, and what happens when it doesn't look like recovery is a possibility. This week, Jon Olson, a Green Bay attorney and SCORE counselor, reviews the process.

The first question that many business owners ask is whether or not personal assets will be affected. If the business is a legal entity, can they save their home and other belongings? Olson says that it depends on the situation.

He noted, "It is possible if the business is an incorporated entity separate from its shareholder. Think Donald Trump. His corporations have filed bankruptcy without it affecting everything else The Donald owns. This is much more difficult when the business is smaller, not as well capitalized, and the business owner has personally guaranteed the debts of the business."

When obtaining funding, most lenders and landlords require personal guarantees as security that obligations will be met. If a business owner has signed these guarantees, any pledged collateral will be used to help pay debts. In other words, if the lender has a lien on a home, the home will be in jeopardy. For this reason, it is important to know what is being put at risk right from the start.

At the attorney's office, the business owner may be advised to stop paying credit card bills and other unsecured debts. If secured property is going to be surrendered, those payments may also be stopped. Along with the attorney, a plan will be devised. Payment for the bankruptcy will likely be due prior to filing.

Then it is up to the business owner to prepare information. This will include detailed information about creditors including names, addresses, and amounts owed, personal and business financial statements, and a list of assets along with fair market value. The attorney compiles this information, the petitioner signs it, and it is submitted to the court.

"It is also necessary to obtain a bankruptcy counseling certificate prior to filing," Olson explained. "There is a second financial management course that is also required after filing and before the end of the case."

After the petition is filed, there is one mandatory appearance before the bankruptcy trustee at the meeting of creditors. This is usually a local attorney appointed by the U.S. Trustee's Office to represent your creditors. After being placed under oath, the petitioner will be asked questions about debts, assets, income and expenses. Creditors, including any family members who might have loaned money, can appear and ask questions. This is one of the most painful parts of the process especially when family members are part of the filing.

After the meeting of creditors, there is a 60-day period for the creditors to file objections. If no objections are filed, the discharge will be granted.

There are options in the type of bankruptcy being filed depending on whether the business is attempting to reorganize or dissolve. Detailed information is available on Olson's website, www.jolsonlaw.com.

If you'd like to learn more, contact the Green Bay Chapter of SCORE. Visit www.greenbayscore.org or call Cindy Gokey at 920-496-8930 for information.

[Tina Dettman-Bielefeldt](#) is co-owner of DB Commercial Real Estate in Green Bay and Assistant District Director for SCORE, Wisconsin.